

Demolition Delay Ordinance

EXHIBIT "A"

Sec. 38-63. Demolition Delay, Reuse and Adaptive Reuse – Historic Structures

A. Demolition Delay – All Zoning Districts

The following provisions shall apply to all demolition involving structures listed on the State of New Mexico Register of Cultural Properties and/or the National Register of Historic Places. For purposes herein stated, registered structures identified as contributing or significant (now considered contributing) within either the Alameda Depot or Mesquite/Original Townsite historic districts are subject to the following provisions unless exemptions are specifically provided elsewhere in this code.

1. Mandatory Delay.

- a. Upon submittal of a demolition permit application involving structures identified on the above listed register(s), there shall be a mandatory sixty (60) calendar day delay prior to issuance of a permit authorizing said demolition. The delay shall begin on the date of submittal of the application to demolish and shall cease at the end of the sixtieth calendar day. The purpose of said delay is to allow opportunities to investigate viable uses (reuse or adaptive reuse) of the structure/property in lieu of outright demolition. This investigation effort shall be the responsibility of any and all interested parties along with the property owner of record for the property in question based on Doña Ana County Clerk records. In the event that a use in lieu of demolition of the structure/property is deemed acceptable by the property owner, the following steps shall be required:

- 1) The property owner shall submit a written request to the Building Official or designee indicating the need to withdraw the demolition application; and

- 2) The Building Official or designee upon receipt of said written request shall thereafter render the application null and void. Any and all fees paid for said application may be refunded as deemed appropriate by the Building Official or designee and pursuant to any policies/regulation governing this matter.

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2. Notice.

- a. To ensure adequate notice of a pending application for demolition, the Community Development Department shall notify in writing the neighborhood association to which the property pertains (if applicable), the Dona Ana County Historical Society and the New Mexico State Historic Preservation Office (SHPO) of said submittal. A sign shall also be placed on the subject property indicating submission of a demolition application and clearly stating that the application is under the sixty (60) calendar day delay period. Both written notice and sign placement shall be executed within 2 business days of application submittal.
- b. The sign shall remain in place for the duration of the delay period or until such time that a request to withdraw said application is made in written form.

3. Emergency Demolitions.

- a. Sec 38-63 A. shall not preclude the Building Official or designee to issue a demolition permit at any time in the event of imminent and substantial danger to the health or safety of the public due to significant deteriorating conditions. Prior to doing so, the Building Official shall inspect the building and document in writing and through photographic means the findings and reasons requiring an emergency demolition. A copy of said determination shall be placed in the appropriate demolition permit file as a matter of record.

B. Reuse and Adaptive Reuse – All Zoning Districts

The following provisions shall apply in all instances where the use (reuse or adaptive reuse) of structures/properties listed on the State of New Mexico Register of Cultural Properties and/or the National Register of Historic Places is proposed and accepted in lieu of outright demolition. Structures not facing demolition may utilize these provisions as a means to foster continued use and care of applicable structures and properties.

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1. Reuse and Adaptive Reuse – Land Uses.
 - a. To assist in the reuse or adaptive reuse of historic properties, any use proposal shall be subject to the same benefits outlined in Article V, Special Zoning Districts, Section 38-48 Infill Development Overlay and Article V – Infill Subdivision Process of the Las Cruces Municipal Code (LCMC) regardless of property location. It is recommended that a meeting with a representative from the Community Development Department be initiated in order to provide guidance with respect to the proposal, the applicability of associated infill provisions and the process a proposal must undertake for approval. When a proposal requires deviations to development requirements, the following rules apply:
 1. If the request requires no more than two deviations from applicable development standards (i.e. setback, number of parking stalls beyond what the zoning code otherwise authorizes, etc.), the deviations may be processed following the Flexible Standard provisions (deviation must qualify) outlined in Section 38-56 of this code and/or the variance process also outlined in Section 38-10 I. Applicable fee waiver, expedited review and approval processes are hereby authorized and with the exception of variances, the process shall be administrative.
 2. If three or more deviations to development standards are needed, the proposal shall be required to go before the Planning and Zoning Commission for approval consideration. Applicable fee waiver, and expedited review and approval processes are authorized.
 3. If the proposal involves land use considerations (use variance), this aspect along with all other applicable deviations shall be taken before the Planning and Zoning commission for approval consideration. Applicable fee waiver, and expedited review and approval processes are authorized.
 - b. Reuse and adaptive reuse proposals, although trying to uphold the community interest in preserving historic property, shall be taken under consideration with as much flexibility as reasonable, but shall not be adverse to the health, safety and general welfare of the public. Additionally, proposals should be to the extent possible in keeping with the neighborhood in which it exists and mitigation strategies are hereby authorized to help reduce land use conflicts between properties particularly when mixed use arrangements will result.

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- c. Reuse and adaptive reuse proposals, particularly those involving land use or occupancy changes, will require partial or complete adherence to Americans with Disabilities Act provisions and all other building code (building, electrical, mechanical and plumbing) requirements as applicable. The extent of compliance will be determined by the Building Official or designee upon building permit review and/or business registration review.
 - d. The use of Article VI – Special Provisions, Section 38-58 G.2. (Off-Street Parking in the Historic District) may be used to assist in meeting development standards associated with parking requirements regardless of the zoning district involved. This provision as applied herein shall pertain regardless of a properties location inside or outside a recognized historic district.
2. Structural Modifications – Historic Structures.
- a. In the event that reuse or adaptive reuse measures are requested and applied to qualifying structures/properties, there shall be no interior/exterior remodeling or interior/exterior alteration done to the structure that would compromise the structure’s historic standing.
 - 1. EXCEPTIONS: 1) Modifications involving Americans with Disabilities Act compliance (e.g. ramp/access); 2) In the event that remodeling and/or alteration is shown to be absolutely necessary to promote the reuse or adaptive reuse of the structure/property, said proposal shall be forwarded to the New Mexico State Historic Preservation Office for comment regarding the impact of such activity to the structure’s historic standing and input on how best to integrate said improvements. Regardless, no portion of a façade, wall, roof, or other important architectural detail that is visible from the street(s) immediately adjacent to the subject property shall be covered or altered in a manner inconsistent with the documented significance of said feature(s).

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Any remodeling, reconstruction or addition shall not destroy historic materials/features that significantly characterize the property and shall only be limited to those areas at the rear of the structure/property. Improvements may be attached to and made part of the historic structure as applicable. The architecture or construction styles used for said remodeling, reconstruction, or addition should be sensitive to and compatible with the historic structure in regards to massing, size, and scale in order to help protect the integrity of the property and its surroundings. The related construction shall be undertaken in a manner that allows the new elements to be easily identifiable as a contemporary modification or improvement to the otherwise historic structure. The reason for this is to ensure that clarity exists in terms of what was historically relevant on the structure(s) to what was added after registration efforts took place. This ultimately allows for an easier restoration effort to bring the structure to its former historic significance should there ever be an opportunity and desire to do so.

- b. Reuse or adaptive reuses proposals, if approved administratively via flexible standard application or by the Planning and Zoning Commission, shall at minimum require that the historic structure be adequately preserved to avoid aesthetic or structural deterioration. Efforts may include, but not be limited to, re-stuccoing, re-painting, crack sealing walls and fenestrations, re-roofing and replacing broken windows.

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2. Definitions.

a. For purposes of this section, the following definitions apply.

1. Adaptive Reuse. To bring a structure/property back to a usable state in a manner different from its original purpose (e.g. An office use in a structure originally used as a single-family residence in a R-1a zone).
2. Demolition. For purposes herein stated, this shall pertain to partial or total destruction of interior or exterior building components, typically structural in nature, or buildings in their entirety.
3. Preserve. To maintain a structure's existing form through careful maintenance and repair (National Trust For Historic Preservation).
4. Remodel. To change a building without regard to its distinctive features or style. Often involves changing the appearance of a structure by removing or covering original details and substituting new materials and forms (National Trust For Historic Preservation).
5. Restore. To return a building to its form and condition as represented by a specified period of time using materials that are as similar as possible to the original materials (National Trust For Historic Preservation).
6. Reuse. To bring a structure/property back to a usable state in the manner in which it was originally intended and consistent with the zoning district it falls within (e.g. single-family structure within an R-1a, R-2, or R-3 zoning district that is reused as a single-family residence).
7. Structure. Any primary building, subordinate building or ancillary feature such as a courtyard wall that either independently or in combination, lends or supports the historic significance of the property to which it pertains.

DIVISION 11.

**DEMOLITION: RESIDENTIAL AND COMMERCIAL/NONRESIDENTIAL, BUILDING PERMIT
AND INSPECTION PROCESS**

Sec. 30-491. Application procedure.

(a) *Submittal process.* To obtain a demolition permit, an applicant shall submit an application, with supplemental material, to the Community Development Department any time during normal working hours. Upon receipt of the submittal, Community Development Department personnel shall review the submittal for completeness. When all the required items have been submitted, Community Development Department personnel shall issue a receipt for submittal.

Permit applications will be processed through applicable city departments for review, comments and recommendations. City reviewing departments include the community development, the utilities, and the fire and emergency services. City reviewing departments shall review the proposal within two business days and submit their findings to the community development department.

Community Development Department personnel shall forward any comments to the applicant for revision, if necessary. Permit applications that receive comments shall be resubmitted with revisions for review until the provisions of this code are met. Once all comments are addressed and the permit application is in accordance with this code and with other applicable city ordinances and regulations, a permit shall be issued authorizing demolition.

When the demolition involves structures listed on either the State of New Mexico Register of Cultural Properties and/or the National Historic Register, there shall be a mandatory sixty (60) calendar day delay prior to issuance of a permit authorizing said demolition. Said delay shall begin on the date of submittal of the application to demolish and shall cease at the end of the sixtieth calendar day. The purpose for said delay is to allow opportunities for the investigation into viable uses (reuse or adaptive reuse) of the structure/property. Said investigation shall be the responsibility of any and all interested parties along with the property owner of record for the property in question based on Doña Ana County Clerk records. In the event an alternative use is proposed and accepted by the property owner as a reasonable alternative to demolition, the property owner shall be required to submit a written request to the Building Official or designee indicating a need to withdraw the application. Upon receipt of the request, the Building Official or designee shall render the application null and void and may refund all or part of the application/permit fee as deemed appropriate pursuant to any policies/regulation governing this matter. It is strongly recommended that any alternative use(s) proposed for the property be verified through the Community Development Department to ensure full compliance with the 2001 Las Cruces Zoning Code, as amended (see Article IV. Special Provisions; Section 38-63 Demolition Delay Reuse and Adaptive Reuse – Historic Structures) and all other companion codes.

To ensure adequate notice of a pending application for demolition, the Community Development Department shall notify the neighborhood association to which the property pertains (if applicable), the Doña Ana County Historical Society and the New Mexico State Historic Preservation Office (SHPO). A sign shall also be placed on the subject property indicating submission of a demolition application and shall clearly state that the application is under the sixty (60) calendar day delay period. Said notice and sign shall be executed within 2 business days of application submittal.

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No provision contained herein shall preclude the Building Official or designee from issuing a demolition permit at any time in the event of imminent and substantial danger to the health or safety of the public due to significant deteriorating conditions. Prior to doing so, the Building Official shall inspect the building and document, in writing and via photographs, the findings and reasons requiring an emergency demolition. A copy of said determination shall be placed in the appropriate demolition permit file as a matter of record.

(b) *Retention of plans.* After the permit has been issued, one set of approved plans, shall be retained by the Building Official in accordance with the Records Retention Act as filed with the City Clerk's office from the date of completion. One set of approved plans and specifications shall be returned to the applicant, said set to be kept at the site of the building or work at all times during the period of demolition.

(c) *Validity of building plans.* The issuance or granting of a permit in approving the plans shall not be construed to be a permit for, or an approval of, any violation of the provisions of this code or of any other city ordinance. Permits appearing to give authority to violate or cancel the provisions of this code or other ordinances of the jurisdiction shall not be valid.

The issuance of a permit based upon plans, specifications and other data shall not prevent the Building Official from thereafter requiring the correction of errors in said plans, specifications or other data, or from preventing building operations from being carried on thereunder when in violation of this code or of any other city ordinance.

(d) *Expiration.* Work under every permit issued by the Building Official under the provisions of this code shall commence within 180 days and be completed within one (1) from the date of permit issuance. In order to renew a permit that has exceeded one year, the permittee shall submit new plans for review and approval and shall pay a new permit fee.

Any permittee holding an unexpired permit may apply for an extension of time within which he/she may commence work under a permit. The Building Official may extend the time for action by the permittee for a period not exceeding 180 days upon written request by the permittee, demonstrating that circumstances beyond his or her control have prevented action from being taken. No permit shall be extended more than once.

(e) *Suspension or revocation.* If incorrect information is supplied, or if a violation of any ordinance is discovered, the Building Official shall notify the permittee, in writing, that the permit shall be revoked or suspended.

(Ord. No. 1851, § II, 3-19-01; Ord. No. 1929, §§ I, II, 8-5-02)

Sec. 30-492. Submittal requirements.

When requesting a permit, the following materials will be required to be submitted for each type of permit application submitted under division 11.

- (1) Complete application to include property owner's signature, contractor's name and license number;
- (2) Plan review;

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- (3) Permit fee (required at time of permit issuance issued);
- (4) Site plan. The demolition plan, to include the site plan, shall be on blueline or similar process paper no smaller than 8 inches × 11 inches. Copies provided shall be legible and at a scale that adequately represents the information.
 - a. Name, address, phone number and license number of builder/contractor/demolition firm, if applicable;
 - b. Date of preparation, north arrow, and written and graphic scale;
 - c. General legal description of subject property. If tract is not within an approved and filed subdivision, a vicinity map must be included showing exact location of property. Site plan shall include entire lot or tract, with lot, block and subdivision name on copy of legal description;
 - d. Boundary lines, including dimensions;
 - e. Graphical labeled presentation, showing work to be performed;
 - f. Temporary fencing and dust control plan.

Expiration of plan review. Plan review submittals will expire after 180 days if either no approval or issuance of a building permit has been attained.

(Ord. No. 1851, § II, 3-19-01)

Sec. 30-493. Inspections.

(a) *Pre-inspection requests.* It shall be the duty of the permittee doing the demolition, authorized by a permit, to notify and receive approval from the environmental division of the state regarding potentially hazardous material before the permit is approved.

(b) *Inspection requests.* It shall be the duty of the permittee doing the work authorized by a permit to notify the community development department that such work is ready for inspection. The community development department shall require that every request for inspection be filed at least one working day before such inspection is desired. Such request shall be in writing or by telephone, fax-at the option of the permittee.

The appropriate inspectors shall make their respective inspections and shall either approve that portion of the demolition as completed or shall notify the permittee of any city code/ordinance violations.

(c) *Required inspections.*

- (1) State inspection and verification of hazardous materials;

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(2) Final inspection.

(d) *Approval required.* The building inspector, upon notification, shall make the requested inspections and shall either indicate that portion of the demolition to be satisfactory as completed, or shall notify the permittee or his agent of any city code/ordinance violations. Any portions that do not comply shall be corrected then approved by the building inspector.

(e) *Inspection record card.* Work requiring a permit shall not be commenced until the permittee or his agent has posted, or otherwise made available an inspection record card that will conveniently allow the building inspector to make the required entries thereto regarding inspection of the work. The card shall be kept available by the permittee until final approval has been granted by the building inspector.

(f) *Reinspections.* A \$30.00 reinspection fee may be assessed for each inspection or reinspection when such portion of work is not complete, when corrections called for are not made, or when the work site is not accessible.

This subsection is not to be interpreted as requiring reinspection fees for the first time a job is rejected for failure to comply with the requirements of this code, but for controlling the practice of calling for inspections before the job is ready for such inspection or reinspection.

Reinspection fees may be assessed whenever the permit card is not properly posted at on the work site, or for deviating from plans requiring the approval of the Building Official or the appropriate department.

To obtain a reinspection, the permittee shall pay the reinspection fee in accordance with the fee schedule adopted by the city.

In instances wherein reinspection fees have been assessed, no additional inspection of the work will be performed until the required fees have been paid.

(Ord. No. 1851, § II, 3-19-01; Ord. No. 1929, §§ I, II, 8-5-02)

Sec. 30-494. Certificate of completion.

(a) After inspectors inspects the demolition area and finds no violations of the provisions of this code or other laws enforced by the city, the Building Official shall issue a certificate of completion, which shall contain the following:

- (1) The building permit number;
- (2) The address of the building/structure;
- (3) The name and address of the owner;
- (4) Statement that the described demolition was inspected for compliance with the requirements of this code;
- (5) Name and signature of the Building Official.

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(6) The edition of the code which the permit was issued.

(b) Issuance of a certificate of completion shall not be construed as being an approval of a violation of the provision of this code or of other ordinances under this jurisdiction. Certificates appearing to give authority to violate or cancel the provisions of this code or of other ordinances of this jurisdiction shall not be valid.

(c) The Building Official may, in writing, suspend or revoke a certificate of completion issued under the provision of this code whenever it is determined that the building or structure or portion thereof is in violation of any ordinance or regulation or any of the provisions of this code.

(Ord. No. 1851, § II, 3-19-01)

Secs. 30-495--30-520. Reserved.



**City Council
of the
City of Las Cruces**

Regular Meeting

August 3, 2009

1:00 P.M.

Council Chambers, City Hall

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MEMBERS PRESENT:

STAFF:

Mayor Ken Miyagishima **Absent**
Councillor Miguel Silva, District 1
Councillor Dolores Connor, District 2
Councillor Dolores C. Archuleta, District 3
Councillor Nathan Small, District 4
Councillor Gil Jones, District 5
Councillor Sharon Thomas, District 6

Terrence Moore, City Manager
Fermin Rubio, City Attorney
Esther Martinez, City Clerk

I. OPENING CEREMONIES

Mayor Pro-tem Archuleta called the meeting to order and asked for a moment of silence. Councillor Small led the Pledge of Allegiance.
Ron Camunez sung the National Anthem.
Presentation of Certificates of Appreciation/Proclamations.
Mayor Pro-tem Archuleta and Jeannie Masaway presented the Pet of the Week.
Mayor Pro-tem Archuleta presented a Medal of Appreciation to WWII Veteran Antonio H. Enriquez.
Mayor Pro-tem Archuleta presented a Medal of Appreciation to WWII Veteran Felix G. Provencio.
Councillor Connor presented a Proclamation to Michael Fleming and declared August 3, 2009 as Michael Fleming Day in Las Cruces.
Councillor Small presented a Proclamation to Marcia Salinas of Target and declared August 4, 2009 as National Night Out in the City of Las Cruces.

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IX. REVIEW OF PROPOSED ORDINANCE(S)

(16) Council Bill No. 10-003; Ordinance No. 2532: An Ordinance Amending the Las Cruces Municipal Code Sections 24-62, 24-91, 24-92, and 24-94 to Increase Contract Award Participation by Local Business or Manufacturing Entities for Needed Goods, Services and Construction.

Mayor Pro-tem Archuleta and Council agreed to bring this item back.

(17) Council Bill No. 10-004; Ordinance No. 2533: An Ordinance Amending the 2001 Las Cruces Zoning Code, as Amended by Adding a New Section Entitled 38-63 Demolition Delay, Reuse and Adaptive Reuse - Historic Structures for the Purpose of Establishing a Mandatory Sixty Day Time Period Prior to Demolition (Either in Part or in Whole) of Registered Historic Structures in Which Investigation of Alternatives to the Demolition May Occur.

Mayor Pro-tem Archuleta and Council agreed to bring this item back.

(18) Council Bill No. 10-005; Ordinance No. 2534: An Ordinance Repealing and Replacing Division 11, Section 30-491 (Demolition: Residential and Commercial/Nonresidential, Building Permit and Inspection Process - Application Procedure) of the 2009 Las Cruces Building Code in Order to Provide Procedural Requirements Consistent With 2001 Las Cruces Zoning Code Provisions When Demolition of Registered Historic Structures in Whole or In Part Is Proposed.

Mayor Pro-tem Archuleta and Council agreed to bring this item back.

X. STATUS/UPDATES ON CURRENT PROJECT LIST

1. **Strategic Plan** - *(Meeting held with Council and executive staff on July 23 to review draft. Report due in early August.)*
2. **Sustainability Officer** - *(Interviews continuing through the first week of August, Hiring recommendation shortly thereafter.)*
3. **Las Cruces Convention Center** - (Status report provided monthly on second, Regular City Council Meeting)
4. **Downtown** - *(The project design is ongoing with Bohann-Huston, Inc. The city is working on the final details for the proposed cul de sac on Lucero Ave. The anticipated completion of the design for the north end portion is August 28, 2009.)*
5. **Impact Fees** - (A change order to revise the draft impact fee capital improvements plan (IFCIP) document, to add additional consultant trips, and to add a time and

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**City Council
of the
City of Las Cruces**

Regular Meeting

August 24, 2009

1:00 P.M.

Council Chambers, City Hall

MEMBERS PRESENT:

STAFF:

- Mayor Ken Miyagishima
- Councillor Miguel Silva, District 1
- Councillor Dolores Connor, District 2
- Councillor Dolores C. Archuleta, District 3
- Councillor Nathan Small, District 4
- Councillor Gil Jones, District 5
- Councillor Sharon Thomas, District 6 **By Phone**

- Terrence Moore, City Manager
- Fermin Rubio, City Attorney
- Esther Martinez, City Clerk

I. OPENING CEREMONIES

Mayor Miyagishima called the meeting to order and asked for a moment of silence. Mayor Miyagishima led the Pledge of Allegiance.

Presentation of Certificates of Appreciation/Proclamations.

Mayor Miyagishima and Jeannie Massaway presented the Pet of the Week.

Councillor Archuleta Moved to allow Councillor Thomas to participate in the meeting by telephone and Councillor Connor Seconded the motion.

Mayor Miyagishima called for the roll on the Motion to allow Councillor Thomas to participate in the meeting by telephone and it was Unanimously APPROVED.

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2 Gary Hembree, Development Services Senior Planner gave a presentation and said this item is a
3 zone change from M1M to R4 multi-dwelling and this was approved by the Planning and Zoning
4 Commission; however, subsequently, it was determined that the subject property didn't meet the
5 minimum density standards of R4 zoning. Council can vote yes and affirm the recommendation of
6 the Planning and Zoning which would change this property to R4 zoning with the hopes that it will
7 eventually meet the density requirements or you can vote no and the property would remain with
8 the current zoning. You can also amend the ordinance or recommend that it be sent back to the
9 Planning and Zoning Commission.

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11 Councillor Silva asked are there going to one or two story buildings on this property?

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13 Gary Hembree said the applicant stated there would be one story buildings.

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17 Councillor Jones Moved to Amend Council Bill No. 10-002; Ordinance No. 2531 to change the
18 zoning to R3C multi-dwelling medium density conditional /R4C multi-dwelling high density limited
19 retail and office conditional and Councillor Small Seconded the motion.

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23 Mayor Miyagishima called for the roll on the Motion to Amend Council Bill No. 10-002; Ordinance
24 No. 2531 to change the zoning to R3C multi-dwelling medium density conditional /R4C multi-
25 dwelling high density limited retail and office conditional and it was Unanimously APPROVED.

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30 Mayor Miyagishima called for the roll on the Motion to Adopt Council Bill No. 10-002; Ordinance
31 No. 2531 as Amended and it was Unanimously APPROVED. 7-0

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35 (3) Council Bill No. 10-004; Ordinance No. 2533: An Ordinance Amending the 2001
36 Las Cruces Zoning Code, as Amended by Adding a New Section Entitled 38-63
37 Demolition Delay, Reuse and Adaptive Reuse - Historic Structures for the Purpose
38 of Establishing a Mandatory Sixty Day Time Period Prior to Demolition (Either in
39 Part or in Whole) of Registered Historic Structures in Which Investigation of
40 Alternatives to the Demolition May Occur.

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42 Councillor Jones Moved to Adopt Council Bill No. 10-004; Ordinance No. 2533 and Councillor
43 Connor Seconded the motion.

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3 Councillor Archuleta Moved to suspend the rules and discuss Item 3 and Item 4 concurrently and
4 Councillor Connor Seconded the motion.

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8 Mayor Miyagishima called for the roll on the Motion to suspend the rules and discuss Item 3 and
9 Item 4 concurrently and it was Unanimously APPROVED. 7-0

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13 Vincent Banegas, Planning and MPO Administrator gave a presentation and said these items involve
14 the proposed demolition delay ordinance and this issue was brought before Council several months
15 ago. Information was presented on how the City could better protect the historic structures in the
16 community and seek out ways on how we could avoid the demolition of these structures. This was
17 heard by the Planning and Zoning Commission and they recommended it be approved. This would
18 allow for a sixty day delay period before any structure could be demolished which would give
19 property owners a cooling off period to decide if they really want to have it demolished. This will
20 also allow us to see if there is a possibility that the structure can be reused. We don't seek to
21 eliminate the emergency demolition provision as it is currently written in the code. When structures
22 are in danger of falling and create a safety issue for the residents, the building official would retain
23 their ability to look at the structure, identify what is wrong with it and document his findings to
24 support an emergency demolition of the structure. We will allow flexibility regarding the property
25 uses but in return we will be asking that they not make any additions to the front of structures and
26 try to preserve the original historic structure as much as possible. This would only apply to
27 properties that are already registered as historical structures. There might be issues with this because
28 usually when someone applies for a demolition permit, it is done fairly fast and in the case of
29 someone with a historical structure, there would be a sixty day delay. The property owners must
30 be in agreement with the application process for a historical structure so there won't be any issues
31 with people trying to get structures on the register without the property owners consent. At the first
32 reading of this ordinance, it was proposed that when this came back to Council which is today, that
33 Council would table it until the September Land Use meeting to give us additional time for a public
34 meeting regarding this issue. We do have a public meeting scheduled for September 1st at 6:00 p.m.
35 in Council Chambers.

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38 Mayor Miyagishima asked can someone buy a historical building and choose to knock it down?

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40 Vincent Banegas said yes, as long as there hasn't been any federal funds used toward the
41 reconstruction of the property.

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43 Councillor Connor said I think we need to give the public time to express their view points
44 concerning this issue.

1 Mayor Miyagishima said I want to be very careful with this, if the property owner doesn't want to
2 preserve his property then it is his right to have it demolished.

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4 Councillor Archuleta said I think we need to have another meeting or two to get more input
5 regarding this issue.

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7 Mayor Miyagishima said I want to make it clear that we can't make a owner keep a historic
8 structure.

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10 Fermin Rubio, City Attorney said outright stopping an owner from doing that; you get into the same
11 problem if you set up requirements and obstacles to make it almost impossible for the owner to do
12 something with their property.

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14 Councillor Thomas said I have been contacted by several people who want to be able to give their
15 input regarding this issue. I think we need to have a work session and give the public an opportunity
16 to express their views and ideas. I would like to change the date from September 2nd because that
17 is the week of the Municipal League.

18

19 Mayor Miyagishima said we need to let the public know that it is ultimately up to the property
20 owner to either keep or destroy the structure.

21

22 Councillor Silva said I just found out about the meeting on Saturday and I was a little irate about it.
23 It is to be held in my district and I didn't even know about it. I think more time is needed to go
24 through the information regarding this issue. I would suggest that the September 2nd meeting either
25 be changed or moved to another district.

26

27 Vincent Banegas said the meeting date is scheduled for September 1st at 6:00 p.m., here in Chambers
28 and it is only intended to gather input from the citizens regarding these proposed ordinances.

29

30 Councillor Archuleta asked when would the second meeting be scheduled?

31

32 Vincent Banegas said it hasn't been set yet and we are open to any date suggestions.

33

34 Mayor Miyagishima said I don't think there will be a need for a second meeting.

35

36 Councillor Silva said there is another neighborhood meeting in my district on that date and I would
37 like my residents to have an opportunity to give their input on this issue.

38

39 Sandy Geiger, Member of the Public said I would like to request that you have a work session or
40 public meeting regarding this issue because there are some key questions that need to be answered.

41

42 Councillor Jones said we do to give the public the opportunity to give us their input and we also
43 need to outline our role regarding properties that have had federal dollars used to preserve their

1 historical value. I think we should have a second meeting for those individuals that are unable to
2 attend the first meeting on September 1st.

3
4 Vincent Banegas said it is my understanding that the issue of federal dollars that are invested in
5 historic properties; it does not prohibit demolition of the property at some point. It require that they
6 go through a process to try to find alternative uses for that property.

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10 Councillor Silva Moved to Table Council Bill No. 10-004; Ordinance No. 2533 until the October
11 19th meeting and Councillor Jones Seconded the motion.

12
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15 Mayor Miyagishima called for the roll on the Motion to Table Council Bill No. 10-004; Ordinance
16 No. 2533 until the October 19th meeting and it was APPROVED. 6-1 Councillor Silva, Councillor
17 Connor, Councillor Small, Councillor Jones, Councillor Archuleta and Mayor Miyagishima.
18 Councillor Thomas voted Nay.

19
20 -----
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22 Councillor Thomas said I do want to have a work session scheduled because I don't want the only
23 time that Council can discuss this issue to be at the time we are voting on it.

24
25 Mayor Miyagishima said I will schedule a special work session before October 19th to discuss this
26 issue.

27
28 -----
29
30 (4) Council Bill No. 10-005; Ordinance No. 2534: An Ordinance Repealing and
31 Replacing Division 11, Section 30-491 (Demolition: Residential and
32 Commercial/Nonresidential, Building Permit and Inspection Process - Application
33 Procedure) of the 2009 Las Cruces Building Code in Order to Provide Procedural
34 Requirements Consistent With 2001 Las Cruces Zoning Code Provisions When
35 Demolition of Registered Historic Structures in Whole or In Part Is Proposed.

36
37 Councillor Jones Moved to Adopt Council Bill No. 10-005; Ordinance No. 2534 and Councillor
38 Connor Seconded the motion.

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42 Councillor Jones Moved to Table Council Bill No. 10-002; Ordinance No. 2533 until the October
43 19th meeting and Councillor Small Seconded the motion.

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Mayor Miyagishima called for the roll on the Motion to Table Council Bill No. 10-002; Ordinance No. 2533 until the October 19th meeting and it was Unanimously APPROVED. 7-0

IX. BOARD APPOINTMENTS

None given.

X. REVIEW OF PROPOSED ORDINANCE(S)

None given.

XI. STATUS/UPDATES ON CURRENT PROJECT LIST

1. **Strategic Plan** - *(Meeting held with Council and executive staff on July 23 to review draft. Report due in early August.)*
2. **Sustainability Officer** - *(Interviews continuing through the first week of August. Hiring recommendations shortly thereafter)*
3. **Las Cruces Convention Center** - *(Status report provided monthly on second, Regular City Council Meeting)*
4. **Downtown** - *(The project design is ongoing with Bohann-Huston, Inc. The city is working on final details for the proposed cul de sac on Lucero Ave. The anticipated completion of the design for the north end portion is August 28, 2009.)*
Considerations for Temporary Farmers Market Temp Positioning.
5. **Impact Fees** - *(A change order to revise the draft impact fee capital improvements plan (IFCIP) document, to add additional consultant trips, and to add a time and expense budget to cover the cost for implementation assistance was approved by City Council on June 15, 2009. We anticipate that the new draft of the IFCIP will be submitted to the City the first week of August 2009.)*
6. **Aquatics Center** - *(Status report provided monthly on first, Regular City Council Meeting)*
7. **Vision 2040** - *(The consultants have completed preliminary drafts of the Regional Vision, and CLC and DAC Comprehensive Plans. The Regional Vision is being reviewed by staff, and the consultant is revising the CLC and DAC Comprehensive Plan drafts based on staff comments. When revisions to all three documents are complete, the preliminary drafts will be released for public comment, and public input meetings will follow.)*

Summary of Issues raised at the 9/1/09 Demolition Delay Public Input Meeting and Staff Responses

- Do not impact interior demolition
 - Staff has no problem with this position. The draft as written is intended to focus primarily on the exterior of the structure and even more on the exterior facades which may face public rights-of-ways. That said, some language does concern significant interior features, but this can easily be modified as necessary.
- Do not restrict modernization (use of new material) of exterior building components such as window replacements, vigas or other decorative elements.
 - Staff has no problem with this position. Staff recognizes that older methods of incorporating said features may not hold up well and be expensive to restore and would thus, welcome appropriate alternatives. This is implied in the existing language, but not tacitly stated. There is reference to forwarding plans involving remodeling/alteration to the New Mexico State Historic Preservation Office for input on how best to integrate said efforts and sometimes commentary received back from SHPO recommends restoration of existing items “to the extent possible” which can be a concern.
- Redundancy with Federal and State regulations
 - Staff is unaware of any specific Federal or State regulation that protects local historic property to the degree sought. There are guidelines that can be followed and significant encouragement to preserve and maintain historic properties, but it would rest on local ordinance to implement specific standards, thus no redundancy exists.
- 60 day delay too short consider 180 or 240
 - Staff feels there is confusion on this matter. The commentary received seems to imply that the 60 day window is to accommodate every step in the process to examine and implement alternatives to outright demolition. The fact is, the property owner must adhere to the 60 day window before demolition takes place and does not have to partake in any discussion related to preserving the property. If however, the property owner becomes interested in preserving the property, they can rescind the demolition permit application and take as long as they wish to investigate any and all alternatives. There is no mandate whatsoever that requires demolition after the 60 day period. Staff has previously indicated that delays exceeding 60 days could be challenged and deemed a temporary takings.

- Incentives inadequate – tax credits
 - Staff feels that substantial flexibility has been afforded in the current proposal. This takes place via zoning and companion ordinance regulations. Tax credits, property or otherwise would have to involve more governmental entities in terms of buy in and application. This was not part of the original proposal.

- Historic Preservation Ordinance **preferred** not just Demolition Delay
 - Some feel proposal is a good first step on which to build and staff must indicate that this was the original direction provided to staff.

- Appeal process
 - Statement received was that no appeal process is contained within the ordinance as presented. Staff contends that the proposal is part of the Zoning Code and as such, follows the appeal process stipulated within Article II – Administration, Section 38-13. Clarification to this effect can be made.

- Need education process before demolition permit granted within delay period that outlines options for use/reuse and value of historic property.
 - Current language does not specifically require this, but rather encourages active participation on behalf of the property owner. As written, property owner does not have to engage in any discussions regarding preservation, but must wait the required 60 day delay period.

- Demolition Delay should be applicable to all structures not just those on historic register
 - Issue has been discussed previously. Concerns over temporary takings issues drove the proposed ordinance in the direction presented.

- Have notice requirement like a typical case including property sign, advertisement and letters mailed to adjacent/surrounding property owners.
 - Staff is not opposed to this. Said language can easily be included in the proposed ordinance.

- Require documentation such as photographs, drawings, etc. as part of the demolition permit submittal requirement. In this fashion, if the structure is demolished, at minimum some documentation will exist reflecting what was on the property.
 - This can be added as a requirement however, in many cases, the level of documentation stipulated may be deemed too costly if drawings for example do not exist and creation of same has to occur.

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PUBLIC INPUT MEETING
Proposed Demolition Delay Ordinance

5 The following are minutes of the Proposed Demolition Delay Ordinance Public Input
6 meeting held on Tuesday September 1, 2009 at 6:00 p.m. in the Las Cruces City
7 Council Chambers, 200 North Church Street, Las Cruces, New Mexico

8
9
10 **STAFF PRESENT:** Vincent Banegas, Planning and MPO Administrator
11 Carol McCall, Planner

12
13 **PUBLIC PRESENT:** Irene Banegas Larry Wayne Joycet Macrorie
14 Annie Polanco Bobbie Hutson George Pearson
15 Daniel Ramirez Santiago Soto John Nelson
16 Gloria Martin Liz Ibarra Greg Smith
17 Melinda Whitley Lorraine Soto Al Cowan
18 Eric Liefled Bob Burns Trevor Peters
19 Susan Krueger Aurora Garcia Diana Galla
20 Lorenzo Rios John Soroa Carmen Arellano
21 Sergio Tovar John Hoffman Greg Gendell
22 Bob Burns Lorrie Meeks Faith Hutson
23 Jerry Lundeen

24
25 Meeting started at 6:00 p.m.

26
27 Vincent Banegas summarized the reasoning for the proposed ordinance pertaining to
28 60 day delay of demolition pertaining to buildings listed on historic registries, either state
29 or federal.

30
31 Public Comment:

32
33 Hoffman: Hi. My name is John Hoffman. I'm the new owner of the old Doña Ana
34 County Courthouse. And well I have some problems with this proposed
35 ordinance and I could speak for an hour on it, but I won't. My first problem
36 is with the demolition delay. One thing I noticed is that this refers to all
37 demolition regarding the structure. If I hadn't had it done already, I had
38 some asbestos containing material removed from my building. This would
39 have made the 60-day delay on that. There doesn't seem to be any
40 procedure for you know partial demolition like that to be speeded up. I
41 also have issues with interior nonstructural demolition. You know a
42 building is a machine. It can be an antique but it also something designed
43 to make the people who live in it comfortable. When you restrict the ability
44 to change that you can make a building difficult to live in. I have a big
45 problem with some of the adaptive reuse provisions. On the courthouse,
46 the courthouse has the old steel casement windows. They're very

1 inefficient, even with the utmost renovation work, they're still not very
2 efficient. This ordinance as written would prevent me from replacing them
3 with replica but modern design windows. Also, if you're familiar with the
4 courthouse, it looks like an old adobe structure, it's actually made of
5 concrete and brick. The ends of the vigas you see sticking out of the
6 sides are ornamental and you know wood and concrete don't really mix.
7 The water wicks inside the concrete and the wood rots and these 100 to
8 200 lb chunks of wood are falling out of the building. My plan was to
9 replace these with cast replicas and we could paint them to look exactly
10 like the original. This ordinance would forbid that as written. I'd already
11 gone over these with the historic preservation division and the county, and
12 with the state government and had an arrangement set up where the
13 buildings appearance would be preserved and I could repair these
14 deficiencies, this would undo all the work I did. So, I have a few other
15 issues, but, oh yes, in this ... there is ... the way the American's With
16 Disabilities Act provisions are written, it's possible to make a structure
17 impossible to occupy. You wouldn't be allowed to perform ADA
18 requirements if you couldn't do so without concealing certain components.

19 I do have also one other ... two problems. First off, the reuse and
20 adaptive reuse, it's redundant with regard to state and federal regulations
21 already. In most cases these are already enforced which makes it another
22 layer of bureaucracy. Further, looking at this, it can be more tedious to try
23 and reuse a building than to demolish it. There is a 60-day delay on
24 demolishing, but the reuse requirements are absolute. It could induce
25 people to demolish a building rather than reuse it. Perhaps we should
26 apply the 60-day limit to that section also?

27
28 Gendell: I'm going to have to jump around here. My name is Greg Gendell. I own,
29 at least by your card count, I own four historic properties, either historically
30 significant or historic. And I'm not sure this is going to come in any logical
31 sequence and I'm dealing as opposed to Mr. Hoffman, I'm dealing with
32 residential properties, not commercial properties and there are some very
33 definite distinctions to be made there. And I agree with many of the points
34 that he made. You indicate a 60-day waiting period. Having come as
35 young person from the state of Pennsylvania I suspect that the state of
36 Pennsylvania has been through this 70 or 80 or more years ago. Sixty
37 days is nothing in the state of Pennsylvania. I don't know what their
38 existing law is with that, but 60 days doesn't hardly seem to be enough to
39 me. And let me give you an example; if an individual had a buyer that was
40 willing to buy historic lot if the property were demolished, at the end of 60
41 days if there could be no one who would come up to challenge the new
42 buyer at the new buyer's price and would be interested in only restoring
43 the property, they'd be at extreme disadvantage and at the end of 60 days
44 the property owner could wait it out, demolish the property and there'd be
45 none the harm.

1 Again, in the state of Pennsylvania which has done this historic
2 preservation work for a number of years, they have sort of used the carrot
3 as well as the whip. And what they've done is they've said in historic
4 properties if you cannot find ... if you can find an adaptive reuse and
5 restore the property, and you are willing to sell it to someone to do that at
6 a price that is reasonable, we will extend boo coo tax credits to you as the
7 seller and to the new property owner for preserving this property. I don't
8 see that that's been addressed anywhere in here. Any kind of
9 incentivizing for new property owners as well as existing property owners
10 to be interested in preservation. I will tell you having looked carefully at
11 the states and the historic registers, incentives for preservation, the pain
12 that you must go through to get nearly nothing is not worth it. And I think
13 there is absolutely ... another thing is that there seems to be nothing in
14 this mandatory demolition that you discussed with respect to your building
15 and zoning officials. I think that should be an appealable process,
16 because having dealt with building officials here and in other areas, I will
17 tell you that once it gets beyond the scope of their manual, they are pretty
18 well befuddled. And it would be easy to go into any historic property and
19 find boo coo problems with the property. And I'm curious if any of these
20 issues that I've brought up have been discussed in your meetings, or if
21 they're anything you are considering.
22

23 Banegas: Just real quickly to kind of answer a few of those points. The 60 day
24 period, I'll touch on that. As presented in my comments as part of the
25 ordinance itself, we're taking advantage of what already exists in an
26 overlay. We felt that time periods beyond the 60 day ... to tell you the
27 truth we had a hard time getting it to 60 days when the original overlay
28 was written. I think 30 days was kind of the more comfort level that was
29 felt by some of those that we had been in contact within the organization,
30 primarily in talking with legal and trying to avoid some concerns there. But
31 60 days was thought to be a useful time period. I agree, it's a short time
32 period, it doesn't offer a whole heck of a lot of time to examine a lot of
33 alternatives, but there is a provision in the ordinance that basically allows
34 a property owner if they feel that they haven't even considered some of
35 these alternatives and they'd like to, if they want to put a stay on that 60
36 day period. They can say you know what I'm going to examine this. I'm
37 going to retract my demolition permit submittal thus removing it from
38 consideration so that they can investigate those opportunities and they
39 can take well beyond the 60 day period. Because in order to get it back
40 into the clock if you will, they'd have to resubmit and start that all over, so
41 there are opportunities to do more extended review period.

42 The other thing ... in terms of some of the benefits, you're right, I've
43 heard the plethora of complaints in terms of you know what benefit does
44 the property owner receive. Unfortunately a lot of those are provided tax
45 credits as an example and historic preservation load fund. Those are
46 programs that are afforded by other entities beyond the city of Las Cruces

1 and we're relying on those as kind of an enticement above and beyond the
2 other provisions in our Zoning Code that hopefully make development of
3 these properties or re-development of these properties in terms of reuse
4 more attainable, but it probably doesn't go as far as some folks would like,
5 but it is what it is. That's what we have.
6

7 Gendell: Have you at all investigated what the City of Santa Fe has done with
8 regard to this kind of a thing? Because I have a hard time believing that
9 60 days is what they suggest.
10

11 Banegas: Yeah, we've looked at various communities and if I'm not mistaken the
12 difference here is a lot of the communities we looked at have a full blown
13 historic preservation ordinance that takes into consideration a rather large
14 spectrum of events, activities that go into preserving our structures. This
15 does not go that far. We are merely ... we're trying to pull back from that
16 process but still take a look at opportunities to preserve those structures
17 as best we can given the direction that we've been given. So I'm sure
18 they do go beyond that. I don't know Carol if you intimately familiar with
19 the provisions.
20

21 McCall: No, not in Santa Fe. I have come across some ordinances that have 180
22 days or a full year, that sort of thing. And that was the comment that
23 Vince made, our legal department pretty much put the constraint on it
24 because we don't have anything larger than the demolition delay proposal
25 and because we already have two ... we have historic districts in place,
26 and this ordinance would apply to the whole city. If we were within only a
27 historic district, then I think they might have ... be willing to go with a little
28 more flexibility.
29

30 Banegas: There are opportunities to investigate this.
31

32 McCall: I think Mr. Hoffman had some information ...
33

34 Hoffman: Quick question, if a demolition permit is issued, does that require the
35 property be demolished? Because with 180 day delay before the potential
36 start of demolition, if a property owner receives an offer that's attractive,
37 he's not going to tear down the property.
38

39 Banegas: That's correct. There's no requirement pursuant to these ordinances that
40 once you receive your demolition you're mandated to tear down the
41 structure. No. That's perfectly within the purview or simply within the
42 purview of the property owner.
43

44 Burns: Hi, you mentioned an overall historic ordinance, preservation ordinance.
45 My name is Bob Burns. And is there any possibility of getting something
46 like that for the City of Las Cruces?

1
2 Banegas: We would certainly take your comment forward and of course that'll be up
3 to City Council to decide whether or not they wish to pursue that option.
4 But that has come up.
5
6 Smith: Greg Smith. Just wanted to say first of all Vince thank you for pulling this
7 forward. You did some nice work, we're pulling up some of the quotes
8 regarding historic structures from the Secretary of Interior's guidelines.
9 Also, I would like to commend Mr. Hoffman and Mr. Gendell, both of them
10 have in their own way without a whole lot of constraints been working to
11 readapt or reuse some of our historic structures. I know that some of the
12 concern that's being expressed is the placement of constraints on people,
13 property owners, and that is a huge concern. The Mayor reiterated that
14 several times at the City Council meeting the other day. But what I have
15 heard several people say and what I believe myself is, this is an important
16 first step. Certainly taking into consideration some of the comments this
17 evening, you know might need some modification, but I do believe that this
18 City does have some historic structures that do need to be preserved and
19 we need to find a way to help the owners understand the importance of
20 those structures before they do get lost. We also understand that you
21 know Las Cruces has a lot of assets that other people don't always
22 recognize and one of them is tourism. And tourism often times does
23 include an awareness of the history of a place, so whatever we can do to
24 help people understand that our historic and cultural heritage here is
25 important, I do believe we'll help the community as a whole. Thank you.
26
27 Ibarra: My name is Liz Ibarra. My mother owns a house in the historical district.
28 And I just want to ask a question. Is there state and federal regulations in
29 place that prohibit a City from going in and doing something like they did
30 during the urban renewal period, when they demolished all this area
31 around Main Street, the houses and everything? Is there ... once your
32 house is identified as a state or federal historical place, can the City go in
33 and just say, you know, we'll pay you pennies for the dollar and we're
34 going to demolish all this so we can expand the City.
35
36 Banegas: In answer to that, I'm not aware of any specific state or federal regulation
37 that would prohibit that, however, there is a process for any such activity
38 which obviously the city would be number one identifying some project,
39 which we are not, but identifying some project that is being considered for
40 any given part of town. But any time we do look at acquiring properties,
41 there's a full blown process by which we're notifying property owners,
42 trying to purchase the property fair market value, that type of thing, so that
43 we can acquire the properties and then pursue actions to implement the
44 plan. But we're not proposing that. We're not proposing that through any
45 of these ordinances that are being brought here.
46

1 McCall: I can add to that too. The other thing about this ordinance, if it's adopted,
2 the city has to live by it as well and the city does own a number of historic
3 properties and could potentially acquire more, so they would be
4 responsible in the same way that any other private property owner would
5 be.

6
7 Smith: Two comments, one; I would ensure that if you do have a property that
8 you think is historic get it on the state historic registry and if it's nationally,
9 if it suits you, get it on the national historic register because that's slows
10 down anybody, the City included, from making any kind of ... I mean it just
11 reinforces your position. The other thing is in terms of Mr. Hoffman's
12 concerns and I would reiterate those from a property owner dealing
13 residential properties, I think there needs to be some consideration given
14 to nonstructural interior changes, at the minimum there needs to be an
15 appeal process that if there is no historic reason to preserve those interior
16 changes and modifications that have been done to the building, in
17 particularly the casement windows which I, Mr. Hoffman, have been there,
18 done that, and Mr. Hoffman's exactly right; there needs to be an appeal
19 process in there for someone that's trying to live within the spirit of your
20 ordinance and within the spirit of historic preservation, that allows them to
21 come before the City or come before somebody and say, look this is not
22 realistic. I need to be able to do this and this, and there needs to be at
23 least an appeal process within what you're doing here so that he can do
24 that and so that I can do that as well.

25
26 Banegas: Just in response to that point, but also Mr. Hoffman some of your
27 concerns for the interior demolition of some of the asbestos material and
28 that sort of thing. If we need to emphasize more so the exterior than the
29 interior, we could do that. I mean if that's the desire and the input. Some
30 of the things that you mentioned, the casement windows and so forth, I
31 know that for some of the projects the city partakes in primarily home
32 rehabilitation program as an example, in that program we're expanding
33 some federal dollars, so they definitely comment on the types of windows
34 that they're willing to accept in lieu of the original. But in terms of private
35 property where no such expenditure of federal monies are taking place,
36 we would be very much in favor of what you're seeking to do, and that's to
37 utilize, number one something that SHIPA already said was good for
38 them, but something that is in keeping with what already existed. And in
39 terms of the vigas and that type of ... that's fine with us. I mean we don't
40 have a problem with that type of issue.

41
42 Hoffman: It's just that I ... like I've said I've been through this with the state historic
43 preservation division. They were adamant on my replacing the steel
44 casement windows with other steel casement windows. They were
45 proposing the use of this very expensive window film to increase
46 efficiency, which would mean either the window wouldn't be operable, or

1 air infiltration would still come in around the edges. The cost of this was
2 much higher than modern windows. And you know they weren't willing to
3 shift their position. It's difficult to work in that ... work with them on that.

4 I definitely couldn't proceed with my plans. My plans were to use
5 the building as a premier professional offices in the short-term. And as
6 part of a hotel in the long-term. You can't have premier office space with
7 wind coming in through the windows.

8 When it happened I had an alternative, I could have refused to
9 purchase the building. I don't have that alternative now. If you're
10 concerned about the appearance of the City, you know again like you said
11 the primary concern is the exterior appearance. The interior appearance
12 you know should the City be legislating what you can do with an antique,
13 somebody comes into your house, that chair was owned by Zapata. You
14 can't sit in that, you might break it. You know people who are looking at
15 the character of the City aren't looking inside the houses. They're looking
16 at the outside. And I think you do need to be more concerned about
17 appearance. The more you have to spend on heating a house or on doing
18 preservation, the less you have on other upkeep, keeping the place neat.
19 Do you want a city that's historic and dynamic and active, or do you want a
20 city that historic and rundown and seedy.

21
22 Meeks:

23 Hi, I'm Lorrie Meeks. I live in the Mesquite Historic District and we have a
24 house that I guess is on the state register which brings me to the first
25 question is; my impression is that the state register is an area and the only
26 way you know whether your house is on the state register or not is if it was
27 included in the survey and has been determined to be contributing
28 significant, noncontributing, so you don't ever apply to the state to have
29 your house on the register, you do with the national. That's my
30 impression. Is that correct?

31 Well as far as I know we're in the Mesquite Historic District, is in the
32 state register 777 or something like that. And the only documentation as
33 to which houses are on it or off it, are from the survey of 1984. So I don't
34 see that anybody's ... I like Cutter Jewelers or some other places are
35 outside of our district can apply and be, but the state ... so which my first
36 point is, is most people don't even ... half the people don't even know their
37 house is on the state register. I mean so that's sort of a critical concern as
38 far as you know whether they're changing anything with their house or not.
39 I'm also a member of Las Esperanzas and we try to poll that ... which is a
40 neighborhood association in the Mesquite Historic District, we tried to poll
41 the board about their thoughts on this and everyone of them said you
42 know 60 days is not enough. And I have looked at some of the other
43 towns in New Mexico who are local certified governments which
44 presumably is the major step that one takes when the city actually says,
45 we want to preserve what we have here. And their ordinances talk about
46 240, 180 days, we're talking Lincoln County, Deming, Columbus, Silver
City, Santa Fe, Taos, I mean of course Santa Fe and Taos would you

1 expect, but if Columbus can do it or Deming can do it, what is going on
2 with Las Cruces? You know that sort of worries me a little bit. So
3 anyhow, I also think that part of our problem in Las Cruces is that the
4 historic districts ... that not only ... we need more education about them.
5 In other words, if you want to destroy your building, not only do you ... are
6 you delayed 60 or 240 days, you have to go through educational process.
7 You have to go in front of the board, they have to provide you with
8 information about the value of the you know property that you have, what
9 are some options; not just you go down to get a permit, you wait 60 days
10 and then you bulldoze the place over. So I think a lot more education
11 would be a valuable thing in any realm of the historic preservation.

12 I do want to say I appreciate the city making an effort to say
13 something about historic preservation and to do something about the
14 code, but particularly what's in this code is a little worrisome and some of
15 things that you've presented on the board aren't exactly what it says in the
16 attachment A. For example, right at the get-go ... it's my impression that
17 you intend to include this ordinance citywide, but the first part it says; the
18 Alameda Depot and the Mesquite Original Town Site Historic Districts are
19 subject to the following provisions. It doesn't say citywide. So, you know
20 that ... I want to make sure that a couple of the properties that are outside
21 of ... there aren't very many, outside of those two districts are included.
22 And also ... here I see the point of this quid pro quo, whatever that is,
23 where if we allow you to ... if you don't demolish your property we're going
24 to be more flexible in the standards that you have to apply, but in this
25 document it is ... you will use these interior or exterior you can't change it.
26 I mean the language is a little different than what was presented tonight. It
27 isn't like we'll help you if you help us preserve your building, it's more like if
28 you don't demolish your building you have to do this, the way it's written.

29 I really support this idea of getting some tax credits and incentives
30 to the homeowners or whoever is buying, whoever's selling, again that's
31 sort of an educational process. I can't believe there isn't volumes of
32 information about how other cities have gone about helping to preserve
33 their areas. And I guess I could go on. I have more notes, but I want to
34 say that you know Las Cruces really does have some historic properties
35 and culture that if it isn't preserved right now starting soon, it's just going to
36 be gone and it is so valuable. It is so unique to this area of the country
37 and the rest of the United States and the world, and if you don't see that,
38 and start looking at your properties, like this is a valuable asset to you and
39 to the nation, you know the city of Las Cruces really needs to recognize
40 that and if their interested in it and they preserve it, and they move forward
41 with it, you're going to see tourist dollars come in here. And I know that
42 that's what the city wants to hear, gross receipts. You know that's going to
43 make a huge difference that people preserve their properties and there is
44 you know an element of the history of this location preserved. So I guess
45 again I could say more but I want to hear what other people have to say.

1 Pearson: George Pearson. I listened to the mayor comments when this came up to
2 City Council and I was quite disappointed by what the mayor had to say.
3 Continually going over the fact that well we can't stop the private property
4 owner from doing what they want to do. The point that we need this
5 ordinance for is so that we have the discussion, the 60-day discussion
6 period where as a community we can understand that this is going to
7 happen, that as a community we can maybe come up with solutions for it.
8 It not just so that the property owner can do whatever they want anyways.
9 If there's enough of an outcry the property owner might stand back and
10 say, well this isn't going to work. If I put this shop in here no body's going
11 to be showing up in my shop because they're going to be so pissed off by
12 what I did. So we need this, at least the 60 day ordinance so that we can
13 have as a community that discussion. Right now it's only affecting the
14 historic districts and three or four properties outside of the historic district.
15 I think it needs to affect every property that has a certain age, say 65
16 years old has to be evaluated whether it qualifies for discussion under this
17 ordinance. The city attorney's office says oh that's a temporary taking that
18 we can't have. Well right now there's a temporary taking on every ...
19 there's a permanent taking on every property in the city. The zoning code
20 says what I can do with my property. If we apply it equally across the
21 entire city I don't see why we can't have it affect all properties. The
22 discussion that started this was pink house. Well this wouldn't have
23 affected the pink house, so. There's antler example on Foster that was
24 recently rezoning and it's an old house there. Who knows what its prior
25 history was. Maybe it was another farm house of the same age as the
26 house that the restaurant's now in off of Idaho. Without having this
27 ordinance and this discussion, we wouldn't know. The whole affect might
28 be, the only thing that we can do is preserve the history of that property
29 before it is legally torn down by the homeowners. That in itself is the
30 benefit to the community.

31 And the other point that I want to make is on the publication, there
32 is no publication requirement, just a posting. I'd like to see that properties
33 affected by this ordinance come before the P&Z so that the property
34 publication happens so that the public is notified in the papers through the
35 normal process. P&Z would just take notice of it and say yes that
36 happened, but I don't think there's enough publication notice right now
37 with what's proposed.

38
39 McCall: I have a question related to that. Well you're the saying the P&Z like a
40 legal notice that's in the paper for P&Z, so is the issue that you would want
41 it on the P&Z agenda or you would want a legal notice posted, because
42 that's ... we certainly talked about a legal notice for ...
43

44 Soto: Santiago Soto. My mother owns a house on Campo Street that's in both
45 federal and state. It seems to me that even if anyone here that's been
46 bringing up these concerns, at 60 days would never be enough time. If we

1 had to bring up these concerns now and we had to check over here and
2 we had to check over there, 60 days is not taking us any place. Sixty days
3 is not the time. An appeal process. We need an appeal process. I agree
4 with you and we need up to 60 days to 180 to 240.
5

6 Hutson: I'm losing my voice so bear with me. My name is Faith Hutson. I'm also
7 ... I own property in the Mesquite Historic District and I'm also a board
8 member of Las Espearanzas. I do want to state that when we did the
9 overlay we spent a lot of time on discussion with it and most of us were
10 not happy with the 60 days. It's what legal told us we had to have in the
11 end. We were not happy with that. So just so you know that wasn't what
12 we wanted to begin with. My big issue of course is the 60 days and I
13 agree with everybody that has spoke here. You can't buy a house in 60
14 days. You can't close on a house in 60 days. You mentioned doing the
15 research to check on that, you're not going to get that done in 60 days.
16 And you can't get anything to the design review board in 60 days. It's just
17 not possible. So I agree. That's all I have to say about it. It needs to
18 change. It needs to be a minimum of 180 days.
19

20 Whitley: My name is Melinda Whitley. I'm concerned with the Alameda Depot
21 Neighborhood Association. Just this summer we completed a process
22 that took us over eight years to try to get a compromise agreement in
23 place and approved by the Planning and Zoning Commission and the City
24 Council regarding our neighborhood. One of the primary things that we
25 decided and we were very careful to see that it was specifically spelled out
26 in that plan was that we would not have a review board. We would not
27 have a local historic overlay over our neighborhood. That was just bottom
28 line. Now one of the first things interestingly enough that we did
29 compromise on in the plan that was first prepared back about 2003 or '04
30 was this demolition issue. And so we were able to compromise on that
31 without a whole lot of trouble. We agreed that 60 days was reasonable
32 and we wanted the signs to be very obvious to anyone passing by that this
33 was under consideration for demolition and so forth. But you know having
34 come through all of this over the last eight years plus and finally having
35 something in place, I find it a little disturbing that now we're going to have
36 to look at something different. I think that for our neighborhood we need
37 to stick with what we agreed and that was the 60 days. In the Mesquite
38 area, I have a ... I'm trustee for a piece property in that area that is owned
39 by our family. It's in trust for a family member and I'm the trustee. But
40 really I'm not so concerned about that area. I know that there is a local
41 historic overlay and everything. But I was very interested in approving of
42 our mayor's comments that when it gets right down to the line it has to be
43 a private property owner's decision what he does with his property. And
44 that was what we had eight years of contention in our district about and I'd
45 hate to see that plan that we worked so hard to put through, get disturbed
46 too much. I think we could probably all agree without too much trouble

1 about the 180 days. I do kind of resent the insinuation that those property
2 owners such as I are too ignorant to know what we've got and need a lot
3 of education because most of us are very well educated on historic
4 preservation issues. So I just wanted to point that out. I thank you very
5 kindly.
6

7 Banegas: Melinda, if I could, I'd like to comment on that. And it kind of ties to Lorrie,
8 some of your comments regarding the applicability of the proposal. We
9 recognize that we worked very long and hard with Alameda Neighborhood
10 and both entities to come up with a plan. That is why, specifically why, the
11 very first paragraph of the ordinance, it reads, "the following provisions
12 shall apply to all demolition involving structures listed on the State of New
13 Mexico Register of Cultural Properties and/or the National Register of
14 Historic Places." It goes on to say however, "for purposes herein stated
15 registered structures identified as contributing or significant, now
16 considered contributing (because they've normalized those categories)
17 within either the Alameda Depot or Mesquite Original Town Site Historic
18 Districts are subject to the following provisions unless exemptions are
19 specifically provided elsewhere in this code." The reason why I included
20 that is I knew we didn't have the ordinance nailed down yet for the
21 Alameda Neighborhood and we know that we're working on it. I know
22 Carol's diligently working on that. And we also took into consideration
23 some of your points and concerns about wanting more flexibility and not
24 being held so rigidly to architectural requirements. So the theory is the
25 reason why it's written that way is when we get to the ordinance for
26 Alameda, there very well could be provisions that talk about specific
27 flexibility that you all within your overlay which to achieve. That might be
28 different than what's being proposed here, and if that's the case, that
29 ordinance prevails, this one would be subordinate. That's why it's written
30 that way. So Lorrie, in terms of your comment, that's why it's in there.
31 South Mesquite is going over a review or under a review I should say at
32 some point in the near future, who knows, maybe they come up with some
33 regulation that kind of tweaks things a little differently. I didn't want to lock
34 the two districts in to anything, I wanted to afford them some flexibility
35 when they get to that review process. So that's why it's in there.
36

37 Meeks: You mean to say that this ... if the Alameda District and the Mesquite
38 Historic District have their own overlay's that this wouldn't apply to them at
39 all?

40 So they would not have to adhere to this. Well, first of all I want to
41 say that I certainly do not feel like anyone that appreciates the historic
42 nature of their property ... I certainly do not want to insult them. But I do
43 feel like in our ... in the Mesquite Historic District there are a lot of
44 landlords whose property is historic that do not recognize that portion ...
45 they don't recognize it as historic. They recognize it as an income
46 producing property. Those who I was speaking to. I certainly have no

1 intentions of insulting anyone that is you know part of the historic process
2 or has historic properties etc. But I do feel that there is a lot ... that ... I
3 have what is a historic house and there's just a whole range of things that I
4 don't know. I haven't read the whole Secretary of the Interior's things on
5 what I should be doing and what I shouldn't doing. I'm sort of familiar with
6 the state historic office, what they suggest and how they talk about
7 windows and all that, but I'll tell you, there's a million things that I don't
8 know and I just feel like that there's a lot of people in that same boat that if
9 the City of Las Cruces is interested in helping us preserve what we have,
10 that any kind of review processes or any kind of demolition delays could
11 be accompanied by some information that would be available, presumably
12 on a voluntary basis to ... although I think it's Lincoln County, they actually
13 require people to go through a process before they're allowed to demolish
14 their building of some kind of review, like the design review board. And
15 we do have a design review board in the Mesquite Historic District.
16 Unfortunately, it takes at least 60 days, often 60 days to even get to the
17 review board. And the people on the design review board, I admire them
18 for volunteering, but they also don't have the depth of knowledge about
19 historic preservation that would help us all move forward in this.

20 So I guess I want to say one more thing about this particular
21 ordinance. I think there's two separate things in there, one being the
22 demolition delay and the whole rest of it; about the reuse and re-adaptive
23 things and the administrative powers which by the way I did have a
24 question about that, concerning would there be any ... let's say there's two
25 things, would there be anything on those two things that administrative
26 people could approve ... would there anything be hands off, that they
27 couldn't pass through without it going to the full blown you know ... am I
28 making myself clear on that? We're talking about administrative approval
29 and it's saying if there's only two things like parking or something like that,
30 that they could just get it through the administrative process. It wouldn't
31 have to go through the other process which I'm not quite clear what the
32 other process is, but what I'm saying is shouldn't there be something on
33 the list... a few things on the list that absolutely could not be approved by
34 the ... deviations that could not be approved administratively. I mean
35 some critical issues. I don't even know what they would be. It's just like
36 you know I mean there's a few things ...

37
38 Banegas: Yeah, you're talking about ... you're talking I think in one hand or one point
39 about flexible standards. When those development standards that in
40 reference, we allow pursuant to those flexible standard provisions up to
41 two flexible requests to be considered administratively. If you were doing
42 an addition to your historic structure, for instance the one you own and
43 you wanted to put more square footage on to that unit, we're in favor of
44 that because it keeps the building up as opposed to demolishing it. So
45 that's number one. Number two, maybe you need special consideration of
46 a setback allowance, in which case if you needed to bust the setback

1 that's otherwise required, you can come and request that as a flexible
2 standard. That we could approve administratively depending on the
3 extent of that request. But what is not within our authority is a use
4 variance. If you own residentially zoned property and you wanted to put
5 an office in there, that exceeds our authority. That would have to go
6 through the Planning and Zoning Commission for consideration and
7 potentially up to City Council if on appeal.

8
9 Meeks: That's good. I mean I was just wondering if there's other issues like that,
10 aside from use that might ... we might not want administrative to be able
11 to make the decision on it. That was my question.

12
13 Banegas: The only other thing was if you rose to the level of requiring three
14 variances or more, you know say you needed a whole bunch of
15 exceptions, then it goes to Planning and Zoning Commission as well. As
16 staff at our administrative level, we want to afford some flexibility, but we
17 also know that there are limits to what we can do and there are bodies to
18 take these matters to.

19 Thanks correct. George referencing some of the tiers if you will
20 that are identified under flexible standards, 25% is one of those thresholds
21 that is met. It's for setbacks, height, other aspects, development standard
22 aspects.

23
24 McCall: I'd like to just address a couple of things that Lorrie mentioned, first of all
25 with regards to what's in an overlay and what would be in a zoning code
26 and whether you would be obligated to do one thing and not the other
27 thing, there's consistently throughout the zoning code, there are phrases
28 like, 'unless stated elsewhere in the code this is what the regulation is' and
29 that exists in the South Mesquite Overlay as well as in this ordinance.
30 And I think maybe if you're ... what you're pointing out is that it isn't clear,
31 then there is a way that we could just make it more clear. That unless
32 otherwise stated, this is what you would follow or in the case of the
33 Alameda Depot overlay or even the South Mesquite overlay, those might
34 be either more lenient or more strict, but the overlay has precedence. And
35 so if it turns out that the South Mesquite overlay needs to be amended,
36 because for example it does not include any adaptive reuse provisions, so
37 as a result of this ordinance if it's adopted, that'll automatically trigger
38 revisions in probably the South Mesquite overlay so that the two are on in
39 concert. That's just sort of something that ... it's a domino theory; every
40 time we amend one section of the Zoning Code, we have to amend other
41 sections or perhaps the Building Code or the Subdivision Code or the
42 Design Standards because everything else is affected. If that makes
43 sense.

44 And then the other comment I wanted to make, for those of you
45 who do live in the South Mesquite overlay and are familiar with the South
46 Mesquite Design Review Board, it does take a month to be placed on the

1 agenda for a case, but that's a state statute. We have advertising
2 requirements and legal notice posting requirements that pretty much
3 demand a four week head start in getting everything to the press and on
4 the agenda and it's not what we would prefer. We would like to be able to
5 say there's a meeting tomorrow night come on in, but because it's public
6 and because we're a local government, there's a procedure for legal
7 notification. So if you are thinking about adding on or doing some
8 changes to your property, especially if you're in the original town site or if
9 you have a historic property, think way ahead and come and see us well in
10 advance of when you think you might want to do it. Yes, at least 60 days.

11
12 Gendell: Just one quick comment and a question. By way of comment I'd like to
13 echo what Greg Smith said and I think you guys should be commended
14 for taking this on. Obviously it's a thorny topic. And any time you deal
15 with the public or historic good and private property rights you're on a
16 slippery slope in either direction, so thank you for starting this. But please
17 be open to suggestions and make this process ... make sure that
18 everybody gets to have their say before it's done. The other ... by way of
19 question, when there is a demolition request made under this ordinance,
20 which would seem to me to be the starting point of acknowledging
21 somebody may want to be doing something here, is there any reason that
22 similar to the way Planning and Zoning sends out a notice to all property
23 owners within a certain radius of that property, is there any reason that
24 people couldn't also be notified under this ordinance you're proposing?
25 So that when somebody is applying for a demolition ordinance besides the
26 public or legal filing, could there not be something sent out similar to what
27 is done there? Because you've got to assume that ... sure the Glen Cutter
28 Gallery, the Armijo House, a few other buildings, to the contrary, but most
29 of these other buildings, they are in proximity to other historic buildings
30 and hopefully there would be people within that radius that would be vitally
31 interested and would notify others as well. Is that possible?

32
33 Banegas: Yeah, that's very possible. We could certainly imbed that as language into
34 the ordinance requiring newspaper publication and also letters be sent out
35 in a similar fashion as our zoning cases, variance cases, that kind of thing.
36 That shouldn't be a problem. Yeah, that's correct. Thanks Carol. With
37 most development proposals that are in I guess a process or submitted for
38 consideration, if they fall within an established neighborhood associations
39 boundary, Las Esperanzas for example, and Alameda, the two groups,
40 you know notification to those bodies occurs. There are other
41 neighborhood associations elsewhere that get notified when things are
42 eminent or within their boundaries as well. But yeah we could easily
43 incorporate those suggestions. Yes, sir?

44
45 Lundeen: I notice when ... My name is Jerry Lundeen. I notice when I improved my
46 property and I think there's a lot of property owners here that probably are

1 interested in improving their property, that some mysterious thing happens
2 and from the building permit that I get, somehow it ends up at the Doña
3 Ana County property tax system and so I'm penalized for improving my
4 property so the tune of whatever the improvements were costing me that I
5 got my permit for. I'm wondering if there is a way that we could present
6 some sort of incentive for the guy who demolishes his house and is an
7 eyesore, his property improves because of the demolition, perhaps he
8 shouldn't have to pay property tax for a number of years. That might be
9 one solution. And the other is, as you improve a historical property,
10 perhaps the same thing would apply there. The more you improve it the
11 lower your taxes get. And whether you did it in tax credits or whether you
12 did it in actual dollar value that you didn't have to pay, might be a little
13 incentive for the poor guy who wants to make his place look good.

14
15 Liefeld: My name's Eric Liefeld. And I own ... owner or involved in a couple of
16 historic restoration projects in the valley, and I'd like to just echo some of
17 the comments made to really commend both Vince and Carol for taking
18 this on. It is a thorny problem. This is not my dream ordinance, but I
19 certainly think it's better than nothing. And nothing is pretty much what
20 we've got right now. My understanding is that it's essentially policy today
21 that building on the historic register are still subject to administrative
22 demolition permits through the city, is that pretty much correct? So, all
23 those properties you know are essentially at risk through that mechanism
24 now. This is just a delay. It does not change the presumption of
25 demolition and that's something that I would hope the city would look at
26 longer term. But I do see this as a kind of a least a first step of moving in
27 the right direction. It is very much in concert with what the city's
28 comprehensive plan has to say about eventually putting in place some
29 mechanisms around historic and cultural preservation. I think those things
30 can only help you know improve our value as a city with regard to tourism,
31 with regard to quality of life and the rest of it.

32 One question I had and George kind of touched on this earlier,
33 since Demolition is still basically the presumption. If demolition were to
34 carry forward on a property that had been subject to the delay, is there
35 any way to stipulate that some kind of documentation take place? None of
36 us like to see it, but ultimately sometimes buildings, sometimes valuable
37 buildings do get demolished. And as a last resort having that ability to
38 document what was there whether it's photographically or through you
39 know taking detailed measured drawings, what have you, can be all that
40 we have in the way of preservation. Is any of that touched on in the
41 proposal yet?

42
43 Banegas: Currently that is not touched on with the exception of the emergency
44 demolition provision and even that's not to the extent that you're referring
45 to. It's something that we could certainly propose, see if Council wants to
46 go in that direction. Some of the burden of course with detailed drawings

1 and so forth is going through the expense of preparing them for something
2 that's ultimately going to be removed. But photographs and something
3 along those lines, that's certainly something that could be submitted with a
4 demolition permit as an example to show at least what exists and some
5 documentation, whatever they may have as part of the requirement for
6 submittal. That could be considered.

7
8 Krueger: Susan Krueger. I just like to mention that part of the strength and power
9 of communities like Deming and Columbus come from the fact that they're
10 certified local governments, CLG, that's a designation given to
11 communities by the state historic preservation office. You have to meet
12 quite strict set of criteria, one of which is to have in place a strong historic
13 preservation ordinance. So that's how those small communities are as
14 successful as they are.

15
16 Hoffman: One of the organizations that is being proposed to be notified is the Doña
17 Ana County Historic Society. I am a member. I'd like to invite anyone
18 here who wants to be a member to consider joining. We meet once a
19 month, have some interesting discussions, and a newsletter. If this
20 ordinance does go through and notification is passed to the historic
21 society, I'm sure we can also pass that notification on to anybody who's
22 interested via e-mail perhaps.

23
24 Banegas: That concludes our public input meeting. I do want to thank you all for
25 coming out. We do appreciate that. We're not closing the public input
26 process, so if you have any questions, comments, you can find Carol and I
27 on the City of Las Cruces web page, our e-mail address is there. But also
28 if you want to make up any of the ordinance proposal and give us copies
29 of that, we would like to receive that as well. Anything you can provide us
30 is welcome information.

31
32 Meeting ended at 7:27 p.m.