

507
City of Las Cruces[®]
 PEOPLE HELPING PEOPLE

Council Action and Executive Summary

Item # 31 Resolution# 2551 Council District: 2
 ORDINANCE

For Meeting of December 21, 2009
 (Adoption Date)

TITLE: AN ORDINANCE APPROVING AN INITIAL ZONING REQUEST FOR AN ANNEXATION KNOWN AS TORTUGAS SUBDIVISION ANNEXATION CONTAINING 8.82 ± ACRES INTO THE CORPORATE LIMITS OF THE CITY OF LAS CRUCES GENERALLY LOCATED WITHIN SECTION 32, TOWNSHIP 23 SOUTH, RANGE 2 EAST OF THE N.M.P.M. OF THE U.S.R.S. SURVEYS, DONA ANA COUNTY, NEW MEXICO. THE SUBJECT PROPERTY IS GENERALLY LOCATED EAST OF SOUTH MAIN STREET AND SOUTH OF TORTUGAS DRIVE. SUBMITTED BY SOUTHWEST ENGINEERING FOR J.O. PARTNERS II, LP AND CAMINO VISTA PROPERTIES, LP (Z2799).

PURPOSE(S) OF ACTION: A request to approve an initial zoning request for annexation of 8.82 ± acres of property.

Name of Drafter: Cheryl Rodriguez <i>CR</i>		Department: Community Development		Phone: 528-3207	
Department	Signature	Phone	Department	Signature	Phone
Community Development	<i>[Signature]</i>	528-3066	Budget	<i>[Signature]</i>	541-2107
			Assistant City Manager	<i>[Signature]</i>	541-2271
Legal	<i>[Signature]</i>	541-2128	City Manager	<i>[Signature]</i>	541-2076

BACKGROUND / KEY ISSUES / CONTRIBUTING FACTORS:

The request is for the annexation of 8.82 ± acres of real property known as the Tortugas Subdivision and the adjacent street right-of-way into the City of Las Cruces. The proposed annexation includes two petitioned property owners. The subject properties are located on the southeast corner of South Main Street (NM Highway 478), which is classified as a Principal Arterial, and Tortugas Drive (NM Highway 342), which is classified as a Collector.

The Tortugas Subdivision is currently located within the unincorporated Extra-Territorial Zone (ETZ) and has an ETZ zoning designation of EC-2 (Community Commercial) and EC-2C (Community Commercial-Conditional). Tortugas Subdivision contains four lots identified as Lots 1A, 2A, 3A, and 4. Lots 1A, 2A, and 3A are built out as a gas station/convenience store and two retail stores. Lot 4 is currently vacant but is identified for future development as a mini-storage facility.

The proposed C-3 (Commercial High Intensity) for 3.35 ± acres (Lots 1A, 2A, and 3A) and C-3C (Commercial High Intensity-Conditional) for 3.75 ± acres (Lot 4) is comparable to the current ETZ zoning of the property and allows for full compliance with the 2001 Zoning Code, as amended.

Lot 4A of the Tortugas Subdivision also has development conditions attached to the current ETZ zoning. The ETA Resolution that affirms the EC-2C zoning designation identifies two development conditions: (1) the parcel is limited to mini-storage related uses only; and (2) development on the southeastern boundary of the parcel is limited to a maximum height of 15-feet (see Attachment F).

Adjacent neighborhood concerns concerning the ETZ zone change (see Attachment F) are identified as Lot 4 must have 15-foot setback from the rear property and a 7-foot side yard setback on the southern property line; the developer must build a 6-foot rock, concrete, or cinder block wall on the southern and eastern property boundaries adjacent to the residential development; and lighting must comply with the night sky ordinance.

The 2001 Zoning Code, as amended, sets forth the development standards for the C-3 zoning district. The rear yard set back is either 15-feet or 0-feet. The side yard setback is 5-feet or 0-feet. A zero-foot side yard and/or rear yard is only permitted when (1) a building on the abutting side is at least five-feet from the property line; (2) both buildings share a common wall on the property line; (3) when the abutting property is undeveloped; (4) no building projection of any kind is permitted; and (5) no storm water is permitted to drain onto the adjacent property. Future development on Lot 4 will not be permitted to have a zero-foot side yard or rear yard setback as it does not meet the criteria identified above.

The maximum building height in a C-3 zoning district is 60-feet. Since the ETA Resolution currently restricts the building height to 15-feet, staff would recommend carrying forward this condition.

Section 38-31D(2) of the 2001 Zoning Code, as amended, also identified the separation and landscaping requirements for development when a proposed use is located next to differing adjacent land uses or zones. In regards to the Lot 4, the land use is identified as commercial and the adjacent uses are single-family residential. Therefore, the developer must adhere to the following buffer yard requirements: (1) provide a 15-foot semi-opaque screen or (2) provide a 10-foot opaque screen. A semi-opaque screen is a screen that is opaque from the ground to a height of three feet, with intermittent visual openings from above the opaque portion to a height of at least 20-feet. It is intended to partially block visual contact between uses and create a strong impression of separation of spaces. An opaque screen is from the ground to the height of at least six-feet with intermittent visual openings from above the opaque portion to a height of at least 20-feet. It is intended to exclude all visual contact between uses and create a strong impression of spatial separation.

In regards to the compliance with the night sky ordinance, the new construction of Lot 4 must comply with Chapter 39 of the CLC Municipal Code, which is the Outdoor Lighting Ordinance.

The Development Review Committee (DRC) reviewed the annexation request, including the initial zoning component, and made a recommendation of approval to the Planning and Zoning Commission. The Commission heard the annexation request at its September 22, 2009 public meeting. The Commission recommended conditional approval of the initial zoning by a vote of 5-0-0 (one Commissioner absent and one Commissioner seat vacant). The Commission

recommended that the development conditions set forth in ETA Resolution be carried forward. Therefore, the conditions are stipulated as follows (1) Lot 4 is restricted to mini-storage facilities, (2) Building height is limited to a maximum height of 15-feet for Lot 4; and (3) Any new utilities must be placed underground. The conditions are made part of the attached Ordinance.

Discussion at the public meeting centered on the installation of sidewalks and the continuation of the development conditions that are part of the current ETZ zoning designation. In regards to the installation of sidewalks, once the properties are brought into the City limits, the properties must comply with City development codes. However, this compliance will be triggered when new construction and/or expansion/renovation of the existing buildings on the property occurs.

Chapter 37 (Subdivisions), Article IX, Section 37-270 (Review and consideration of an annexation request) of the Las Cruces Municipal Code requires that separate action be taken on the annexation plat, master plan, and initial zoning request. The City Council may, however, as a means to expedite the discussion process on the development package, suspend the rules and hear the annexation plat (Ordinance), master plan (Resolution), and initial zoning request (Ordinance) concurrently.

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

SUPPORT INFORMATION:

1. Ordinance
2. Exhibit "A" – Tortugas Subdivision Annexation Initial Zoning Plan
3. Exhibit "B" – Findings and Comprehensive Plan Analysis
4. Attachment "A" – Copy of Annexation Petition
5. Attachment "B" – Copy of annexation plat – for reference only
6. Attachment "C" – Copy of master plan – for reference only
7. Attachment "D" – Staff Report to the Planning and Zoning Commission for September 22, 2009
8. Attachment "E" – Draft minutes from the September 22, 2009, Planning and Zoning Commission meeting
9. Attachment "F" – ETA Resolution and attachments for ETA Case No. Z2003-014
10. Attachment "G" – Vicinity Map

OPTIONS / ALTERNATIVES:

1. Vote YES to approve the Ordinance. This action affirms the Planning and Zoning Commission recommendation and allows the applicant to develop the properties in conformance with the initial zoning application.
2. Vote NO to deny the Ordinance. This action does not uphold the recommendation made by the Planning and Zoning Commission. If this action is taken, staff would advise that, at a minimum, a zoning designation of H (Holding) is placed on the vacant property until such time as the applicant and/or property owner has a chance to submit an alternate zoning request.

3. Modify the Ordinance and vote YES to approve the modified Ordinance. The Council may modify the Ordinance by adding conditions as deemed appropriate.
4. Table/Postpone the Ordinance and direct staff accordingly.

COUNCIL BILL NO. 10-022
ORDINANCE NO. 2551

AN ORDINANCE APPROVING AN INITIAL ZONING REQUEST FOR AN ANNEXATION KNOWN AS TORTUGAS SUBDIVISION ANNEXATION CONTAINING 8.82 ± ACRES INTO THE CORPORATE LIMITS OF THE CITY OF LAS CRUCES GENERALLY LOCATED WITHIN SECTION 32, TOWNSHIP 23 SOUTH, RANGE 2 EAST OF THE N.M.P.M. OF THE U.S.R.S. SURVEYS, DONA ANA COUNTY, NEW MEXICO. THE SUBJECT PROPERTY IS GENERALLY LOCATED EAST OF SOUTH MAIN STREET AND SOUTH OF TORTUGAS DRIVE. SUBMITTED BY SOUTHWEST ENGINEERING FOR J.O. PARTNERS II, LP AND CAMINO VISTA PROPERTIES, LP (Z2799).

The City Council is informed that:

WHEREAS, J.O. Partners II, LP and Camino Vista Properties, LP, has submitted a petition of annexation to request initial zoning as described in Exhibit "A," and

WHEREAS, the Planning and Zoning Commission, after conducting a public hearing on September 22, 2009, recommends that the said initial zoning request be conditionally approved by a vote of 5-0-0 (one Commissioner absent and one Commissioner seat vacant).

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

(I)

THAT the land more particularly described in Exhibit "A," attached hereto and made part of this Ordinance, is hereby initially zoned as 3.35 ± acres as C-3 (Commercial High Intensity) and 3.75 ± acres of C-3C (Commercial High Intensity-Conditional).

(II)

THAT the conditions be stipulated as follows:

- Lot 4 is restricted to mini-storage facilities;
- Building height limited to a maximum height of 15-feet for Lot 4; and
- Any new utilities must be placed underground.

(III)

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

(IV)

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

(V)

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

DONE AND APPROVED this _____ day of _____ 2009.

APPROVED:

Mayor

ATTEST:

City Clerk
(SEAL)

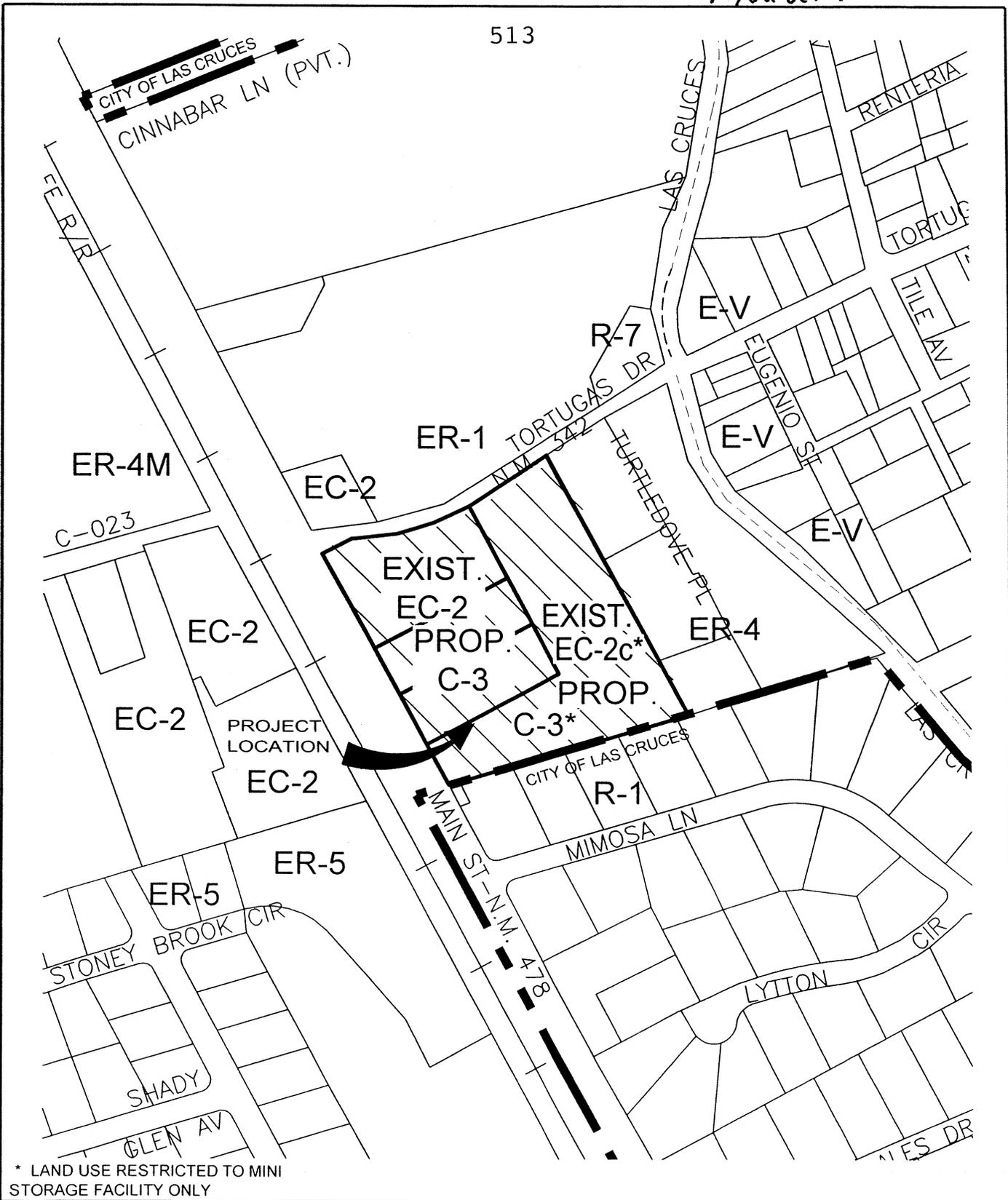
VOTE:
Mayor Miyagishima: _____
Councillor Silva: _____
Councillor Connor: _____
Councillor Pedroza: _____
Councillor Small: _____
Councillor Sorg: _____
Councillor Thomas: _____

Moved by: _____

Seconded by: _____

APPROVED AS TO FORM:

City Attorney



* LAND USE RESTRICTED TO MINI STORAGE FACILITY ONLY

INITIAL CLC ZONE REQUEST

NOT TO SCALE

EXHIBIT "B"
FINDINGS AND COMPREHENSIVE PLAN ANALYSIS

1. The developer is not requesting waivers to any of the requirements of the City Subdivision Code, Zoning Code, or Design Standards.
2. The annexation proposal is in conformance with the City Subdivision Code, City Design Standards, Zoning Code, Transportation Plan, and Stormwater Management Policy Plan.
3. Adjacent zoning and land uses include:

	<u>Zoning</u>	<u>Land Use</u>
North	EC-2, ER-1 (ETZ)	Commercial
South	R-1a	Single Family Residential
East	ER-4 (ETZ)	Single Family Residential
West	EC-2 (ETZ)	Commercial

4. The request for initial zoning is consistent with the following goals, objectives, and policies of the Las Cruces Comprehensive Plan:

Land Use Element, Commercial Uses, Goal 1, Objective 5.2

Medium intensity commercial uses shall be defined as those commercial uses which provide retail and service activities within a neighborhood area. Medium intensity commercial uses shall generally serve a population of 5,000 to 30,000 people and shall be established according to the following criteria:

Policy 5.3a Generally 1,500 but not to exceed 5,000 gross square feet shall be permitted for a medium intensity commercial use or center. A business may apply for a special use when said business is greater than 5,000 gross square feet, but may not exceed 6,000 square feet.

Policy 5.3b Medium intensity commercial use and centers shall be located on minor collector streets, or at the intersection of streets equal to or greater than collector capacity. Mid-block locations shall be considered on a case-by-case basis: criteria shall include street capacity, distance from an intersection where appropriate, accessibility and shared vehicular access with other uses where appropriate, and consideration of the level of traffic and environmental impacts.

Policy 5.3c An unlimited number of low or medium intensity commercial uses may be located adjacent to one another as long as the combined total of the uses does not exceed 5,000 gross square feet.

Policy 5.3d With the exception of low intensity commercial businesses, medium intensity commercial uses shall not be located within one-half (½) mile of other commercial areas.

Policy 5.3g The City shall pursue multi-modal access standards (auto, bicycle, and pedestrian transit) for medium intensity commercial use and centers.

Policy 5.3f Medium intensity commercial development shall address the following urban design criteria: compatibility to adjacent development in terms of architectural design, height/density, a provision of landscaping for site screening, parking and loading areas. Architectural and landscaping design standards for medium intensity commercial use shall be established in the Comprehensive Plan Urban Design Element.

Policy 5.3g Adequate space for functional circulation shall be provided for parking and loading areas.

Policy 5.3h The City shall encourage the development of medium intensity commercial centers to allow for maximum shopping convenience with minimal traffic and encroachment related conflicts to adjacent uses.

Policy 5.3i Low intensity commercial uses are permitted in medium intensity commercial areas.

Land Use Element (Planning Area), Goal 3, Objective 1

Establish Planning Areas throughout the City to address quality of life concerns in the City's unique areas.

Policy 1.1 The following areas shall be established as Planning Areas in the City:

C. Lohman/University: contains commercial corridors and a variety of residential uses. New Mexico State University is also included in this Planning Area: NMSU is currently facilitating campus Master Planning. Borders Interstate 25 and overlaps Interstate 10.

Urban Growth Element, Goal 5, Objective 1

Establish urban growth policy that supports and is consistent with all other land use policy.

Policy 5.1.1 The City encourages growth consistent with urban form policy.

Policy 5.1.2 The City encourages petitioned annexations in areas identified in urban form policy for future growth.

Policy 5.1.3 In annexing territory, priority shall be given to those areas which would close open spaces between irregular City boundaries.

Policy 5.1.4 In annexing territory, priority shall be given to areas with existing public facilities which conform to City standards.

Policy 5.1.5 New municipal boundaries shall conform wherever practical with natural topographical features such as ridge lines, streams, escarpments, rivers, and man-made features such as drains, canals, laterals, major paved rights-of-way, and property and section lines.

5. Staff has reviewed the annexation proposal (including the annexation plat, master plan, and initial zoning request) and no significant outstanding issues exist.

PETITION FOR ANNEXATION

COMES NOW, the undersigned, who are the owners of a majority of the number of acres in the contiguous territory sought to be annexed, and petition the City of Las Cruces pursuant to NMSA 1978 Section 3-7-17.1 (1998 as amended through 2003) to annex territory contiguous to the existing boundaries of the City of Las Cruces. The contiguous territory sought to be annexed is shown on a map attached hereto as Exhibit "A", which map shows the external boundary of the territory proposed to be annexed and the relationship of the territory proposed to be annexed to the existing boundary of the City of Las Cruces.

EXECUTED on this 13th day of July, 2009 by the undersigned owners of a majority of the number of acres in the contiguous sought to be annexed.

[Signature]
Property Owner #1
(signature)

J.O. Partners II LP
Jerry Odom
Property Owner #1
(print name)

7100 Westwind Dr., Suite 230
El Paso, Texas 79912
Property owner #1 (Address)

[Signature]
Property Owner #2
(signature)

Camino Vista Properties LP
John Schatzman
Property Owner #2
(print name)

200 Bartlett St., Suite 111
El Paso, Texas 79912
Property owner #2 (Address)

State of New Mexico)
) ss
County of Dona Ana)

SUBSCRIBED and sworn to before me this 13 day of July,

2009, by Jerry Odom and John Schatzman



[Signature]
Notary Public

My Commission Expires:
October 4, 2011

TORTUGAS SUBDIVISION ANNEXATION

AN ANNEXATION OF THE TORTUGAS SUBDIVISION
 FILED IN PLAT BOOK 20, PAGES 524-525 ON JANUARY 27, 2004
 SOUTH OF LAS CRUCES, DONA ANA COUNTY, NEW MEXICO
 BEING PART OF U.S.R.S. TRACTS 11D-152 AND 11D-153
 SITUATE IN PROJECTED SECTION 32, TOWNSHIP 23 SOUTH, RANGE 2 EAST,
 N.M.P.M. OF THE U.S.R.S. SURVEYS

8.82 ACRES ±
 SEPTEMBER 2009

DEDICATION

BEING A 8.82 ACRE TRACT, MORE OR LESS, SITUATE SOUTH OF THE INCORPORATED LIMITS OF THE CITY OF LAS CRUCES, IN PROJECTED SECTION 32, TOWNSHIP 23 SOUTH, RANGE 2 EAST, N.M.P.M. OF THE U.S. SURVEYS, AS SHOWN ON THE PLAT OF THE TORTUGAS SUBDIVISION, FILED IN PLAT BOOK 20, PAGES 524-525 ON JANUARY 27, 2004 AND THE ADJOINING RIGHTS-OF-WAY FOR NEW MEXICO STATE HIGHWAY 478 (ALSO KNOWN AS SOUTH MAIN STREET) ON THE WEST AND NEW MEXICO STATE ROAD 342 (ALSO KNOWN AS TORTUGAS DRIVE) ON THE NORTH, ALSO BEING PART OF U.S.S. TRACTS 11D-152 AND 11D-153 AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE SOUTHEAST CORNER OF THE TRACT HEREIN DESCRIBED, BEING IDENTICAL TO THE SOUTHEAST CORNER OF THE ABOVE MENTIONED TORTUGAS SUBDIVISION AND A POINT ON THE NORTH BOUNDARY OF THE LOS NOGALES SUBDIVISION AS SHOWN ON PLAT BOOK 20, PAGES 30-31 ON MARCH 21, 1986 IN THE OFFICE OF THE COUNTY CLERK, DONA ANA COUNTY, NEW MEXICO:

THENCE, FROM THE POINT OF BEGINNING, ALONG THE PROPERTY LINE COMMON TO THE ABOVE MENTIONED TORTUGAS AND LOS NOGALES SUBDIVISIONS, S79°29'00"W A DISTANCE OF 100 FEET TO THE HIGHWAY 478 RIGHT-OF-WAY LINE, BEING COMMON TO THE WEST MAIN STREET AND THE EAST RIGHT-OF-WAY LINE OF NEW MEXICO STATE HIGHWAY 478 (ALSO KNOWN AS SOUTH MAIN STREET) AND THE EAST RIGHT-OF-WAY LINE OF THE BURLINGTON NORTHERN & SANTA FE RAILROAD;

THENCE, ALONG THE RIGHT-OF-WAY COMMON TO THE ABOVE MENTIONED SOUTH MAIN STREET AND THE NORTHWEST CORNER OF THE TRACT HEREIN DESCRIBED, N128°15'00"W A DISTANCE OF 588.27 FEET TO THE

THENCE, LEAVING THE WESTERLY RIGHT-OF-WAY LINE OF THE ABOVE MENTIONED NEW MEXICO STATE HIGHWAY 478 (ALSO KNOWN AS SOUTH MAIN STREET) AND THE EAST RIGHT-OF-WAY LINE OF THE BURLINGTON NORTHERN & SANTA FE RAILROAD, TO THE EAST RIGHT-OF-WAY LINE OF NEW MEXICO STATE ROAD 342;

THENCE, ALONG THE NORTHERLY RIGHT-OF-WAY OF THE ABOVE MENTIONED NEW MEXICO STATE ROAD 342, N 65°00'00" E A DISTANCE OF 183.36 FEET TO AN ANGLE POINT OF THE TRACT HEREIN DESCRIBED;

THENCE, CONTINUING ALONG THE NORTHERLY RIGHT-OF-WAY LINE OF THE ABOVE MENTIONED TORTUGAS DRIVE, N 72°58'48" E A DISTANCE OF 73.21 FEET AN ANGLE POINT OF THE TRACT HEREIN DESCRIBED;

THENCE, CONTINUING ALONG THE NORTHERLY RIGHT-OF-WAY LINE OF THE ABOVE MENTIONED TORTUGAS DRIVE, N 65°07'00" E A DISTANCE OF 75.89 FEET TO AN ANGLE POINT OF THE TRACT HEREIN DESCRIBED;

THENCE, CONTINUING ALONG THE NORTHERLY RIGHT-OF-WAY LINE OF THE ABOVE MENTIONED TORTUGAS DRIVE, N 65°07'00" E A DISTANCE OF 233.16 FEET TO THE NORTHEAST CORNER OF THE TRACT HEREIN DESCRIBED;

THENCE, LEAVING THE NORTHERLY RIGHT-OF-WAY LINE OF THE ABOVE MENTIONED TORTUGAS DRIVE, S 28°15'00" E A DISTANCE OF 680.37 FEET TO THE POINT OF BEGINNING.

THIS ANNEXATION IS TO BE KNOWN AS "TORTUGAS SUBDIVISION ANNEXATION".

THE UNDERSIGNED OWNERS CERTIFY THAT THEY ARE THE OWNERS OF THIS 8.82 ACRE TRACT, MORE OR LESS, SITUATE SOUTH OF LAS CRUCES, DONA ANA COUNTY, NEW MEXICO, AND FURTHER THAT THEY REQUEST THAT THIS LAND BE ANNEXED INTO THE CITY OF LAS CRUCES CITY LIMITS.

THE UNDERSIGNED OWNERS SET THEIR HANDS THIS _____ DAY OF _____, 2009.

INSTRUMENT OF OWNERSHIP: DEED BOOK 494 PG 680-681
 FILED ON JANUARY 30, 2004

STATE OF NEW MEXICO
 COUNTY OF DONA ANA

J.O. PARTNERS II
 JERRY ODOM (AUTHORIZED REPRESENTATIVE)
 710 WESTWIND, SUITE 230
 EL PASO, TEXAS 79912

THE FOREGOING INSTRUMENT WAS ACKNOWLEDGED BEFORE ME THIS _____ DAY

OF _____, 2009, BY _____

NOTARY PUBLIC _____ BY _____ MY COMMISSION EXPIRES _____

THE UNDERSIGNED OWNERS SET THEIR HANDS THIS _____ DAY OF _____, 2009.

INSTRUMENT OF OWNERSHIP: DEED BOOK 742 PG 69-90
 FILED ON AUGUST 30, 2006

STATE OF NEW MEXICO
 COUNTY OF DONA ANA

CAMINO VISTA PROPERTIES, LP
 JOHN R. SHATZMAN (AUTHORIZED REPRESENTATIVE)
 200 BARTLEY STE 111
 EL PASO, TEXAS 79912

THE FOREGOING INSTRUMENT WAS ACKNOWLEDGED BEFORE ME THIS _____ DAY

OF _____, 2009, BY _____

NOTARY PUBLIC _____ BY _____ MY COMMISSION EXPIRES _____



FILING OF ANNEXATION

ANNEXATION ORDINANCE NO. _____ FILED FOR RECORD ON THIS _____ DAY OF _____, 2009.

IN CLERKS BOOK _____ PAGE(S) _____ IN THE OFFICE OF THE COUNTY CLERK
 DONA ANA COUNTY, NEW MEXICO.

PLAT NO. _____ RECEPTION NO. _____

(STATE OF NEW MEXICO)
 (COUNTY OF DONA ANA)

I HEREBY CERTIFY THAT THIS INSTRUMENT WAS FILED FOR RECORD ON THIS _____ DAY
 OF _____, 2009 AT _____ O'CLOCK AND DULY RECORDED IN

PLAT RECORD _____ PAGE(S) _____ OF THE RECORDS OF DONA ANA COUNTY.

COUNTY CLERK _____ DATE _____

DEPUTY CLERK _____ DATE _____

SURVEYOR CERTIFICATE

I HEREBY CERTIFY THAT I AM A REGISTERED PROFESSIONAL SURVEYOR UNDER THE LAWS OF THE STATE OF NEW MEXICO AND THAT I HAVE CONDUCTED A FIELD SURVEY OF THE ABOVE MENTIONED PROPERTY AND THAT IT IS TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE AND BELIEF MEETING OR EXCEEDING THE MINIMUM REQUIREMENTS OF THE STANDARDS FOR LAND SURVEYS IN THE STATE OF NEW MEXICO.

WALTER C. BLACK, RPS #6681

DATE _____

TORTUGAS SUBDIVISION ANNEXATION

SOUTHWEST ENGINEERING, INC.
 475 ARCHULETA ROAD, LAS CRUCES, NEW MEXICO 88005
 OFFICE (505) 526-3381, FAX (505) 526-1762, SEI@ZIANET.COM



UTILITY APPROVALS

RIO GRANDE NATURAL GAS ASSOCIATION

EASEMENTS SHOWN HEREON COPIES OF WHICH HAVE BEEN PRESENTED TO RIO GRANDE NATURAL GAS ASSOCIATION, ARE SATISFACTORY TO MEET THE NEEDS FOR THE INSTALLATION OF UNDERGROUND NATURAL GAS PIPING AND/OR ABOVE GROUND NATURAL GAS FACILITIES.

BY: _____ DATE: _____

EL PASO ELECTRIC COMPANY

EASEMENTS SHOWN HEREON, COPIES OF WHICH HAVE BEEN PRESENTED TO THE EL PASO ELECTRIC COMPANY, ARE SATISFACTORY TO MEET THE NEEDS FOR THE INSTALLATION OF (UNDERGROUND ONLY), (OVERHEAD ONLY), (UNDERGROUND AND/OR OVERHEAD), (UNDERGROUND AND DESIGNATED OVERHEAD FEEDER), ELECTRIC UTILITIES.

BY: _____ DATE: _____

COMCAST CABLE COMM. INC.

EASEMENTS SHOWN HEREON, COPIES OF WHICH HAVE BEEN PRESENTED TO COMCAST CABLE, ARE SATISFACTORY TO MEET THE NEEDS FOR THE INSTALLATION OF UNDERGROUND AND/OR OVERHEAD TV CABLE UTILITIES.

BY: _____ DATE: _____

QWEST COMMUNICATIONS

EASEMENTS SHOWN HEREON, COPIES OF WHICH HAVE BEEN PRESENTED TO QWEST COMMUNICATIONS, ARE SATISFACTORY TO MEET THE NEEDS FOR THE INSTALLATION OF UNDERGROUND AND/OR OVERHEAD TELEPHONE UTILITIES. THIS PLAT HAS BEEN APPROVED FOR EASEMENT PURPOSES ONLY. THE SIGNING OF THIS PLAT DOES NOT IN ANY WAY GUARANTEE TELEPHONE SERVICE TO THE SUBDIVISION.

BY: _____ DATE: _____

CITY APPROVAL

THIS PLAT HAS BEEN APPROVED BY THE CITY OF LAS CRUCES AND ALL THE NECESSARY EASEMENTS HAVE BEEN COMPLIED WITH TO THE SATISFACTION OF THE CITY OF LAS CRUCES SUBJECT TO ANY AND ALL CONDITIONS REQUIRED BY THE PLANNING AUTHORITY FOR APPROVAL OF THIS PLAT.

DIRECTOR OF COMMUNITY DEVELOPMENT _____ DATE _____

DIRECTOR OF UTILITIES _____ DATE _____

DIRECTOR OF PUBLIC WORKS _____ DATE _____

CITY PLANNING AND ZONING APPROVAL

THIS PLAT HAS BEEN SUBMITTED TO THE CITY PLANNING AND ZONING COMMISSION. IT CONCURS WITH THE EXPANSION OF EXISTING UTILITIES AND ZONING AND IS IN ACCORDANCE WITH CITY PLANNING APPROVED FOR FILING AND RECORDING WITH THE COUNTY CLERK.

CHAIRMAN _____ DATE _____

SECRETARY _____ DATE _____

THIS 8.82 ACRE TRACT, MORE OR LESS, HAS BEEN INCORPORATED INTO THE CITY OF LAS CRUCES CITY LIMITS AND IS APPROVED BY THE CITY CLERK, DONA ANA COUNTY, NEW MEXICO.

MAYOR _____ DATE _____

CITY CLERK _____ DATE _____

SUBMITTED BY: _____ PROJECT NUMBER _____ DATE _____

J.O. PARTNERS II
 JERRY ODOM
 710 WESTWIND, SUITE 230
 EL PASO, TEXAS 79912

29080

DATE OF SURVEY
 DRAWING NUMBER

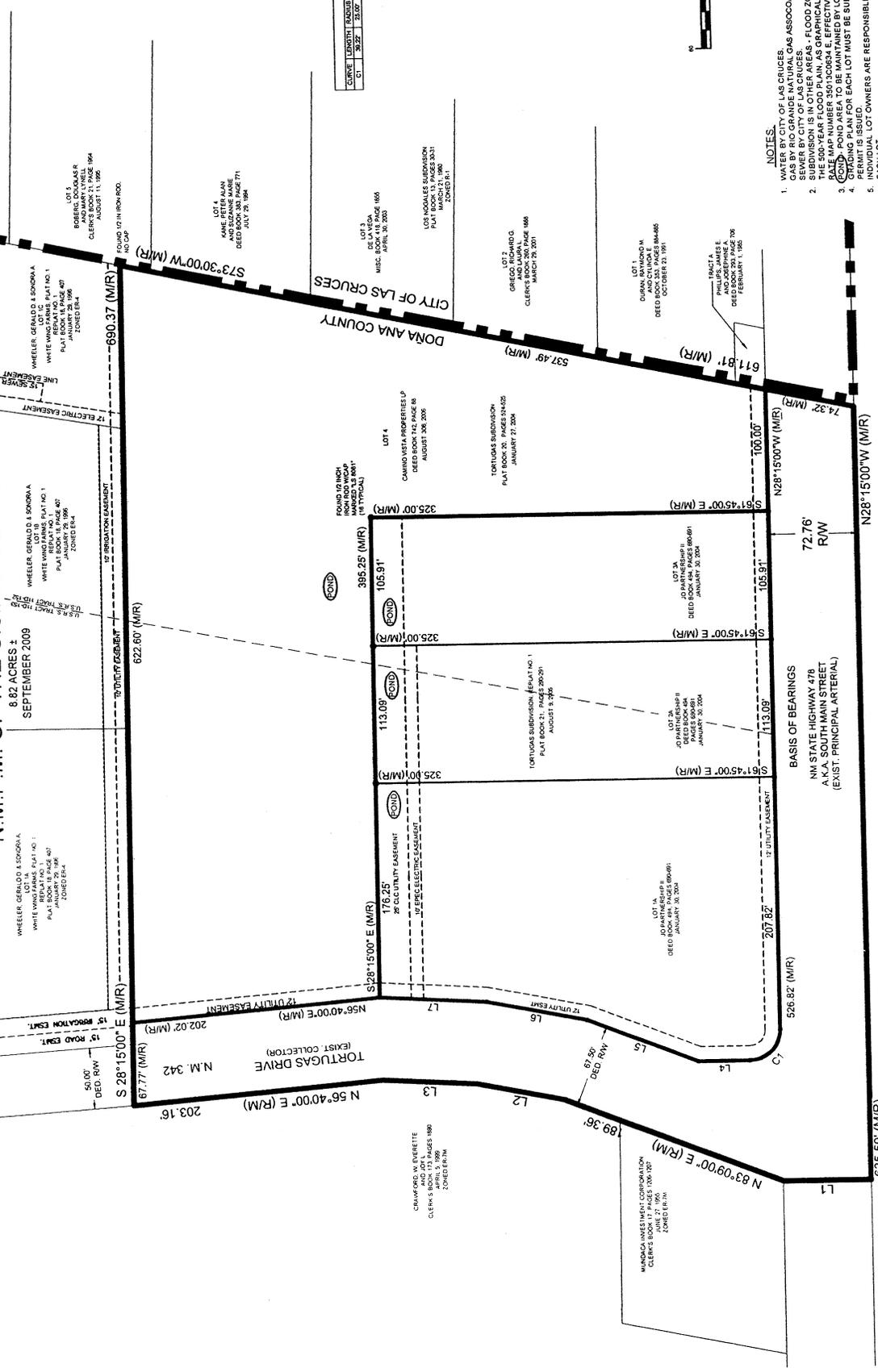
15SEPE09

15AUG03
 TORTUGAS
 29080ANEX

Attachment "B"

TORTUGAS SUBDIVISION ANNEXATION

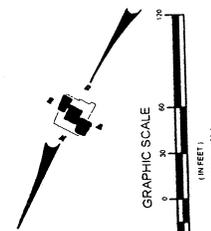
AN ANNEXATION OF THE TORTUGAS SUBDIVISION
 FILED IN PLAT BOOK 20, PAGES 524-525 ON JANUARY 27, 2004
 SOUTH OF LAS CRUCES, DONA ANA COUNTY, NEW MEXICO
 BEING PART OF U.S.R.S. TRACTS 11D-152 AND 11D-153
 SITUATE IN PROJECTED SECTION 32, TOWNSHIP 23 SOUTH, RANGE 2 EAST,
 N.M.P.M. OF THE U.S.R.S. SURVEYS



LINE	LENGTH	BEARING	AREA	CHORD LENGTH	DELTA
1	30.27	S 73° 11' 14" W		30.27	89° 52' 39"

LINE	LENGTH	BEARING
L1	22.78	S 83° 09' 00" E
L2	72.71	N 56° 40' 00" E
L3	203.16	S 28° 15' 00" E
L4	42.31	N 83° 09' 00" E
L5	88.78	S 61° 45' 00" E
L6	635.59	N 28° 15' 00" W
L7	622.60	S 128° 15' 00" W

LEGEND
 ● FOUND MONUMENT AS NOTED



- NOTES:
- WATER BY CITY OF LAS CRUCES.
 - GAS BY RIO GRANDE NATURAL GAS ASSOCIATION.
 - SEWER BY CITY OF LAS CRUCES.
 - AREAS DETERMINED TO BE OUTSIDE FLOOD ZONE "X" - FLOOD ZONE "X" - AREAS GRAPHICALLY LOCATED ON F.E.M.A. FLOOD INSURANCE RATE MAP NUMBER 500130093A & EFFECTIVE DATE SEPTEMBER 27, 1991.
 - CONDOMINIUM AREA TO BE SUBMITTED FOR APPROVAL BEFORE BUILDING PERMIT IS ISSUED.
 - INDIVIDUAL LOT OWNERS ARE RESPONSIBLE FOR PROVIDING UTILITY STUB CUTS TO EACH LOT.
 - PERMIT IN ITS NATURAL STATE THERE SHALL BE YARD GRASS OR OTHER MEASURES TO CONTROL WIND AND WATER EROSION ON ALL DISTURBED AREAS.
 - RECORD AND MEASURED DATA ARE EQUIVALENT UNDER THE MEASURES TO CONTROL WIND AND WATER EROSION ON ALL DISTURBED AREAS.
 - WALTER C. BLACK IS THE SURVEYOR OF RECORD FOR TORTUGAS SUBDIVISION.

SEA SOUTHWEST ENGINEERING, INC.
 475 ARCHULETA ROAD, LAS CRUCES, NEW MEXICO 88005
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TORTUGAS SUBDIVISION ANNEXATION

PROJECT NUMBER: 29080 DATE: 11 SEP 09

SUBMITTED BY: J.O. PARTNERS II, JERRY ODOM, 710 WESTVIEW, SUITE 200, EL PASO, TEXAS 79912

FOR: CAMINO VISTA PROPERTIES, LP, JOHN R. SHATZMAN, 1111 S. TORTUGAS, EL PASO, TEXAS 79912

DRAWING NUMBER: 29080ANEX 1



TO: Planning and Zoning Commission

FROM: Development Review Committee (DRC)

PREPARED BY: *CR* Cheryl Rodriguez, Development Services Administrator

DATE: September 22, 2009

SUBJECT: Tortugas Annexation

RECOMMENDATION: Annexation Plat – Approval with no conditions
Master Plan – Approval with no conditions
Initial Zoning Request – Approval with conditions

Note: The City of Las Cruces Subdivision Code requires that the Planning and Zoning Commission hear the annexation request and its components as one case, but have separate action taken on the annexation plat, master plan, and initial zoning request.

Case S-09-042: A request for an Annexation Plat approval of 8.82 ± acres of land into the Corporate Limits of the City of Las Cruces, otherwise known as the Tortugas Subdivision, generally located south of Las Cruces, Dona Ana County, New Mexico, being part of U.S.R.S. Tract 11D-152 and 11D-153, Section 32, Township 23 South, Range 2 East, N.M.P.M of the U.S.R.S. Surveys. The subject property is located east of NM State Highway 478, a/k/a South Main Street (Principal Arterial) and south of Tortugas Drive (Collector). Submitted by Southwest Engineering for J.O Partners II, LP, and Camino Vista Properties, LP.

Case S-09-043: A request for Master Plan approval (as part of an annexation request) for Tortugas Subdivision containing 8.82 ± acres generally located south of Las Cruces, Dona Ana County, New Mexico, being part of U.S.R.S. Tract 11D-152 and 11D-153, Section 32, Township 23 South, Range 2 East, N.M.P.M of the U.S.R.S. Surveys. The subject property is located east of NM State Highway 478, a/k/a South Main Street (Principal Arterial) and south of Tortugas Drive (Collector). The master planned area includes commercial uses for Lots 1A, 2A, and 3A, and commercial uses restricted to mini-storage facilities exclusively for Lot 4. Submitted by Southwest Engineering for J.O Partners II, LP, and Camino Vista Properties, LP.

Case Z2799: A request for Initial Zoning (as part of an annexation request) for Tortugas Subdivision, containing 8.82 ± acres; the subdivision is generally located south of Las Cruces, Dona Ana County New Mexico, being part of U.S.R.S. Tract 11D-152 and 11D-153, Section 32, Township 23 South, Range 2 East, N.M.P.M of the U.S.R.S. Surveys. The subject property is located east of NM State Highway 478, a/k/a South

Main Street (Principal Arterial) and south of Tortugas Drive (Collector). The initial zoning request includes:

- 3.35 ± acres (**Lots 1A, 2A, and 3A**) of C-3 (Commercial High Intensity); and,
- 3.75 ± acres (**Lot 4**) of C-3C (Commercial High Intensity-Conditional) allowing only mini-storage facility uses.

The property is currently within the Extra-territorial Zone of Doña Ana County. The current zoning for lots 1A, 2A, and 3A is EC-2 (Community Commercial); lot 4 is currently zoned EC-2C (Community Commercial – Conditional), allowing only mini-storage facilities. Submitted by Southwest Engineering for J.O Partners II, LP, and Camino Vista Properties, LP.

BACKGROUND

This request is for the annexation of 8.82 ± of real property known as Tortugas Subdivision and the adjacent street right-of-way into the City of Las Cruces. The property is located on the southeast corner of South Main Street (NM Highway 478) and Tortugas Drive. An annexation petition entails an annexation plat, a master plan and an initial zoning for the subject property. The Las Cruces City Council takes final action on the annexation after a recommendation (approval, approval with conditions, or denial) concerning the petition is made by the Planning and Zoning Commission.

Tortugas Subdivision contains four lots identified as Lots 1A, 2A, 3A and 4. Lots 1A, 2A, and 3 are built-out as a gas station/convenience store and two retail stores. Lot 4 is currently vacant and has an ETZ zoning designation for the future development of a mini-storage facility.

The property is accessible from South Main Street and Tortugas Drive. The Las Cruces Metropolitan Planning Organization (MPO) Transportation Plan designates South Main Street as a Principal Arterial and Tortugas Drive as a Collector Roadway.

The proposed land uses (retail commercial and mini-storage facility) for the property will not change if the annexation is approved. The proposed C-3 and C-3C zoning (Commercial High Intensity) is comparable to the current ETZ zoning of the property and allows full compliance with Las Cruces Zoning Ordinance (2001 amended).

The property is served by the following utilities:

Gas:	Rio Grande Natural Gas Association
Sewer:	City of Las Cruces
Water:	City of Las Cruces

The Las Cruces Comprehensive Plan (1999) provides the following policy direction for the development of high intensity commercial uses. Generally, commercial development should take the form of nodes or centers. High intensity commercial uses should include retail, service and wholesale activities for a sector of the city. Such uses

shall be located at any intersection with a [Principal] Arterial Street and accommodate multi-modal transportation (pedestrian, bicycle, auto, transit) access. High intensity commercial uses should also provide maximum shopping convenience while minimizing traffic conflicts with adjacent land uses. Annexation of this existing commercial node is compatible with these policies for commercial land uses.

In addition, the annexation of this property is compatible with the Urban Form policies of the Comprehensive Plan. The property is located within an area identified as within the urban form boundary and identified for future city growth. It encloses an area within an irregular boundary of the city limits and includes an area with existing public facilities that conform to city standards.

FINDINGS

(Inclusive of the annexation plat, master plan, and initial zoning request)

1. The developer is not requesting waivers to any of the requirements of the City Subdivision Code, Zoning Code, or Design Standards.
2. The annexation proposal is in conformance with the City Subdivision Code, City Design Standards, Zoning Code, Transportation Plan, and Stormwater Management Policy Plan.
3. Adjacent zoning and land uses include:

	<u>Zoning</u>	<u>Land Use</u>
North	EC-2, ER-1 (ETZ)	Commercial (5,000 sq. feet minimum lot size), Single Family Residential (five acre minimum lot size)
South	R-1a	Single Family Residential - Medium Density (5,000 sq. feet minimum lot size)
East	ER-4 (ETZ)	Single Family Residential (1/2 acre minimum lot size)
West	EC-2 (ETZ)	Commercial (5,000 sq. feet minimum lot size)

4. The request for initial zoning is consistent with the following goals, objectives, and policies of the Las Cruces Comprehensive Plan:

Land Use Element, Commercial Uses, Goal 1, Objective 5.2

Medium intensity commercial uses shall be defined as those commercial uses which provide retail and service activities within a neighborhood area. Medium intensity commercial uses shall generally serve a population of 5,000 to 30,000 people and shall be established according to the following criteria:

Policy 5.3a Generally 1,500 but not to exceed 5,000 gross square feet shall be permitted for a medium intensity commercial use or center. A business may apply for a special use when said business is greater than 5,000 gross square feet, but may not exceed 6,000 square feet.

Policy 5.3b Medium intensity commercial use and centers shall be located on minor collector streets, or at the intersection of streets equal to or greater than collector capacity. Mid-block locations shall be considered on a case-by-case basis: criteria shall include street capacity, distance from an intersection where appropriate, accessibility and shared vehicular access with other uses where appropriate, and consideration of the level of traffic and environmental impacts.

Policy 5.3c An unlimited number of low or medium intensity commercial uses may be located adjacent to one another as long as the combined total of the uses does not exceed 5,000 gross square feet.

Policy 5.3d With the exception of low intensity commercial businesses, medium intensity commercial uses shall not be located within one-half (½) mile of other commercial areas.

Policy 5.3g The City shall pursue multi-modal access standards (auto, bicycle, and pedestrian transit) for medium intensity commercial use and centers.

Policy 5.3f Medium intensity commercial development shall address the following urban design criteria: compatibility to adjacent development in terms of architectural design, height/density, a provision of landscaping for site screening, parking and loading areas. Architectural and landscaping design standards for medium intensity commercial use shall be established in the Comprehensive Plan Urban Design Element.

Policy 5.3g Adequate space for functional circulation shall be provided for parking and loading areas.

Policy 5.3h The City shall encourage the development of medium intensity commercial centers to allow for maximum shopping convenience with minimal traffic and encroachment related conflicts to adjacent uses.

Policy 5.3i Low intensity commercial uses are permitted in medium intensity commercial areas.

Land Use Element (Planning Area), Goal 3, Objective 1

Establish Planning Areas throughout the City to address quality of life concerns in the City's unique areas.

Policy 1.1 The following areas shall be established as Planning Areas in the City:

C. Lohman/University: 'contains commercial corridors and a variety of residential uses. New Mexico State University is also included in this

Planning Area: NMSU is currently facilitating campus Master Planning. Borders Interstate 25 and overlaps Interstate 10.

Urban Growth Element, Goal 5, Objective 1

Establish urban growth policy that supports and is consistent with all other land use policy.

Policy 5.1.1 The City encourages growth consistent with urban form policy.

Policy 5.1.2 The City encourages petitioned annexations in areas identified in urban form policy for future growth.

Policy 5.1.3 In annexing territory, priority shall be given to those areas which would close open spaces between irregular City boundaries.

Policy 5.1.4 In annexing territory, priority shall be given to areas with existing public facilities which conform to City standards.

Policy 5.1.5 New municipal boundaries shall conform wherever practical with natural topographical features such as ridge lines, streams, escarpments, rivers, and man-made features such as drains, canals, laterals, major paved rights-of-way, and property and section lines.

5. Staff has reviewed the annexation proposal (including the annexation plat, master plan, and initial zoning request) and no significant outstanding issues exist.

RECOMMENDATION

On September 2, 2009, the Development Review Committee (DRC) reviewed the proposed annexation, including the annexation plat and master plan. Based on the review of this project, the DRC supports the annexation proposal, including the annexation plat, master plan, and initial zoning request and recommends approval for the Tortugas Annexation.

As with other zoning cases, the Planning and Zoning Commission renders recommendations to the City Council, who have final authority. Furthermore, the City Council will have final authority on the annexation plat, master plan and initial zoning request based on the Planning and Zoning Commission's recommendation on these cases. Action on the proposed annexation plat, master plan, and initial zoning request will be in the form of a recommendation to the City Council.

The Development Review Committee (DRC), based on the aforementioned findings, recommends the following for the Tortugas Annexation proposal (please note, again, that each recommendation requires separate action by the Commission):

- Annexation Plat (S-09-042) – Approval with no conditions
- Master Plan (S-09-043) – Approval with no conditions
- Initial Zoning Request (Z2799) – Approval with the following conditions:
 - Tract 2 is restricted to mini storage facility uses
 - Any new utilities must be placed underground

OPTIONS

1. Approve the annexation plat and master plan, as recommended by the DRC, without conditions; and approve the initial zoning request with above mentioned conditions.
2. Approve the annexation plat, master plan, and initial zoning request as recommended by DRC and staff with additional conditions as determined appropriate by the Planning and Zoning Commission.
3. Deny the annexation proposal (including the annexation plat, master plan, and initial zoning request).

Please note: A denial would need to be based on findings other than those identified by staff or the Development Review Committee.

ATTACHMENTS

1. Development Statement
2. Copy of the annexation plat
3. Copy of the master plan
4. Copy of the initial zoning request
5. Draft minutes from the September 2, 2009 DRC meeting
6. Vicinity Map

DEVELOPMENT STATEMENT for City Subdivision Applications

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

Applicant Information

Name of Applicant: J. D. PARTNERS II, L.P.
 Contact Person: JERRY ODOM
 Contact Phone Number: 915-584-8320
 Contact e-mail Address: —
 Web site address (if applicable): —

Proposal Information

Name of Proposal: TORTUGAS ANNEXATION
 Type of Proposal (single-family subdivision, townhouse, apartments, commercial/industrial)
ANNEXATION OF COMMERCIAL PROPERTY
 Location of Subject Property SOUTH MAIN & TORTUGAS DRIVE
 (In addition to description, attach map. Map must be at least 8 1/2" x 11" in size and clearly show the relation of the subject property to the surrounding area)
 Acreage of Subject Property: 8.82 AC
 Zoning of Subject Property: FC-2 CURRENT - C-3c PROPOSED
 Proposed number of lots 4, to be developed in 1 phase (s).
 Proposed square footage range of ^{BUILDINGS} homes to be built 5,000 SF to 9,000 SF
 Anticipated traffic generation 2,130 trips per day.
 Anticipated development schedule: work will commence on or about CURRENT
 and will take 24 MONTHS to complete.
 How will stormwater be retained on site (detention facility, on-lot ponding, etc.)?
ON-LOT PONDING

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

- LANDSCAPING SHALL MEET CURRENT DESIGN STANDARDS
- NO SPECIAL ARCHITECTURAL FEATURES

Attachments

Please attach the following: (* indicates optional item)

Location map

Subdivision Plat

Proposed house elevations

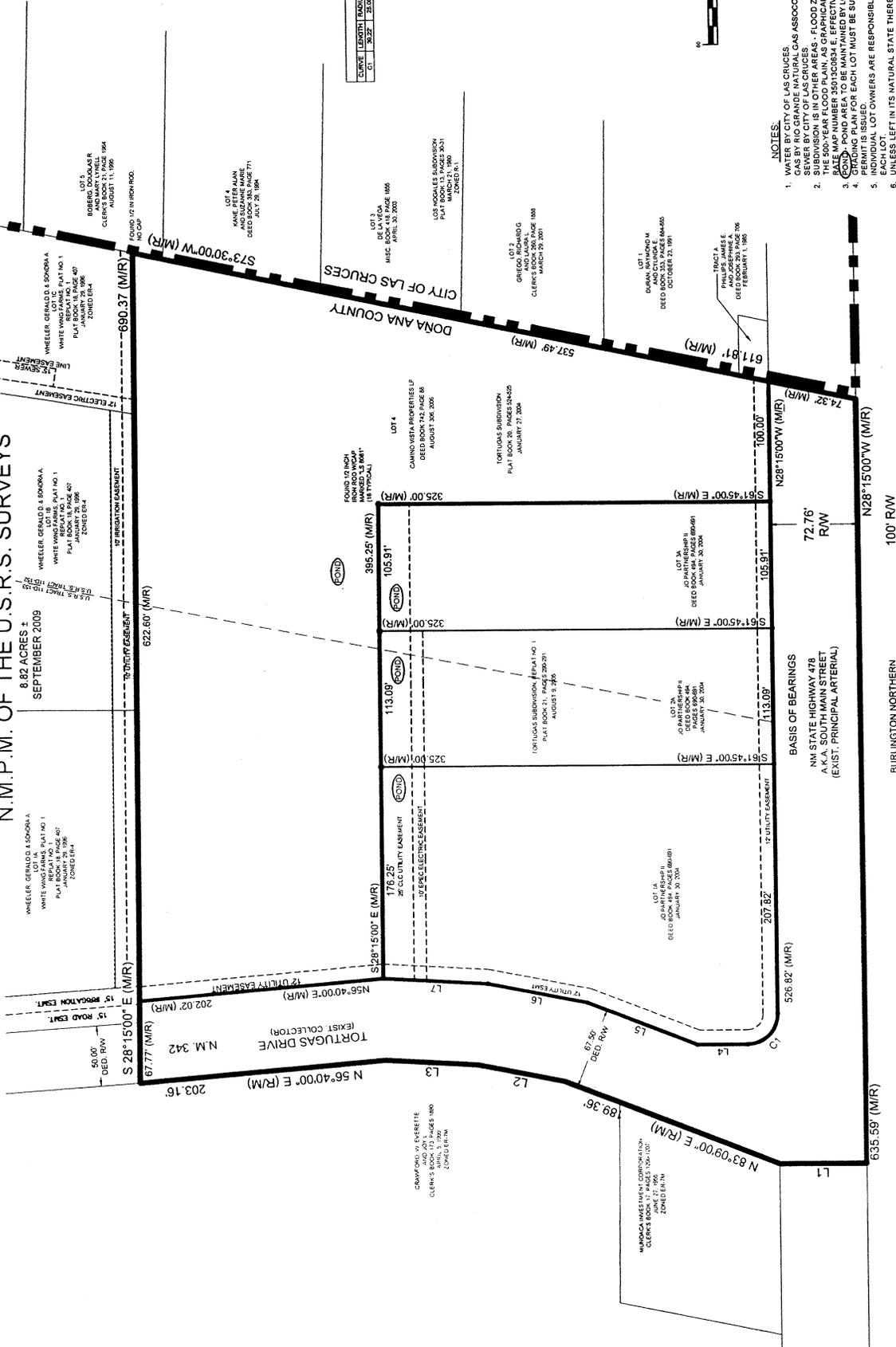
*renderings of architectural or site design features

*other pertinent information

TORTUGAS SUBDIVISION ANNEXATION

AN ANNEXATION OF THE TORTUGAS SUBDIVISION
 FILED IN PLAT BOOK 20, PAGES 524-525 ON JANUARY 27, 2004
 SOUTH OF LAS CRUCES, DONA ANA COUNTY, NEW MEXICO
 BEING PART OF U.S.R.S. TRACTS 11D-152 AND 11D-153
 SITUATE IN PROJECTED SECTION 32, TOWNSHIP 23 SOUTH, RANGE 2 EAST,
 N.M.P.M. OF THE U.S.R.S. SURVEYS

8.82 ACRES +
 SEPTEMBER 2009



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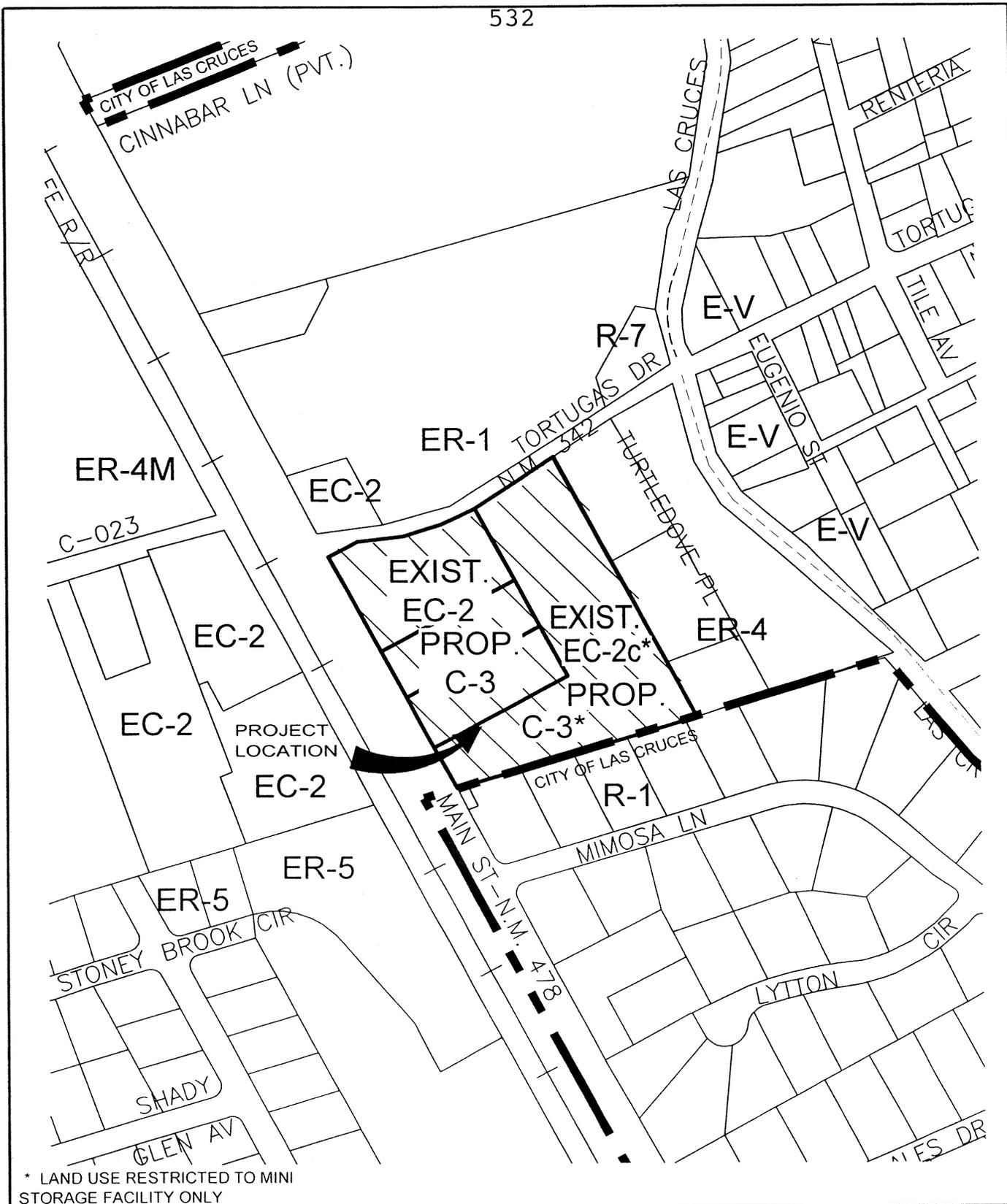
TORTUGAS SUBDIVISION ANNEXATION

PROJECT NUMBER: 29080
 DATE: 11SEP09

SUBMITTED BY:
 U.S. PARTNERS II
 JERRY ODOM
 710 WESTWIND, SUITE 230
 EL PASO, TEXAS 79912

CAMINO VISTA PROPERTIES, LP
 JOHN R SHATZMAN
 200 BARTLETT STE 111
 EL PASO, TEXAS 79912

1 OF 1



* LAND USE RESTRICTED TO MINI STORAGE FACILITY ONLY

INITIAL CLC ZONE REQUEST

NOT TO SCALE

DEVELOPMENT REVIEW COMMITTEE

1
2
3
4 Following are the verbatim minutes of the City of Las Cruces Development Review
5 Committee meeting held on Wednesday, September 2, 2009 at 9:00 a.m. in the Las
6 Cruces City Council Chambers, 200 North Church Street, Las Cruces, New Mexico.
7

8 **DRC PRESENT:** Cheryl Rodriguez, Community Development
9 Tom Murphy, MPO
10 Meei Montoya, Utilities
11 Mark Johnston, Facilities
12 Mark Dubbin for Travis Brown, Fire Dept.
13 Loretta Reyes, Public Works
14

15 **STAFF PRESENT:** Gary Hembree, Community Development
16 Jaime Rodriguez, Public Works
17 Catherine Duarte, Land Management
18 Michael Hernandez, Public Works
19 Lora Dunlap, Recording Secretary
20

21 **OTHERS PRESENT:** Paul Pompeo, Southwest Engineering, Inc.
22
23

24 **I. CALL TO ORDER (9:05 am)**
25

26 Rodriguez: Go ahead and call this meeting to order for Wednesday, September
27 2nd, it's approximately 9:05 in the morning.
28

29 **II. APPROVAL OF MINUTES – July 22, July 29 and August 5, 2009**
30

31 Rodriguez: The first item on the agenda is the approval of the minutes from July
32 22nd, July 29th and August 5th DRC meetings. Do I have a motion to
33 approve?
34

35 Montoya: I have a comment for the July 29th meeting minutes on page 7, the
36 sixth line from the bottom of that page. A word of join, j-o-i-n should
37 be changed to drain, d-r-a-i-n, it's the tank drain line not a tank join
38 line. That's all.
39

40 Rodriguez: We'll note those changes, any other comments? Seeing none, do I
41 have a motion to approve?
42

43 Reyes: So moved, Loretta Reyes.
44

45 Murphy: Second, Tom Murphy.
46

1 Rodriguez: All those in favor?

2

3 Members: Aye.

4

5 Rodriguez: Those opposed? None, okay the minutes have been approved.

6

7 III. OLD BUSINESS - NONE

8

9 IV. NEW BUSINESS

10

11 1. **Case S-09-042:** A request for an Annexation Plat approval of 7.10 ± acres of
 12 land into the Corporate Limits of the City of Las Cruces, otherwise known as
 13 the Tortugas Subdivision, generally located south of Las Cruces, Dona Ana
 14 County, New Mexico, being part of U.S.R.S. Tract 11D-152 and 11D-153,
 15 Section 32, Township 23 South, Range 2 East, N.M.P.M of the U.S.R.S.
 16 Surveys. The subject property is located east of NM State Highway 478,
 17 a/k/a South Main Street (Principal Arterial) and south of Tortugas Drive
 18 (Collector). Submitted by Summit Engineering for J.O Partners II, LP, and
 19 Camino Vista Properties, LP.

20

21 2. **Case S-09-043:** A request for Master Plan approval (as part of an annexation
 22 request) for Tortugas Subdivision containing 7.10 ± acres generally located
 23 south of Las Cruces, Dona Ana County, New Mexico, being part of U.S.R.S.
 24 Tract 11D-152 and 11D-153, Section 32, Township 23 South, Range 2 East,
 25 N.M.P.M of the U.S.R.S. Surveys. The subject property is located east of NM
 26 State Highway 478, a/k/a South Main Street (Principal Arterial) and south of
 27 Tortugas Drive (Collector). The master planned area includes commercial
 28 uses for Lots 1A, 2A, and 3A, and commercial uses restricted to mini-storage
 29 facilities exclusively for Lot 4. Submitted by Summit Engineering for J.O
 30 Partners II, LP, and Camino Vista Properties, LP.

31

32 3. **Case Z2799:** A request for Initial Zoning (as part of an annexation request)
 33 for Tortugas Subdivision, containing 7.10 ± acres; the subdivision is generally
 34 located south of Las Cruces, Dona Ana County New Mexico, being part of
 35 U.S.R.S. Tract 11D-152 and 11D-153, Section 32, Township 23 South,
 36 Range 2 East, N.M.P.M of the U.S.R.S. Surveys. The subject property is
 37 located east of NM State Highway 478, a/k/a South Main Street (Principal
 38 Arterial) and south of Tortugas Drive (Collector). The initial zoning request
 39 includes:

40

41 a. 3.35 ± acres (**Lots 1A, 2A, and 3A**) of C-2 (Commercial Medium
 42 Intensity) ; and,

43 b. 3.75 ± acres (**Lot 4**) of C-2C (Commercial Medium Intensity,
 44 Conditional) allowing only mini-storage facility uses.

45

46 The property is currently within the Extra-territorial Zone of Doña Ana County.

1 The current zoning for lots 1A, 2A, and 3A is EC-2 (Community Commercial);
2 lot 4 is currently zoned EC-2C (Community Commercial – Conditional),
3 allowing only mini-storage facilities. Submitted by Summit Engineering for J.O
4 Partners II, LP, and Camino Vista Properties, LP.
5

6 Rodriguez: We have one new business item today which is an annexation for the
7 Tortugas Annexation. There are three components to the annexation
8 request; the annexation plat, master plan and initial zoning. What I'd
9 like to do is suspend the rules to hear each case so we can hear
10 them together and then we can vote separately.
11

12 Murphy: I move that we suspend the rules and hear them as one. Tom
13 Murphy.
14

15 Reyes: Second, Loretta Reyes.
16

17 Rodriguez: Well, what I'll do is I'll have Gary present the case and then the
18 applicant is here to answer any questions or also follow up on
19 discussion on any outstanding items. Gary?
20

21 Hembree: Great, thank you Madam Chair. Yes, as Cheryl mentioned, this is the
22 Tortugas Subdivision Annexation. It's an 8.82 acre annexation at the
23 intersection, actually southeast intersection of Tortugas Drive and
24 South Main. The front three parcels on the annexation plat as
25 indicated are developed, the rear portion is actually undeveloped but
26 is currently in ETZ zoning conditioned commercial exclusively for a
27 mini warehouse use.

28 I've seen this resubmittal. There are some modifications
29 requested which was to bring in the rights-of-way of Tortugas Drive
30 and South Main as required by state statute. There is a correction on
31 the zoning. A mistake was made, the C2 zoning should be reflected
32 as C3 designation to be conforming with the minimum lot size for that
33 zoning category so we'll be going for a C3 designation which
34 essentially mirrors what the County's zoning is currently in the ETZ
35 and the rear lot as I indicated was conditioned exclusively for mini
36 warehouse use. So it's pretty much straight forward, any questions,
37 I'll be happy to answer. The applicant is here as well to answer any
38 questions you might have.
39

40 Rodriguez: Gary just follow up; you stated that they did bring all of the right-of-
41 way per state statute?
42

43 Hembree: Yes, they did.
44

45 Rodriguez: So it was all of the right-of-way for Highway 478 and Tortugas Drive.
46

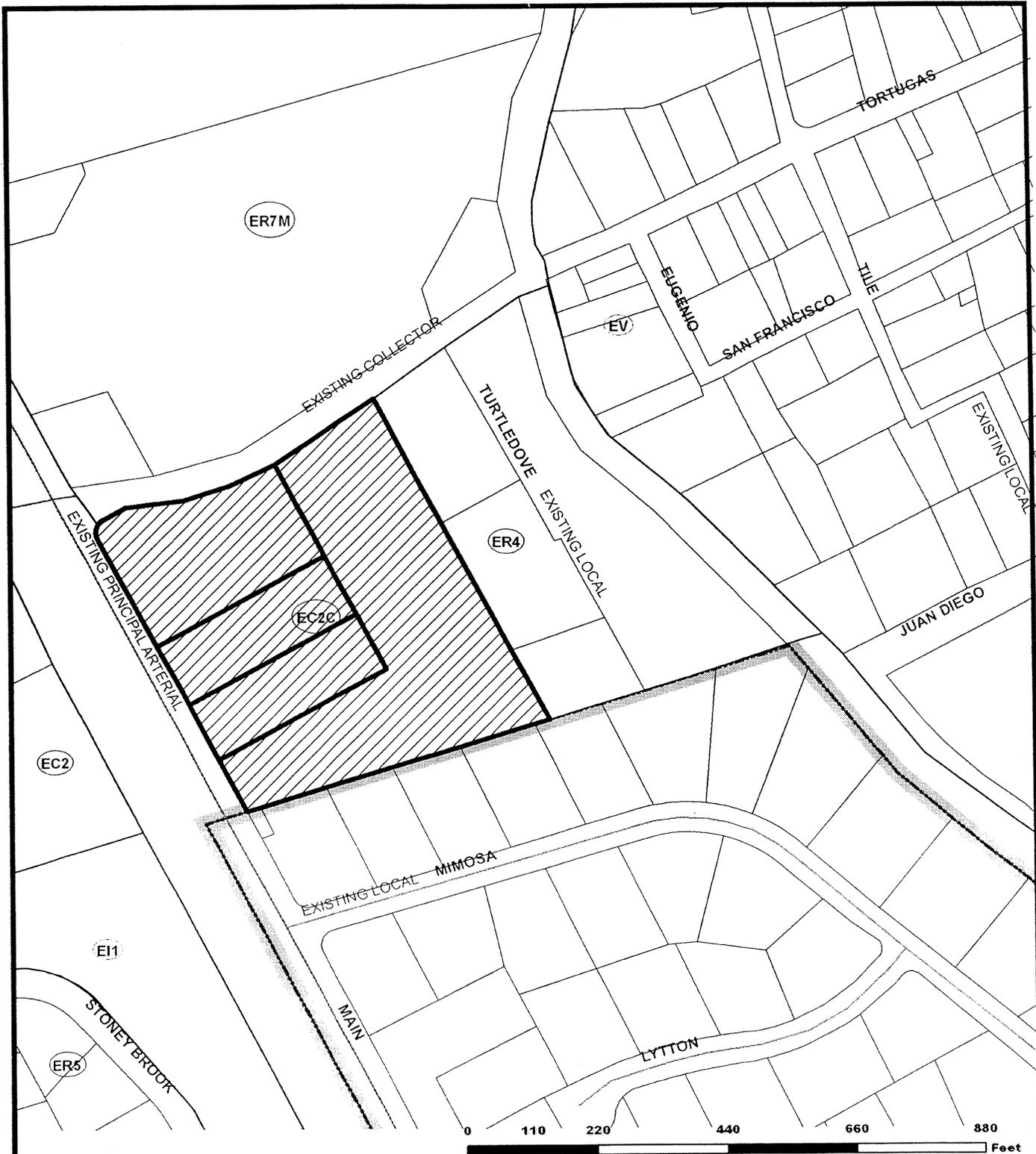
- 1 Hembree: 478 and Tortugas Drive, correct, yes. And I guess I'll ask this of the
2 applicant in terms of the acknowledgement we would need from the
3 State. We're gonna have to circle back with them and get some
4 acknowledgement in terms of inclusion of both those state highways
5 into this annexation request.
6
- 7 Rodriguez: Paul?
8
- 9 Pompeo: Paul Pompeo, Southwest Engineering. Just I guess one question
10 real quick. Do we need to send a review set to the State Highway
11 Department or do we need to, what do I need to do?
12
- 13 Rodriguez: That should have been done. We'll double check on that.
14
- 15 Pompeo: Okay. We'll go ahead and make the noted changes to the land use
16 chart on the master plan. Do you want that chart reflective of the
17 mini storage? I think it says commercial uses. So I'll modify that and
18 then we'll also modify it to the C3 zoning designations. I'm also
19 aware of a few comments from Engineering, Public Works staff that
20 will be making so once I get all these comments from the different
21 reviewing agencies, we'll make a resubmittal to address those.
22
- 23 Rodriguez: And that resubmittal will be done in the next couple of days and be
24 done and finalized prior to the Planning and Zoning Commission?
25
- 26 Pompeo: Yes.
27
- 28 Rodriguez: Gary.
29
- 30 Hembree: Madam Chair in looking at the file on the... for the annexation plat
31 itself, it was routed to NMDOT and we do have their approval so I just
32 wanted to clarify that.
33
- 34 Rodriguez: Okay, thank you. Go ahead and go around the table. We'll start with
35 Fire.
36
- 37 Dubbin: Mark Dubbin, Las Cruces Fire Department. We have no issues.
38
- 39 Rodriguez: MPO?
40
- 41 Murphy: Tom Murphy, MPO. No issues.
42
- 43 Rodriguez: Facilities?
44
- 45 Johnston: Mark Johnston, Facilities. No issues.
46

- 1 Rodriguez: Utilities?
2
- 3 Montoya: Meei Montoya. I just want to make two comments just to say that the
4 Utility Department has work out the water right conveying from the
5 two property owners for this side they have signed interim water right
6 convey or purchase agreement for the City to purchase the water
7 right from them. And also would like to state that utility provider
8 water and sewer from the City of Las Cruces, gas is from Rio Grande
9 Gas so I want to make sure that on the first review the plan or the
10 plat say the gas is from the City of Las Cruces. Paul you need to
11 make that correction.
12
- 13 Pompeo: Paul Pompeo with Southwest Engineering. We've made the change
14 on the water provider on the master plan however on the... we'll have
15 to add the director for Rio Grande Gas to the actual plat, signature
16 block on the plat so we'll make that prior to our rerouting.
17
- 18 Montoya: Okay, thank you. That's it.
19
- 20 Rodriguez: Public Works.
21
- 22 Reyes: Loretta Reyes, Public Works. On the annexation plat we had made a
23 comment to verify with the planner regarding the ponding icon and
24 ponding note and I guess I just need to confirm that you've... that the
25 applicant or the applicant's engineer has talked with the planner
26 regarding that.
27
- 28 Hembree: We haven't as of yet but we should probably discuss that right now.
29
- 30 Reyes: It's the issue regarding the ponding icon and ponding note that are
31 shown on the annexation plat. It's our understanding that drainage
32 notes and these ponding icons are supposed to be on the master
33 plan rather than on the annexation plat.
34
- 35 Pompeo: Okay so you want the ponding icon on the master plan?
36
- 37 Reyes: Is that correct Gary?
38
- 39 Rodriguez: I think it would be best to have all the drainage related issues hashed
40 out on the master plan document itself.
41
- 42 Hembree: I agree.
43
- 44 Pompeo: Add it.
45

- 1 Hembree: And then Madam Chair just for the record, I just want to clarify.
2 Parcels 1A, 2A and 3A will be zoned C3; that's the proposed initial
3 zoning. Lot 4 will be C3C, conditioned for mini warehouse
4 exclusively.
5
- 6 Rodriguez: Any other comments Loretta?
7
- 8 Reyes: Yes. And then with regard to the note that has been placed on the
9 master plan for the drainage, it indicates, the first note indicates the...
10 how the drainage will be handled for or how it's being handled for the
11 existing lots and how it will be handled for that fourth lot and I just
12 want to make it clear that although it does say detention/retention,
13 the ponding for that lot as it is zoned as a commercial you know will
14 have to meet the City of Las Cruces Design Standards so I don't
15 want it assumed that because it says detention/retention, that oh well
16 we can use a detention pond, because in accordance with our
17 standards all commercial lots must store their post develop flow
18 onsite. So I just want to make that clear.
19
- 20 Pompeo: Would it be appropriate Loretta, to add a note three because
21 basically the ponding is developed for the first three lots in the front
22 as it sits right now and that the third note would indicate lot or rather
23 tract 2 must meet the City of Las Cruces Design Standards for storm
24 water control or some such note like that?
25
- 26 Reyes: That would be fine to further clarify that. In addition, on the master
27 plan some comments were made with regard to a general legal
28 description and I think that still has to be ironed out. I know that a
29 legal description was included on the master plan but I think we're
30 talking about the wording that's under the title on the... as shown on
31 the annexation plat. At least that's what I'm thinking that it's
32 supposed to be. I would defer to Planning.
33
- 34 Pompeo: Well, okay, well I mean I think that when it was just I think on our first
35 submittal when it was just the subdivision, the legal description was
36 the filed plat but now that we've kicked the right-of-ways out now we
37 have to have a legal description for the whole thing.
38
- 39 Reyes: Okay, well then I'll defer to Planning with regard to those
40 requirements in the subdivision code. In addition to that in 37-46 of
41 the Subdivision Code there is a requirement that traffic information be
42 shown. You had made a comment...
43
- 44 Pompeo: Yes I missed seeing on the land use table under tract 2 that numeric
45 information is missing from the master plan so that'll be added in on
46 the next submittal.

- 1
2 Reyes: And we did receive a submittal of the annexation plat and the master
3 plan just recently. I know we stamped it as of yesterday, I believe.
4 So are we to make our comments on that one or wait...?
5
6 Hembree: Yes, make your comments on that one, any residual comments or
7 issues or notes need to be put on there to your satisfaction.
8
9 Reyes: Okay and then the condition will be that these will have to be
10 addressed before it goes to Planning and Zoning then.
11
12 Hembree: Yes, thank you.
13
14 Pompeo: I have a question Madam Chair. Would it be more appropriate since
15 that we have these additions that we're talking about right now, if I
16 get that resubmittal in, in the next day or so to just substitute that
17 submittal for the one that they have right now?
18
19 Rodriguez: I would ask that you work with Gary to basically address Utilities and
20 Public Works outstanding comments so we can just get the next
21 submittal cleaned up prior to the Planning and Zoning Commission.
22
23 Pompeo: Okay, alright.
24
25 Reyes: That is all Madam Chair, thank you.
26
27 Rodriguez: On that note, do I have a motion to unsuspend the rules?
28
29 Dubbin: Mark Dubbin. So moved.
30
31 Reyes: Second. Loretta Reyes.
32
33 Rodriguez: The first item is a motion to approve the annexation plat for Case S-
34 09-042 for 8.82 acres known as the Tortugas Annexation. Do I have
35 a motion to approve?
36
37 Murphy: Tom Murphy. Move approval.
38
39 Dubbin: Second. Mark Dubbin.
40
41 Rodriguez: All those in favor.
42
43 Members: Aye.
44
45 Rodriguez: None opposed. The next item is regarding the master plan Case S-
46 09-043. Do I have a motion to approve with the stipulation that all

1 outstanding review comments pertaining to the master plan need to
2 be resolved prior to the Planning and Zoning Commission.
3
4 Murphy: I move to approve with conditions as outlined.
5
6 Reyes: Second. Loretta Reyes.
7
8 Rodriguez: All those in favor.
9
10 Members: Aye.
11
12 Rodriguez: None opposed. And then regarding the initial zoning, the initial
13 zoning designation will be C3 to reflect Commercial High Intensity
14 and conditioned to limit uses on that tract 4. Do I have a motion to
15 approve?
16
17 Dubbin: So moved.
18
19 Montoya: Second. Meei Montoya.
20
21 Rodriguez: All those in favor.
22
23 Members: Aye.
24
25 Rodriguez: None opposed. This will be forwarded to the September 22nd
26 Planning and Zoning Commission meeting.
27
28 **V. ADJOURNMENT (9:29 am)**
29
30 Rodriguez: Do I have a motion to adjourn?
31
32 Reyes: So moved. Loretta Reyes.
33
34 Dubbin: Second. Mark Dubbin.
35
36 Reyes: We are adjourned.
37
38
39
40
41
42
43 _____
Chairperson



MAP CREATED FOR: HREVELS

ZONING: EC-2, EC2C

ADDRESS: TORTUGAS ANNEXATION
LAS CRUCES, NM 88001

PARCEL: MULTIPLE

DEVELOPER: SOUTHWEST ENGINEERING, INC. FOR J. D. PARTNERS II, L.P.

DATE: 9/15/2009 8:55:46 AM SUBDIVISION: TORTUGAS SUBDIVISION



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

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

MEETING OF PLANNING AND ZONING COMMISSION
FOR THE
CITY OF LAS CRUCES
City Council Chambers
September 22, 2009 at 6:00 p.m.

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BOARD MEMBERS PRESENT:

Charles Scholz, Chairman
Donald Bustos, Secretary
Shawn Evans, Member
Ray Shipley, Member

BOARD MEMBERS ABSENT:

Godfrey Crane, Vice Chair
Charles Beard, Member

STAFF PRESENT:

Cheryl Rodriguez, Development Services Administrator
Adam Ochoa, Associate Planner
James Von Schrittz, Las Cruces Fire
Jared Abrams, CLC Legal Staff
Becky Eich, Recording Secretary

I. CALL TO ORDER 6:00

Scholz: Good evening, and welcome to the Planning and Zoning Commission for September 22, 2009. I'm Charlie Scholz, Chair of the Commission. I want to introduce the other members of the Commission; on my far right is Commissioner Shipley, he is the mayor's appointment to the Commission. Next to him is Commissioner Crane. Commissioner Crane is representing council district 4. Commissioner Evans is next to him, council district 5. Commissioner Bustos who represents council district 3. And I represent council district 1.

II. APPROVAL OF WORK SESSION MINUTES - August 25, 2009

Scholz: The first item on the agenda is the approval of the minutes. Gentlemen, any additions or corrections to the minutes? None, okay. I have a couple. They are little nitpicky things but they leapt out at me while I was reading them yesterday. Page 13, line 36 we mention "rod iron", it actually should be "wrought iron" (this should be changed on page 12, line 18 and 27; page 13, line 47; page 14, line 6 and 10; page 16 line 5). It was interesting because the applicant also referred to rod iron. I was puzzled by that. Page 17, line 31, it should be "your" rather than "you're". And finally, a comment by Commissioner Evans on page 47, line 41, I think he

- 3.75 +/- acres (Lot 4) of C-3C (Commercial High Intensity-Conditional) allowing only mini-storage facility uses.

The property is currently within the Extra-territorial Zone of Doña Ana County. The current zoning for lots 1A, 2A, and 3A is EC-2 (Community Commercial); lot 4 is currently zoned EC-2c (Community Commercial - Conditional), allowing only mini-storage facilities. Submitted by Southwest Engineering for J.O. Partners II, LP, and Camino Vista Properties, LP.

Scholz: All right, next up. Ms. Rodriguez, the Tortugas Annexation.

Rodriguez: Yes, Mr. Chairman. And I ask that you suspend the rules so we can hear the annexation plat, master plan, and initial zoning concurrently and then we can, when we go to make a motion we can unsuspend the rules and vote on each item separately.

Scholz: All right. Is there a motion to suspend the rules?

ShIPLEY: I so move to suspend the rules.

Scholz: Is there a second?

Crane: Seconded.

Scholz: All those in favor say aye.

ALL COMMISSIONERS - AYE.

Scholz: Those opposed same sign. The motion carried. We have suspended the rules.

Rodriguez: Good evening Mr. Chairman, Commissioners, for the record Cheryl Rodriguez. This evening I'm before you to present annexation request for property that currently resides in the ETZ for a subdivision known as the Tortugas Subdivision. As part of the annexation request there is an annexation plat and master plan and initial zoning. The subject property comprises of 8.82 acres. It currently resides in the Extra-Territorial Zone in Doña Ana County. The subject property contains four commercial lots and is part of a platted subdivision known as the Tortugas Subdivision. The three lots contain a gas station, convenience store, and there are two retail lots, one lot is currently vacant with a proposed use of a mini storage facility. The annexation request is also in concert with New Mexico State statute that requires the adjacent right-of-way to be brought in. So as part of the acreage requirements, you will also see the adjacent right-of-way for S. Main Street which is New Mexico Highway 478 and Tortugas Drive.

1 The existing zoning in the ETZ for the property is zoned as
2 community commercial which is EC-2 and EC-2c which is community
3 commercial but a condition has been placed on it. And that condition the
4 EC-2c zoning district is for the lot that is currently vacant. The condition
5 attached to that zoning limits use of the property to mini storage units.

6 The master plan component of this annexation request identifies
7 land use as commercial. The initial zoning request for this annexation
8 proposal is current with the ETZ zoning. Staff is recommending that the
9 three lots that contain the gas station, convenience store, and the two
10 retail stores, be zoned C-3 commercial high intensity, and the one lot that
11 is vacant be zoned C-3c commercial high intensity conditional, and will
12 carry forward that same condition that exists within the ETZ which limits
13 the use to mini storage facility. And then we have the standard City
14 Council condition which requires all new utilities to be placed
15 underground.

16 Here's a vicinity map of the subject property. The subject property
17 is directly east of S. Main Street which is identified on the MPO
18 Thoroughfare Plan as a principal arterial. And you also have the
19 intersection here of Tortugas Drive. An aerial of the subject property, this
20 is a dated aerial, so currently in this corner property you have the Pic-Quik
21 with the gas station/convenience store that is built out, and then you have
22 additional retail properties located here. The mini storage facility is
23 proposed here in the rear of the property. This is the annexation plat of
24 the Tortugas annexation. The master plan just identifying building layout
25 with the existing commercial uses, land uses. And then the initial zoning
26 request identifying the C-3 zoning district.

27 Here are some site photos of the existing property. You will see
28 how it is currently built out here in the upper two photos; you see this is
29 the Pic-Quik and off to the rear you have AutoZone and then a Family
30 Dollar store. And then in the rear of the property this is where the
31 proposed mini storage facility is located and then to the rear you have
32 getting into residential neighborhood. These two photos show Tortugas
33 Drive, the bottom photo here is Tortugas Drive looking to the east and the
34 top photo is Tortugas Drive looking to the west, to the intersection with S.
35 Main Street.

36 The DRC recommendation of the annexation request was reviewed
37 by DRC on September 2nd, 2009. DRC staff recommended approval of
38 the annexation plat and master plan and recommended conditional
39 approval for the initial zoning, essentially limiting that commercial use to
40 mini storage facility and then all new utilities must be placed underground.
41 The Planning and Zoning Commission's actions tonight will be in the form
42 of a recommendation to the City Council who retains the final authority on
43 annexation proposals. So Planning and Zoning options this evening is to
44 vote yes to approve the annexation plat and master plan as recommended
45 by DRC without conditions in the initial zoning request with conditions.
46 This body may choose to vote yes to approve the annexation plat, master

1 plan, and initial zoning with additional conditions as deemed appropriate.
2 This body may also choose to vote no to recommend to deny the
3 annexation proposal, and if needed this body can also direct staff to table
4 and postpone this proposal and direct staff accordingly. This concludes
5 my presentation this evening. The applicant is here also to render a
6 presentation as well. I'll be happy to answer any questions that this body
7 may have.

8
9 Scholz: Commissioner Shipley has a question.

10
11 Shipley: Ms. Rodriguez I notice in the DRC notes it has Case S-09-042 approval of
12 7.10 acres as opposed to the eight acres that we've got tonight. What
13 changed?

14
15 Rodriguez: The additional acreage comes in the form of the right-of-way.

16
17 Shipley: So, okay.

18
19 Rodriguez: At DRC ... prior to when we got to the DRC the outstanding review
20 comment at that time was we needed to rectify the additional acreage on
21 the right-of-way that had not been noted on previous to DRC. So when
22 we advertised for DRC that was one of the items that we had directed the
23 applicant is to correct the acreage and he subsequently did in anticipation
24 of tonight's meeting.

25
26 Shipley: Okay. Is there a requirement for them to put in sidewalk, gutter, and along
27 the street, along Tortugas, along the side as well?

28
29 Rodriguez: Mr. Chairman, Commissioner Shipley at this time no. What will happen is
30 if there ... once you are brought into the city if there is significant
31 expansion that exceeds \$25,000 threshold, then improvements to bring it
32 into compliance with city codes will take place, but we will look at it
33 depending on the nature of what they're seeking to do to the property.
34 When the mini storage unit property gets constructed, at that time they will
35 construct sidewalks on their portion, but what public works staff will do at
36 that time is to examine how we would get connectivity back out to S. Main
37 Street with I guess you could say piecemeal sidewalks at this point. So
38 that's something that city staff will have to take into consideration later on.
39 But right at this point by just bringing them into the city limits, they're not
40 going to be required to bring everything up to city code. They can come
41 in, but when they substantially make modifications to their property, and
42 come in for a permit, at that time what we'll do is look at and see what are
43 you doing from a permitting standpoint to modify your property, and then
44 we'll look at the Design Standards and zoning code and all the other
45 applicable codes and say okay, you're doing X, it's going to trigger Y and
46 Z, so we'll look at it at that time.

- 1
2 Shipley: Are they currently on city water, sewer?
3
- 4 Rodriguez: Mr. Chairman, Commissioner Shipley, that is correct.
5
- 6 Scholz: Okay, that was my question too, whether they would have to do
7 improvements. Any other questions for Ms. Rodriguez? All right, let's
8 hear from the applicant.
9
- 10 Pompeo: Good evening Mr. Chairman, Commission, my name is Paul Pompeo with
11 Southwest Engineering. I have a brief presentation for you, probably
12 covers a lot that staff's already presented tonight and then I'll be happy to
13 answer any questions you might have. Once again, the subject property
14 is located on S. Main Street and Tortugas Drive. Once again as staff has
15 previously shown, here's the master plan. It was a four lots subdivision
16 when it was originally completed. There are three buildings on the
17 property now with the vacant area here which is for future mini storage
18 area. Also the aerial, here's the two, the AutoZone and the Dollar General
19 store I believe, and then the Pic-Quik that's been built sits in this area right
20 here. The existing zoning once again is EC-2 for these three lots here and
21 EC-2c for this L-shaped lot which is the lot that's restricted to mini storage
22 use only. Once again we're asking for C-3 and C-3 conditional zoning, C-
23 3 in the front three lots here, and once again the carryover of the limitation
24 that this property only be used for mini storage.
25 Here's a little bit of history on the property just to bring the
26 Commission up to date. The subject property was originally map zoned
27 ER-2. Two acre minimum lot size for residential uses by the Extra-
28 Territorial Zoning Authority in 1989. A zone change request Case Z89-
29 025 was presented to the ETA on March 17, 1999 to change the zoning
30 on the property to EC-2, retail commercial district and that application was
31 denied. The zone change request Case Z03-014 was presented to the
32 ETZ on November 20, 2003 and to the ETZ on December 17, 2003 to
33 change the zoning on the property to EC-2 and EC-2c and was approved.
34 The condition of the zoning was that the eastern and southern areas of the
35 property would be limited to mini storage units only. A resolution number
36 05-0105 approving the connection of water and waste water utilities to the
37 property was approved by City Council of the City of Las Cruces on
38 September 20, 2004. Once again the front portions of the property have
39 been previously developed into retail commercial uses.
40 Case specifics, the annexation area is 8.82 acres in size, southeast
41 corner of S. Main and Tortugas Drive. Of this area, 1.93 acres of existing
42 roadway is right-of-way. Property consists of four lots. No new lots are
43 proposed by this master plan. I think that's also an important fact.
44 Currently zoning on the property allows retail commercial uses. The lot
45 along the eastern and southern boundary of the annexation area is limited
46 to mini storage facility only. The requested initial zoning matches the

1 current zoning that's currently on the property now. The three existing lots
2 along S. Main Street have previously been developed for commercial
3 uses. And finally once inside the Las Cruces city limits, the city will begin
4 to collect its share of New Mexico Gross Receipts tax from the three retail
5 businesses that are currently in operation there. With that, that concludes
6 my presentation. I'd be happy to answer any questions that you might
7 have.
8

9 Scholz: Any questions for this gentleman?

10 Shipley: I just want to make sure, the three lots are one acre?

11
12
13 Pompeo: Let's go back. I believe the lot where the Pic-Quik is, I think it's
14 approximately 1.15 acres. The other two lots, one is 0.74 acres and the
15 other one is 0.84 acres. So one is just over an acre and two are slightly
16 less than an acre.
17

18 Shipley: Okay.

19
20 Scholz: All right, any other questions for Mr. Pompeo? Okay, thank you very
21 much.
22

23 Pompeo: Thank you Mr. Chairman.
24

25 Scholz: Any comments from the public on this? Yes, sir, would you come up to
26 the microphone and identify yourself please?
27

28 Boberg: Good evening. My name is Doug Boberg. I'm one of the residents that is
29 currently in the city address 141 Mimosa Lane. And I think I speak for
30 most of the neighbors when I say that we are not opposed to this
31 annexation request, as long as the conditions originally set forth by the
32 ETZ are met. And there are some additional conditions on that property
33 and maybe this would be a discussion better suited for the zoning portion
34 of this meeting. I'm not real familiar with how this normally goes.
35

36 Scholz: Go ahead.
37

38 Boberg: Very good. Well the mini storage facility on the ... in the back half of that
39 property was certainly a major item for the neighbors to negotiate and
40 agree upon that initial ETZ zoning request. But in addition that was only
41 one of five conditions that were agreed upon on that property. The
42 second condition was that a six-foot high rock wall would be built as a
43 buffer between that mini storage facility and the neighbors to both the
44 south and the east. In addition, that construction of that rock wall was to
45 begin concurrent with the construction of the mini storage facilities. That
46 the mini storage facilities be limited in height to 15-feet, and then finally

1 that the lighting was to meet the city night light ordinance. And as long as
2 those conditions are met, certainly I as a resident and I reside in the city,
3 kind of odd how that works in that part of town, but I'm certainly agreeable
4 to the annexation change. I think it would be beneficial to both the land
5 owner and the residents as well. Thank you.
6

7 Scholz: Okay. Questions for Mr. Boberg. Yes, there is a question from
8 Commissioner Crane.
9

10 Crane: This may be a small point, sir, but did you say you do or do not live in the
11 city?
12

13 Boberg: I live in the city limits.
14

15 Crane: So this little bite here is not in the city limits.
16

17 Boberg: That is correct. You actually drive through county to get to the Las
18 Nogales neighborhood which is, at least part of it, is in the city limits.
19

20 Crane: Okay, and do you happen to know how it is that those other three
21 conditions are not before us right now?
22

23 Boberg: I couldn't say sir. All I know is that it is part of the ETZ zoning conditions
24 and it was ... in fact we have one of the copies of that original agreement
25 here and those five conditions were on that ETZ.
26

27 Scholz: Okay.
28

29 Crane: Mr. Chairman I'd like to get some clarification on that.
30

31 Scholz: Certainly, and Ms. Rodriguez is about to give us some.
32

33 Rodriguez: Mr. Chairman, Commissioners, what we'll do is our records indicate that
34 the attached condition was limiting the use. What I can do for the purview
35 of this meeting is I can go back and re-examine the resolution that was
36 filed at the ETA for the zoning and staff would recommend that the
37 Planning and Zoning Commission make a recommendation that the
38 conditions that were placed on the property be carried forward. What I'm
39 listening to Mr. Boberg state is that those conditions are in compliance
40 with city codes and policy, for example the lighting ordinance. So we'll
41 make sure ... what I'll go back and do prior to the City Council meeting is I
42 will re-evaluate the filed resolution for the conditions that are attached to
43 the zoning and the ETZ and then carry it forward, I would just need the
44 Planning and Zoning Commission to make that recommendation for staff
45 to do so, so we can get this carried out through Council.
46

- 1 Scholz: So you're suggesting Ms. Rodriguez that we add a condition?
2
- 3 Rodriguez: Yes.
4
- 5 Scholz: Yes, and the condition would be any conditions that were placed ...
6
- 7 Rodriguez: By the ETA.
8
- 9 Scholz: By the ETA, be ...
10
- 11 Rodriguez: Be carried forward.
12
- 13 Scholz: Carried forward.
14
- 15 Rodriguez: And attached to the property for the initial zoning request for the property
16 coming into the city limits. And staff will ensure that that gets through and
17 I will make that as a matter of record to Council.
18
- 19 Scholz: Okay. I think I got it. Okay. Thank you very much Mr. Boberg. Any other
20 public comment? Yes, ma'am, you are?
21
- 22 Wootton: Just very briefly. My name is Karen Wootton. I'm an attorney with the
23 Creole Law firm and I represent Pic-Quik stores Inc. The owner, Mr.
24 Andrate actually wanted to appear himself but is not feeling very well
25 today, so ...
26
- 27 Scholz: Would you give me your last name again please?
28
- 29 Wootton: W O O T T O N.
30
- 31 Scholz: Thank you.
32
- 33 Wootton: And he just asked me to appear just to let the Commission know that he
34 does support the application. That he would prefer that the property that
35 he rents under a very long-term lease be in the city. We do have most city
36 services for the store, but not all city services and he would prefer to be ...
37 to have that property within the city and supports the owner's application.
38
- 39 Scholz: Okay. Thank you very much. Anyone else? Yes, Mr. Pompeo, you need
40 another comment?
41
- 42 Pompeo: I'm sorry Mr. Chairman, just for clarification, I have a copy of Mr. Boberg's
43 letter to the ETZ Commission dated November 13, 2003. We are aware of
44 those conditions and that they were discussed that night in front of the
45 ETZ and the ETA and I just wanted to let the Commission know that we
46 don't have any issues as far as bringing those conditions forward.

- 1 Whatever was on the official record of that night's meeting, the applicant is
2 aware of those and doesn't have any problem bringing those forward.
3
- 4 Scholz: Good. Thank you very much. Okay, I'm going to close it to public
5 discussion. Gentlemen what is your pleasure? We have to rise from our
6 ... unsuspend the rules.
7
- 8 Shipley: Unsuspend the rules.
9
- 10 Crane: How about restore? Isn't that a much better word?
11
- 12 Shipley: Restore.
13
- 14 Scholz: Restore sounds much better.
15
- 16 Shipley: So I move to restore the rules.
17
- 18 Crane: What does congress do?
19
- 20 Scholz: Well it depends on who you talk to obviously.
21
- 22 Shipley: So I move to restore the rules.
23
- 24 Scholz: Is there a second?
25
- 26 Crane: Second.
27
- 28 Scholz: Okay it's been moved and seconded to restore the rules. All those in favor
29 say aye.
30
- 31 ALL COMMISSIONERS - AYE.
32
- 33 Scholz: Those opposed same sign. The rules are restored. We could now vote
34 on the individual items. Initially it's the S-09-042, the annexation plat.
35
- 36 Shipley: I have one question before we do that.
37
- 38 Scholz: Yes, Commissioner Shipley.
39
- 40 Shipley: They've asked for C-3 but is C-2 appropriate here?
41
- 42 Rodriguez: Mr. Chairman, Commissioner Shipley, C-2 and C-3 have the same uses,
43 it's just the difference there is primarily the lot size and staff is comfortable
44 with the C-3 across the board.
45

- 1 Shipley: But I was just thinking if they sell this you're selling less than an acre
2 parcel and it's normally it has to be greater than an acre to get C-2, is that
3 correct.
4
- 5 Rodriguez: C-2 the maximum lot size is an acre. So under C-2 zoning if you exceed
6 an acre you would have to get a zone change to C-3.
7
- 8 Shipley: But they're under.
9
- 10 Rodriguez: They're under. I mean if the Commission feels that they want to go to a C-
11 2, that's fine with staff. In terms for the uses, C-3 is fine. In terms for the
12 vacant parcel the conditions were already going to be limited and those
13 will be ...
14
- 15 Shipley: Well that parcel is larger than an acre.
16
- 17 Rodriguez: Yes.
18
- 19 Shipley: So, but I was just getting at when I couldn't decipher this I was looking to
20 see if they were over an acre because I thought they should be ... I
21 thought the two parcels should be C-2, the one parcel should be C-3, but I
22 mean that's what our code ... that's what we go by and if we're going to
23 apply the code we ought to apply it.
24
- 25 Rodriguez: Staff felt it was just cleaner to just to go C-3 across the board because of
26 the existing commercial uses, but we could look at a C-2.
27
- 28 Shipley: Is there anything that they're doing that ...?
29
- 30 Rodriguez: Mr. Chairman, Commissioner Shipley, the C-3 zoning designation you
31 aren't limited to a minimum lot size of an acre. It's just C-2 you're capped
32 at an acre, but C-3 there's a minimum threshold which I believe is a half
33 an acre, which they're fine.
34
- 35 Shipley: Okay.
36
- 37 Scholz: I think we're safe doing that.
38
- 39 Shipley: Okay.
40
- 41 Scholz: Okay, I'll entertain a motion to approve S-09-042, the annexation plat.
42
- 43 Shipley: With an additional ...
44
- 45 Scholz: No, there is no conditions on the plat. The conditions would be on the
46 initial zoning request.

- 1
2 Evans: Mr. Chairman I move that we approve the annex plat S-09-042 with no
3 conditions.
4
5 Scholz: Is there a second?
6
7 Bustos: Second.
8
9 Scholz: It's been moved and seconded. I'll call the roll. Commissioner Shipley.
10
11 Shipley: Aye discussion, findings, and site visit.
12
13 Scholz: Commissioner Crane.
14
15 Crane: Aye discussion, findings, and site visit.
16
17 Scholz: Commissioner Evans.
18
19 Evans: Aye discussion and findings.
20
21 Scholz: Commissioner Bustos.
22
23 Bustos: Aye discussion and findings.
24
25 Scholz: And the Chair votes aye discussion, findings, and site visit. Okay, I'll
26 entertain a motion to accept S-09-043.
27
28 Evans: Mr. Chairman I move that we approve the master plan S-09-043 with no
29 conditions.
30
31 Scholz: Is there a second?
32
33 Bustos: Second.
34
35 Scholz: It's been moved and seconded. I'll call the roll. Commissioner Shipley.
36
37 Shipley: Question, do we need ... the master plan, doesn't that include that?
38
39 Scholz: Pardon me?
40
41 Shipley: It says with no conditions, but that was before, that doesn't need to be in
42 there now?
43
44 Evans: The initial zoning conditions will cover the ...
45
46 Scholz: The initial zoning conditions ...

1
2 Evans: That were placed by the ETA be carried forward to council.
3
4 Shipley: My mistake. Thank you.
5
6 Scholz: Okay.
7
8 Shipley: Aye findings, discussion, and site visit.
9
10 Scholz: Commissioner Crane.
11
12 Crane: Aye findings, discussion, and site visit.
13
14 Scholz: Commissioner Evans.
15
16 Evans: Aye findings and discussion.
17
18 Scholz: Commissioner Bustos.
19
20 Bustos: Aye findings and discussion.
21
22 Scholz: And the Chair votes aye for findings and discussion and site visit. Okay,
23 Case Z2799, someone would like to motion approval of this they will have
24 to read the conditions.
25
26 Evans: Mr. Chairman I move that we approve the initial zoning request Z2799,
27 with the following conditions; tract 2 is restricted to mini storage facility
28 use, any new utilities will be placed underground, any conditions that were
29 placed by the ETA be carried forward to Council.
30
31 Scholz: Be carried forward and attached to the property. Is there a second?
32
33 Shipley: Second.
34
35 Scholz: I'll call the roll. Commissioner Shipley.
36
37 Shipley: Aye findings, discussion, and site visit.
38
39 Scholz: Commissioner Crane.
40
41 Crane: Aye findings, discussion, and site visit.
42
43 Scholz: Commissioner Evans.
44
45 Evans: Aye findings and discussion.
46

1 Scholz: Commissioner Bustos.

2
3 Bustos: Aye findings and discussion.

4
5 Scholz: And the Chair votes aye findings, discussion, and site visit. So we have
6 passed and approved the annexation plat, the master plan, and the initial
7 zoning request with conditions.

8
9 **VIII. OTHER BUSINESS**

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12 **IX. PUBLIC PARTICIPATION**

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15 **X. STAFF COMMENT**

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17 Scholz: Ms. Rodriguez.

18
19 Rodriguez: Mr. Chairman. In terms for staff input this evening, I want to advise the
20 Commission of some upcoming events for the month of October.

21
22 Scholz: Okay.

23
24 Rodriguez: I don't have a date solidified at this point, but I wanted to give you heads
25 up. There will be a work session in the month of October. The date has
26 yet to be determined because it is going to be ... right now it's tentatively
27 identified as a joint work session with the city's Planning and Zoning
28 Commission, the Doña Ana County's Planning and Zoning Commission,
29 and the Extra-Territorial Zoning Commission.

30
31 Scholz: That sounds exciting.

32
33 Rodriguez: And the purpose of that meeting will be to discuss the review of the Vision
34 2040 draft document.

35
36 Scholz: Okay.

37
38 Rodriguez: I am working with Andy Hume at this point to confirm the date and time
39 and location of that meeting. I understand it could possibly be at the Doña
40 Ana County Government Center because their meeting room is much
41 larger so we can accommodate all three bodies there, but as soon as I
42 confirm the date and time I will apprise all of you of that.

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44 Scholz: Okay, are we still thinking of a Tuesday night?

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46 Rodriguez: I'm not sure at this point.

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Scholz: Okay.

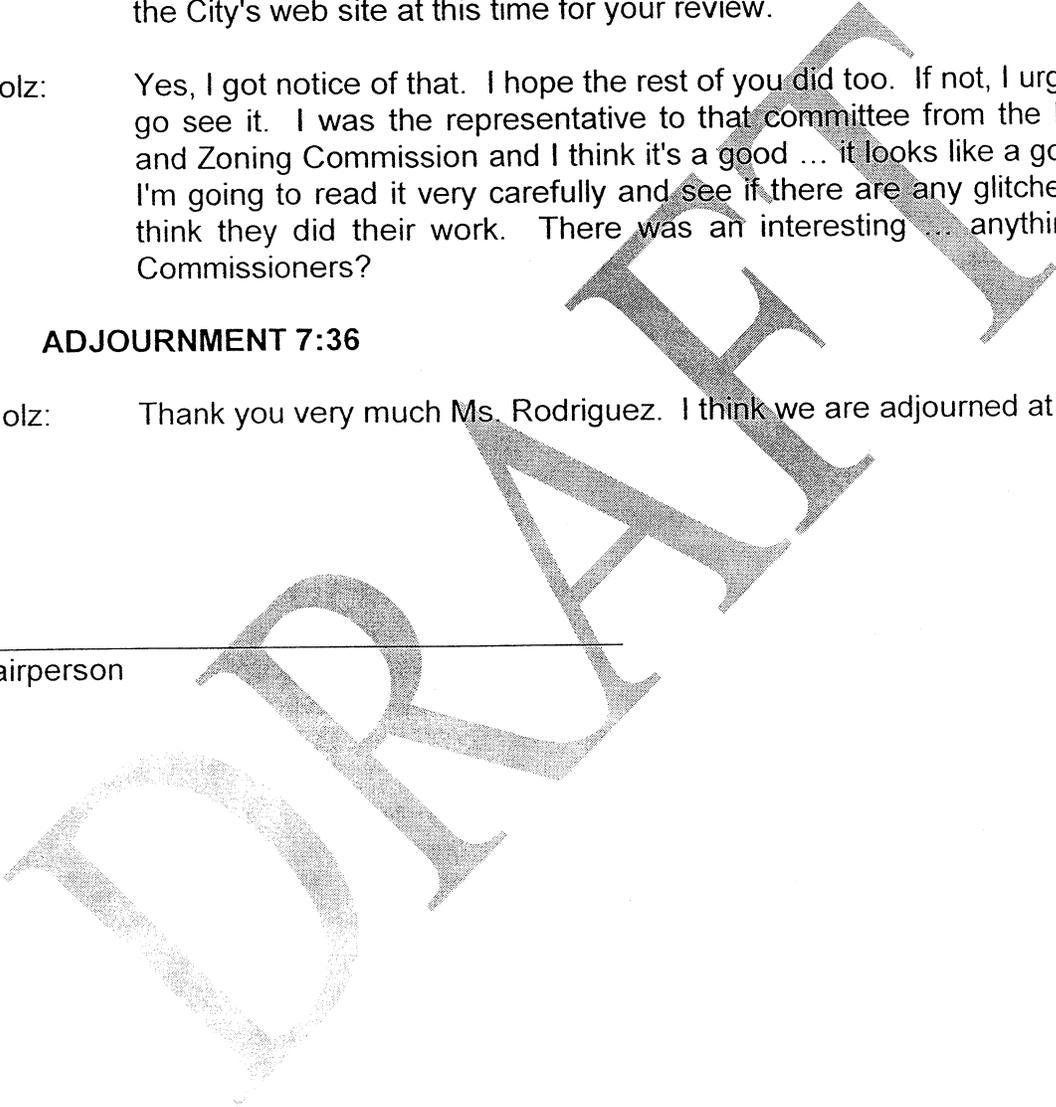
Rodriguez: Because one of the things that we're trying to work too is also scheduling a joint meeting with the City Council and the Board of County Commissioners also to discuss the Vision 2040 document. So it's kind of a timing issue right now. Once we can get all that solidified, I will be in contact with you and let you know. But the draft document is available on the City's web site at this time for your review.

Scholz: Yes, I got notice of that. I hope the rest of you did too. If not, I urge you to go see it. I was the representative to that committee from the Planning and Zoning Commission and I think it's a good ... it looks like a good plan. I'm going to read it very carefully and see if there are any glitches. But I think they did their work. There was an interesting ... anything else? Commissioners?

XI. ADJOURNMENT 7:36

Scholz: Thank you very much Ms. Rodriguez. I think we are adjourned at 7:36.

Chairperson



FROM THE EXTRATERRITORIAL ZONING AUTHORITY

ETA Case No. Z 2003-014

This matter was heard before the Extraterritorial Zoning Authority at the regularly scheduled meeting on December 17, 2003, on an application from Kerry Rhodes for EC 2 (Community Commercial District) for the northwestern 3.28 acres and EC 2C (Community Commercial District) for the eastern 3.82 acres. The property is located 3929 S. Main Street and can be further identified by Uniform Property Code # 4-008-138-245-180. The Extraterritorial Zoning Commission heard the request and recommended approval by a vote of 5-0-0.

Having considered the evidence and arguments of record, the Authority hereby adopts the Findings of Fact recommended by staff as reflected by the record herein, and further FINDS that, the zoning requested by the applicant is the most appropriate zoning district for the property, based upon the character of the area, including the available infrastructure and the zoning districts of adjacent and surrounding properties.

Wherefore, it is hereby ORDERED that the 3.82 acre property is hereby zoned EC 2 and EC 2C accordingly with the following conditions:

1. The proposed eastern parcel of approximately 3.82 acres shall be limited to mini-storage related uses only.
2. Development on the southeastern periphery of proposed Tract 2-C shall be limited to a maximum height of fifteen (15) feet.

4-008-138-243-144,

Tortugas Subdivision right #1

Lot 32
Sct 23S
Twn 2E
Rge

1673

ETA Case No. Z.2002-014

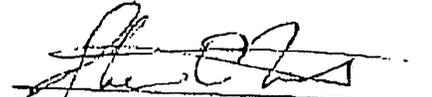
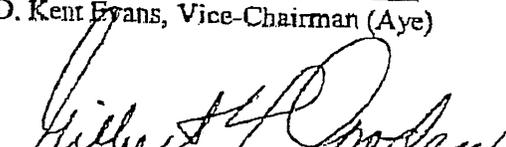
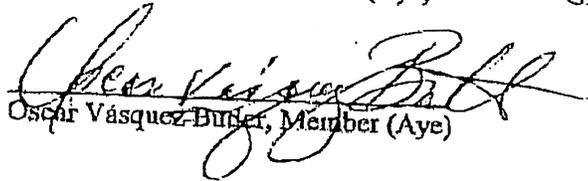
THE EXTRATERRITORIAL ZONING AUTHORITY

Absent

Jose Fietze, Chairman



D. Kent Evans, Vice-Chairman (Aye)


Steven Trowbridge, Member (Aye)
Gilbert T. Apodaca, Member (Aye)
Oscar Vásquez-Buñer, Member (Aye)

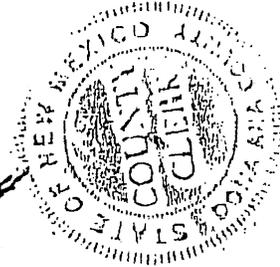
State of New Mexico County of Bernalillo, ss
RECEPTION NO. 2891

I hereby certify that this instrument
was filed for recording and duly recorded on

JAN 29 2004

at 8:48 o'clock A
P.M. Book 493 Page 1673-1674

of the Records of said County, Bernalillo,
County Clerk BY [Signature]





DOÑA ANA COUNTY

COMMUNITY PLANNING AND
ECONOMIC DEVELOPMENT DEPARTMENT

Building • Planning • GIS

845 N. Motel Blvd. • Las Cruces, New Mexico 88007

(505) 647-7350 • Fax: (505) 525-6131

Toll Free: 1 (877) 827-7200 • TTY: (505) 525-5951

www.donaanacounty.org

August 29, 2006

Claiborne Gallagher
725 S. Mesa Hills
Building 1, Suite 1
El Paso, TX. 79912

FAX#: 915 587 8311

Re: Zoning Verification for 3955 South Main St.

Dear Mr. Claiborne Gallagher:

The above reference property is zoned EC2, community commercial district. On December 17, 2003 the Extraterritorial Zoning Authority approved a zone change request (Case No.Z2003-014) for EC2 zoning. The approved zone change did have the following conditions:

1. The proposed eastern parcel of approximately 3.82 acres shall be limited to mini-storage related uses only.
2. Development on the southeastern periphery of proposed Tract 2-C shall be limited to a maximum height of fifteen (15) feet.

The zone classification EC2 of this parcel does allow a business with a liquor license for the sale of package liquor for off premise consumption. A grocery store and an automobile service station, which may provide automobile fueling stations, are also allowed on this parcel within the EC2 zoning classification. A Special Use Permit for the development of any of the uses described above (i.e. automobile service station) will not be required.

A Special Use Permit or any further zoning changes will not be required for a Pic-Quik store that sells liquor for off premise consumption (subject to liquor license approval), with gas pumps, car wash and that has fast food at the property located at 3955 South Main St while adhering to the two above conditions.

The property is further identified as UPC: 4-008-138-243-144, located on lot 1A of the Tortugas Subdivision Replat #1, within section32, TWN 23South, R2East.

Should you have any questions or concerns please call me at 525-6120.

Sincerely,

Mike Gallagher
ETZ Planner
Dona Ana County



11/18/03 11/18/03 November 13, 2003

James White
Dona Ana County Planning Department
430 S. Main
Las Cruces, New Mexico 88005

Re: Rezoning of the southeast corner of South Main Street and Tortugas

Dear Mr. White:

We are the residents bordering the property on the corner of South Main Street and Tortugas which is being submitted for rezoning from ER-4 to EC-2 and EC-2g.c

We understand the property is still owned by Kerry Rhodes but is being purchased by Odom Investments, Inc. subject to rezoning of the property. Jerry Odom, president of Odom Investments, Inc., has met with us on three occasions in an attempt to find a zoning and use of the property acceptable to his company and to us.

Mr. Odom's plan to rezone Tract 1 on the corner to EC-2 and Tract 2 which borders the homes to EC-2c is acceptable subject to the following conditions concerning Tract 2:

- This property will be used only for the development of a self storage facility. No businesses will be allowed to operate within the self storage complex.
- The developer must meet existing setback requirements in EC-2 which are 15 feet on the rear property line (east boundary and 7 feet on the side (south boundary).
- The developer must build a 6 foot rock, concrete or cinder block wall on the south and east boundaries of the property which abut the homes.
- Lighting within the self storage complex must meet the night sky ordinance.
- Within three years from the change of zoning, construction must begin on the self storage facility or the zoning on Tract 2 will revert to ER4.
- Construction on the boundary wall in Tract 2 will begin immediately when construction of the self storage facility begins.

height 15 ft of 15 feet on south & east side

If construction begins on Tract 1 prior to construction on Tract 2, the developer of Tract 1 must build a 6 foot wall around the east and south boundaries (excluding a reciprocal access point between Tract 1 and Tract 2 near Main Street between the entrance to the self storage facility and the commercial businesses built on Tract 1. This would be a connecting driveway between the two tracts parallel to Main Street).

Signature

Address

Phone Number

<i>Jenna White</i>	<i>3470 Turtle Dove Pl.</i>	<i>647-1530</i>
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<i>Jenna White</i>	<i>3470 Turtle Dove Pl.</i>	<i>647-1530</i>
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560



MAP CREATED FOR: HREVELS

ZONING: EC-2, EC2C

ADDRESS: TORTUGAS ANNEXATION
LAS CRUCES, NM 88001

PARCEL: MULTIPLE

DEVELOPER: SOUTHWEST ENGINEERING, INC. FOR J. D. PARTNERS II, L.P.

DATE: 9/15/2009 8:55:46 AM SUBDIVISION: TORTUGAS SUBDIVISION



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

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