City of Las Cruces®

PEOPLE HELPING PEOPLE

Council Action and Executive Summary

Item # 35 **Ordinance/Resolution#** 2555 **Council District:** 2

For Meeting of January 25, 2010
(Adoption Date)

TITLE: AN ORDINANCE APPROVING A ZONE CHANGE FROM R-1A (SINGLE-FAMILY MEDIUM DENSITY) TO O-2 (OFFICE, PROFESSIONAL-LIMITED RETAIL SERVICE) FOR 0.576 +/- ACRES LOCATED AT 2145 EL PASEO ROAD. THE PURPOSE OF THE ZONE CHANGE IS TO ALLOW THE USE OF THE EXISTING HOME AS A PROFESSIONAL MENTAL HEALTH OFFICE. SUBMITTED BY STUART S. KELTER & LEORA R. ZEITLIN, PROPERTY OWNERS. (Z2804).

PURPOSE(S) OF ACTION: Approval of a zone change that will facilitate the use of the subject property as a professional mental health office.

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

BACKGROUND / KEY ISSUES / CONTRIBUTING FACTORS:

The property owners, Stuart S. Kelter & Leora R. Zeitlin, are requesting a zone change from R-1a (Single-Family Medium Density) to O-2 (Office, Professional-Limited Retail Service) for a property 0.576 +/- acres in size and located at 2145 El Paseo Road. The subject property is triangular shaped and is the current location of a single family dwelling. The zone change will allow the applicants to convert the single-family dwelling into an office building for four to five mental health practitioners (e.g. psychologist, clinical social worker, counselor, and/or marriage and family therapist). The building would no longer serve as the principle dwelling unit.

The subject property is located along El Paseo Road. The Metropolitan Planning Organization (MPO) has classified El Paseo Road as an existing Principal Arterial roadway. The property has access to El Paseo Road through an ingress and egress point located on the south western portion of the property. The applicants are also proposing a second access point for the property to El Paseo Road at the northwestern portion of the property where a large vacant dirt lot exists and will be utilized as a designated parking area for the mental health office building. A bus stop (sign only) is located approximately 565 feet south of the subject property along El Paseo Road. Multi-purpose trails presently exist across the street of the subject property along an irrigation canal that runs along the western side of El Paseo Road.

The property contains two (2) existing unimproved parking stalls along the front of the home facing El Paseo Road. The 2001 Zoning Code, as amended, requires counseling services to provide one (1) parking stall per 350-450 square feet of gross floor area. Therefore, based on the gross floor area of the existing building a range of 4 to 6 parking spaces are required with one (1) of the parking stalls being required to be Americans with Disability Act (ADA) compliant. The applicant is proposing a total of seven (7) improved parking stalls with one (1) ADA compliant parking stall for the proposed zone change. The parking area will be located at the northern portion of the property where a vacant dirt area currently exists. The applicant will also be required to provide one (1) bicycle parking stall on the subject property.

The subject property has some mature landscaping including trees and shrubs to the rear and around the existing home. The property also has ground cover (i.e. grass) along the majority of the eastern portion of the property where a retention pond is being proposed. The property also has some existing landscaping along the street frontage of El Paseo Road. The subject property is in compliance with the required 15% landscaping required on the subject property.

The property is bordered to the north and east by properties zoned PUD (Planned Unit Development) with an underlying zoning of R-3 (Multi-Dwelling Medium Density) and to the south by properties zoned R-1a (Single-Family Medium Density) and R-3 (Multi-Dwelling Medium Density). The subject property will be required to provide screening (buffering) along its north, east, and southern boundaries. Screening currently exists along the north and eastern boundaries of the subject property in the form of a wall and some landscaping. Some screening also exists along the southern boundary of the subject property.

In 2004, the previous property owners attempted a zone change on the subject property from R-1a (Single-Family Medium Density) to C-2 (Commercial Medium Intensity). Staff instead recommended a zone change from R-1a (Single-Family Medium Density) to O-2 (Office, Professional – Limited Retail Service) to the Planning and Zoning Commission and the recommended zone change was recommended for approval by the Planning and Zoning Commission to City Council. The zone change failed to pass at City Council.

On October 27, 2009, the Planning and Zoning Commission recommended approval without conditions for the zone change by a vote of 4-0-0 (two Commissioners absent). At the P&Z meeting, public discussion took place during the hearing regarding the type of patients that will be expected to visit the proposed mental health office building and the expected hours of operation. A discussion was also had on the previous attempt for a zone change for the subject property and on whether patients would be living at the facility. There was also some discussion on the subject property's use of an alley located directly south of the subject property.

SUPPORT INFORMATION:

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

1. Ordinance
2. Exhibit "A"- Site Plan
3. Exhibit "B"- Findings and Comprehensive Plan Analysis
4. Attachment "A"- Staff Report to the Planning and Zoning Commission for Case Z2804
5. Attachment "B"- Minutes from the October 27, 2009 Planning and Zoning Commission
6. Attachment "C"- Vicinity Map

OPTIONS / ALTERNATIVES:

1. Vote **YES** to approve the Ordinance. This action affirms the Planning and Zoning Commission recommendation for approval without conditions. The property located at 2145 El Paseo Road will be rezoned from R-1a (Single-Family Medium Density) to O-2 (Office, Professional – Limited Retail Service).

2. Vote **NO** to deny the Ordinance. This action reverses the recommendation made by the Planning and Zoning Commission. The current zoning designation of R-1a (Single-Family Medium Density) will remain on the property located at 2145 El Paseo Road. The dwelling on the subject property will continue to serve as a primary dwelling unit.

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. 10-026
ORDINANCE NO. 2555

AN ORDINANCE APPROVING A ZONE CHANGE FROM R-1A (SINGLE-FAMILY MEDIUM DENSITY) TO O-2 (OFFICE, PROFESSIONAL-LIMITED RETAIL SERVICE) FOR 0.576 +/- ACRES LOCATED AT 2145 EL PASEO ROAD. THE PURPOSE OF THE ZONE CHANGE IS TO ALLOW THE USE OF THE EXISTING HOME AS A PROFESSIONAL MENTAL HEALTH OFFICE. SUBMITTED BY STUART S. KELTER & LEORA R. ZEITLIN, PROPERTY OWNERS. (Z2804).

The City Council is informed that:

WHEREAS, Stuart S. Kelter & Leora R. Zeitlin, the property owners, have submitted a request for a zone change from R-1a (Single-Family Medium Density) to O-2 (Office, Professional-Limited Retail Service) for 0.576 +/- acres located at 2145 El Paseo Road; and

WHEREAS, the Planning and Zoning Commission, after conducting a public hearing on October 27, 2009, recommended that said zone change request be approved by a vote of 4-0-0 (two Commissioners absent).

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

(I)

THAT the land more particularly described in Exhibit "A," attached hereto and made part of this Ordinance, is hereby zoned O-2 (Office, Professional-Limited Retail Service) for the property located at 2145 El Paseo Road.

(II)

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

(III)

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

(IV)

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

DONE AND APPROVED this_____ day of _____ 2010.

APPROVED:

(SEAL)

_____
Mayor

ATTEST:

_____
City Clerk

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

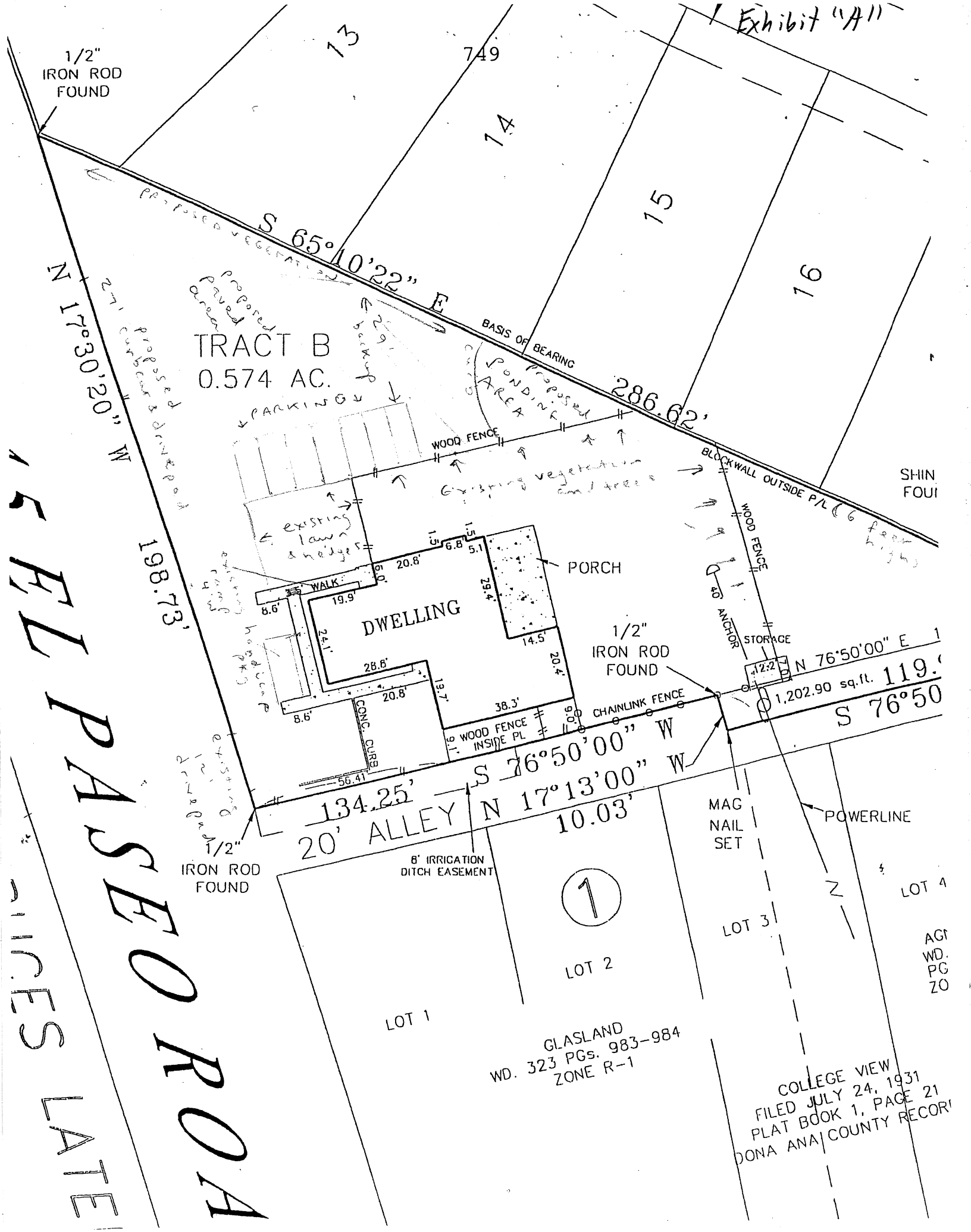
Exhibit "A"
1/2" IRON ROD FOUND
13
749
14
15
16
S 65°10'22" E
BASIS OF BEARING
286.62'
N 17°30'20" W
198.73'
TRACT B
0.574 AC.
PARKING
WOOD FENCE
BLOCKWALL OUTSIDE P/L
SHIN
FOU
PORCH
DWELLING
WALK
1/2" IRON ROD FOUND
40' ANCHOR
STORAGE
N 76°50'00" E
1,202.90 sq.ft.
S 76°50
CHAINLINK FENCE
WOOD FENCE INSIDE PL
CONC. CURB
S 76°50'00" W
134.25'
20' ALLEY
N 17°13'00" W
10.03'
MAG NAIL SET
POWERLINE
1/2" IRON ROD FOUND
8' IRRIGATION DITCH EASEMENT
1
LOT 1
LOT 2
LOT 3
LOT 4
GLASLAND
WD. 323 PGs. 983-984
ZONE R-1
COLLEGE VIEW
FILED JULY 24, 1931
PLAT BOOK 1, PAGE 21
DONA ANA COUNTY RECOR
EL PASEO ROA
LATE

Exhibit "B"

FINDINGS

1. The subject property encompasses 0.576 +/- acres and is located at 2145 El Paseo Road.

2. The subject property is currently zoned R-1a (Single-Family Medium Density).

3. The subject property contains an existing 2000 square foot single-family dwelling.

4. The zone change request from R-1a (Single-Family Medium Density) to O-2 (Office, Professional-Limited Retail Service) will allow the applicants to convert the single-family dwelling into an office building for counseling and mental health services.

5. The subject property has frontage along El Paseo Road, an existing Principal Arterial roadway as classified by the Metropolitan Planning Organization (MPO).

6. Adjacent land use and zoning include:

	Zoning	Land Use
North	PUD	Residential
South	R-1a/R-3	Residential/Multi-Family Residential
East	PUD	Residential
West	R-1a	Residential

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

Land Use Element Goal 1(Land Uses)

Policies

1.6.2. Professional office uses shall be defined as those office uses which generate larger-scale business and professional service activities. There shall be no goods or merchandise prepared or sold on the premises of these uses, with the exception of those activities which serve the primary use. Professional office uses and centers shall be established according to the following criteria:

a. Generally 2,500 gross square feet and above shall be permitted for a professional office use or center.

b. Uses and centers shall be located on streets of collector level and above.

c. The City shall pursue multi-modal access standards (auto, bicycle, pedestrian, transit where available) for professional office uses and centers.

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

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

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

g. The City shall encourage the development of professional office uses and centers in the Central Business District and in the East Mesa area.

h. Professional office uses are also permitted in medium intensity, high intensity, and regional commercial areas.

Attachment "A"

City of Las Cruces®

TO: Planning and Zoning Commission

PREPARED BY: Adam Ochoa, Acting Planner AO

DATE: October 27, 2009

SUBJECT: 2145 El Paseo Rd. (Zone Change)

RECOMMENDATION: Approval – without conditions for zone change (Case Z2804)

Case Z2804: A request for a zone change from R-1a (Single-Family Medium Density) to O-2 (Office, Professional-Limited Retail Service) for 0.576 +/- acres located at 2145 El Paseo Road. The purpose of the zone change is to allow the use of the existing home as a professional mental health office. Submitted by property owners Stuart S. Kelter & Leora R. Zeitlin.

BACKGROUND

The applicants, Stuart S. Kelter & Leora R. Zeitlin, are requesting a zone change from R-1a (Single-Family Medium Density) to O-2 (Office, Professional-Limited Retail Service) for a property 0.576 +/- acres in size and located at 2145 El Paseo Road. The subject property is triangular shaped and is the current location of a single family dwelling. The dwelling is being used as a primary residence by the applicants with a Home Occupation Business of a small psychologist office. The zone change will allow the applicants to convert the single-family dwelling into an office building for four to five mental health practitioners (e.g. psychologist, clinical social worker, counselor, and/or marriage and family therapist). The dwelling would no longer serve as the principle dwelling unit.

The subject property is located along El Paseo Road. The Metropolitan Planning Organization (MPO) has classified El Paseo Road as an existing Principal Arterial roadway. The property has access to El Paseo Road through an ingress and egress located on the south western portion of the property. The applicants are also proposing a second access point for the property to El Paseo Road at the north western portion of the property where a large vacant dirt lot exists and will be utilized as a designated parking area for the mental health office building. A bus stop (sign only) is located approximately 565 feet south of the subject property along El Paseo Road. Multi-purpose trails presently exist across the street of the subject property along an irrigation canal that runs along the western side of El Paseo Road.

In 2004 the previous property owners attempted a zone change on the subject property from R-1a (Single-Family Medium Density) to C-2 (Commercial Medium Intensity). Staff instead recommended a zone change from R-1a (Single-Family Medium Density) to O-2 (Office, Professional – Limited Retail Service) to the Planning and Zoning Commission and the recommended zone change was recommended for approval by the Planning and Zoning Commission to City Council. The zone change then failed to pass at City Council.

PARKING

The property contains two (2) existing unimproved parking stalls along the front of the home facing El Paseo Road. The 2001 Zoning Code, as amended, requires counseling services to provide one (1) parking stall per 350-450 square feet of gross floor area. Therefore, based on the gross floor area of the existing building a range of 4 to 6 parking spaces are required with one (1) of the parking stalls being required to be Americans with Disability Act (ADA) compliant. The applicant is proposing a total of seven (7) improved parking stalls with one (1) ADA compliant parking stall for the proposed zone change. The parking area will be located at the northern portion of the property where a vacant dirt area currently exists. The applicant will also be required to provide one (1) bicycle parking stall on the subject property.

LANDSCAPING AND SCREENING

The City of Las Cruces Design Standards requires additions or structural modifications to existing buildings with a value of $25,000.00 or over to provide landscaping. The parking area will determine the amount of landscaping required for the site. A minimum area equal to 15 percent of the total parking area shall be landscaped. For the purpose of landscaping compliance, the parking area includes the entire tract of land except for the building pad and fenced-in storage area.

The subject property has some mature landscaping including trees and shrubs to the rear and around the existing home. The property also has ground cover (i.e. grass) along the majority of the eastern portion of the property where a retention pond is being proposed. The property also has some existing landscaping along the street frontage of El Paseo Road. The subject property is in compliance with the required 15% landscaping required on the subject property.

The property is bordered to the north and east by properties zoned PUD (Planned Unit Development) with an underlying zoning of R-3 (Multi-Dwelling Medium Density) and to the south by properties zoned R-1a (Single-Family Medium Density) and R-3 (Multi-Dwelling Medium Density). The subject property will be required screening (buffering) along its north, east, and southern boundaries. Screening currently exists along the north and eastern boundaries of the subject property in the form of a wall and some landscaping. Some screening also exists along the southern boundary of the subject property.

FINDINGS

1. The subject property encompasses 0.576 +/- acres and is located at 2145 El Paseo Road.

2. The subject property is currently zoned R-1a (Single-Family Medium Density).

3. The subject property contains an existing 2000 square foot single-family dwelling.

4. The zone change request from R-1a (Single-Family Medium Density) to O-2 (Office, Professional-Limited Retail Service) will allow the applicants to convert the single-family dwelling into an office building for counseling and mental health services.

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6. Adjacent land use and zoning include:

	Zoning	Land Use
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7. The request is consistent with the following sections of the City of Las Cruces Comprehensive Plan:

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

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

g. The City shall encourage the development of professional office uses and centers in the Central Business District and in the East Mesa area.

h. Professional office uses are also permitted in medium intensity, high intensity, and regional commercial areas.

RECOMMENDATION

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

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

OPTIONS

1. Approve the request as recommended by staff for case Z2804.
2. Approve the request with additional conditions.
3. Deny the request.

ATTACHMENTS

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

Attachment #1

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

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

Applicant Information

Name of Applicant: Stuart S. Kelter, Leora R. Zeitlin

Contact Person: Stuart Kelter

Contact Phone Number: 575-839-3325

Contact e-mail Address: ssKelter@yahoo.com

Web site address (if applicable):

Proposal Information

Location of Subject Property 2145 El Paseo Rd.

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

Current Zoning of Property: R-1

Proposed Zoning: O-2

Acreage of Subject Property: 0.574

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

See attached.

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

No additional

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

M-F, 8-7

Anticipated traffic generation 15-25 trips per day (if known).

Anticipated development schedule: Work will commence on or about _____

and will take approximately 1 year to complete.

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

on-lot ponding

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

See attached

Attachments

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

Location map

Detailed site plan

Proposed building elevations*

Renderings or architectural or site design features*

Other pertinent information*

Attachment #2

PROPOSAL TO REZONE 2145 EL PASEO ROAD

Attachments

Location map: see attached, with indications for foliage and parking.
Note that property is 0.3 miles from University Avenue on the east side of the street. Between the property and University Avenue, on the same side of El Paseo, are two banks (one on the corner of University), a large apartment complex, and another smaller apartment complex (next door). To the north is a walled-in high density residential area ("Heritage Farm," with outlet onto Farney, but no outlet onto El Paseo), which has within it an assisted living facility. On the opposite side of El Paseo is an irrigation ditch. El Paseo is a heavily used, main thoroughfare with four lanes of traffic. The proposed use is likely to generate negligible additional traffic, compared to the existing traffic flow.

Detailed Site Plan: All structures are already built. All renovations will be internal to the structure. The only external modification involves paving a portion of the triangular-shaped dirt lot just north of the existing structure, enough to accommodate 7 vehicles (the required number according to the formula of one space per 300 square feet of building space; the building is 2000 square feet), with one space designated for handicapped parking (see map). In the rear of the triangular lot, which is too narrow to be usable for parking, will be a ponding area to collect water run-off. This will be landscaped with xeriscaping, as will the far side of the triangular lot, adjacent to the wall of the Heritage Farm housing area.

There is additional parking available for two cars at the front of the building, with a gravel surface. During the rare event that even more parking is needed, there will be ample overflow space in the non-paved portion of the triangular parking lot, which will have a gravel surface. A sidewalk will connect both parking areas to the main entrance, which already has an ADA compliant ramp with railings.

Interior renovations will include accommodations for handicap access. The floor plan is already such that there are no tight spaces that could impede wheelchair access.

Other than an address sign, there are no plans for commercial signage, given that many clients of counseling offices prefer to come to an inconspicuous setting.

Development Schedule: The paving of the parking lot and interior renovations will be completed no later than one year from approval of this rezoning application, and most likely will be mostly completed by the end of the summer of 2010.

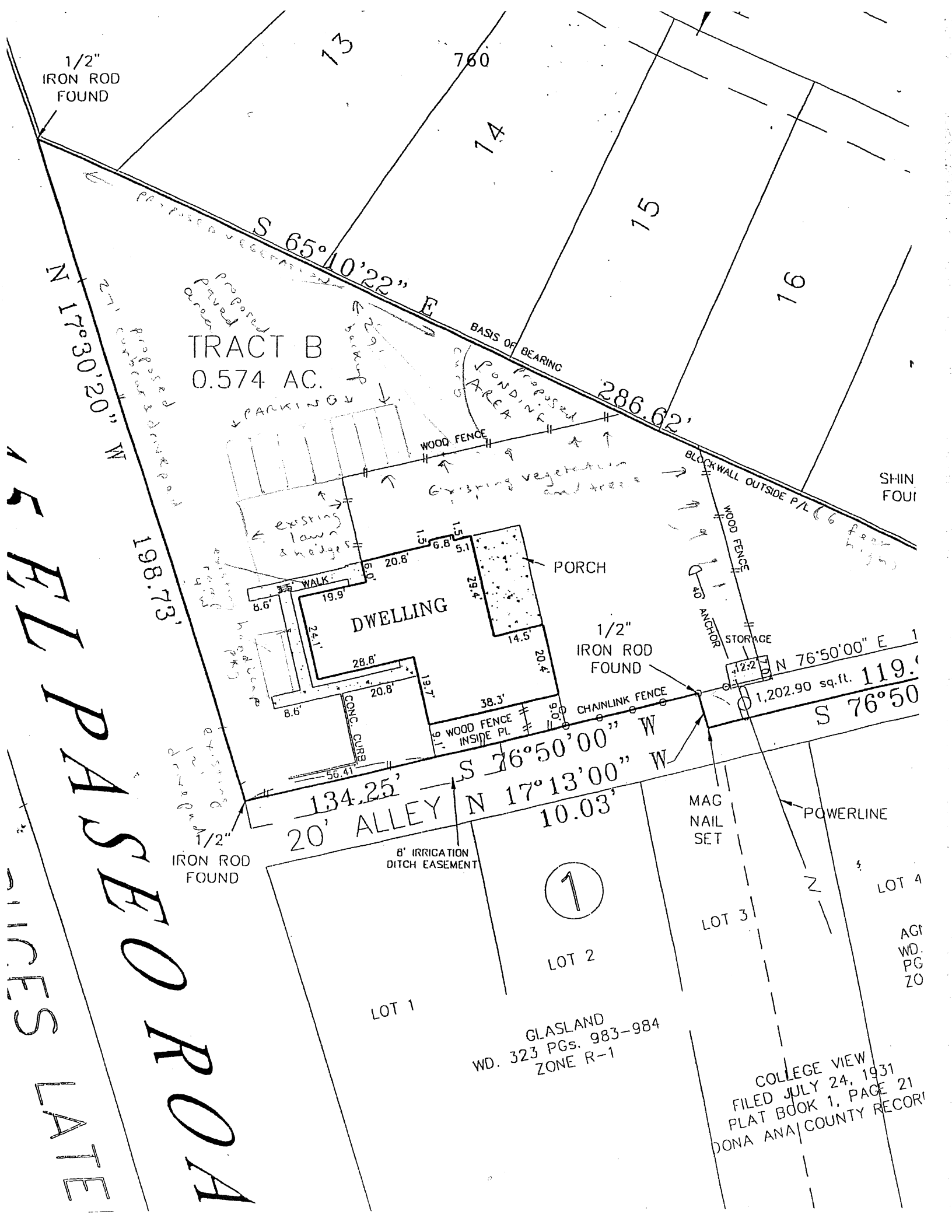
Proposed Building Elevations: none.

Renderings or architectural of site design features: see map to existing ramp, existing foliage, plans for new foliage.

Other Pertinent Information: At present, nearly all new offices are being constructed in the northeast part of the city. The proposed use will provide office space in an area where little such space is currently available, even though the need is high, based on the number of people who work or go to school at NMSU. The proposed use will have negligible impact on traffic flow, involves no transport of goods, and introduces no noise or nuisances of any kind.

Immediate Plan of Use: At present, Stuart Kelter, Psy.D. — co-owner with his wife, Leora Zeitlin, of 2145 El Paso — is presently using a small portion of the house for a home office for his outpatient psychologist practice. If the rezoning is granted, he will rent out offices to three or four additional mental health practitioners (e.g., psychologists, clinical social workers, counselors, and/or marriage and family therapists). It is possible that a secretary might also be hired at some point. Currently, Dr. Kelter is using an off-site billing service. In addition to the offices, there will be a waiting area, a conference room, two bathrooms, and a small kitchen for staff use.

A home-like atmosphere is an ideal setting for counseling, and will be preserved in any interior renovations. From the outside, the building will continue to look like a residential setting.


1/2" IRON ROD FOUND
13
760
14
15
16
S 65°10'22" E
BASIS OF BEARING
286.62'
N 17°30'20" W
198.73'
TRACT B
0.574 AC.
PARKING
WOOD FENCE
BLOCKWALL OUTSIDE P/L
WOOD FENCE
PORCH
WALK
DWELLING
1/2" IRON ROD FOUND
ANCHOR
STORAGE
N 76°50'00" E
1,202.90 sq.ft.
CHAINLINK FENCE
WOOD FENCE INSIDE PL
CONC. CURB
S 76°50'00" W
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ZONE R-1
COLLEGE VIEW
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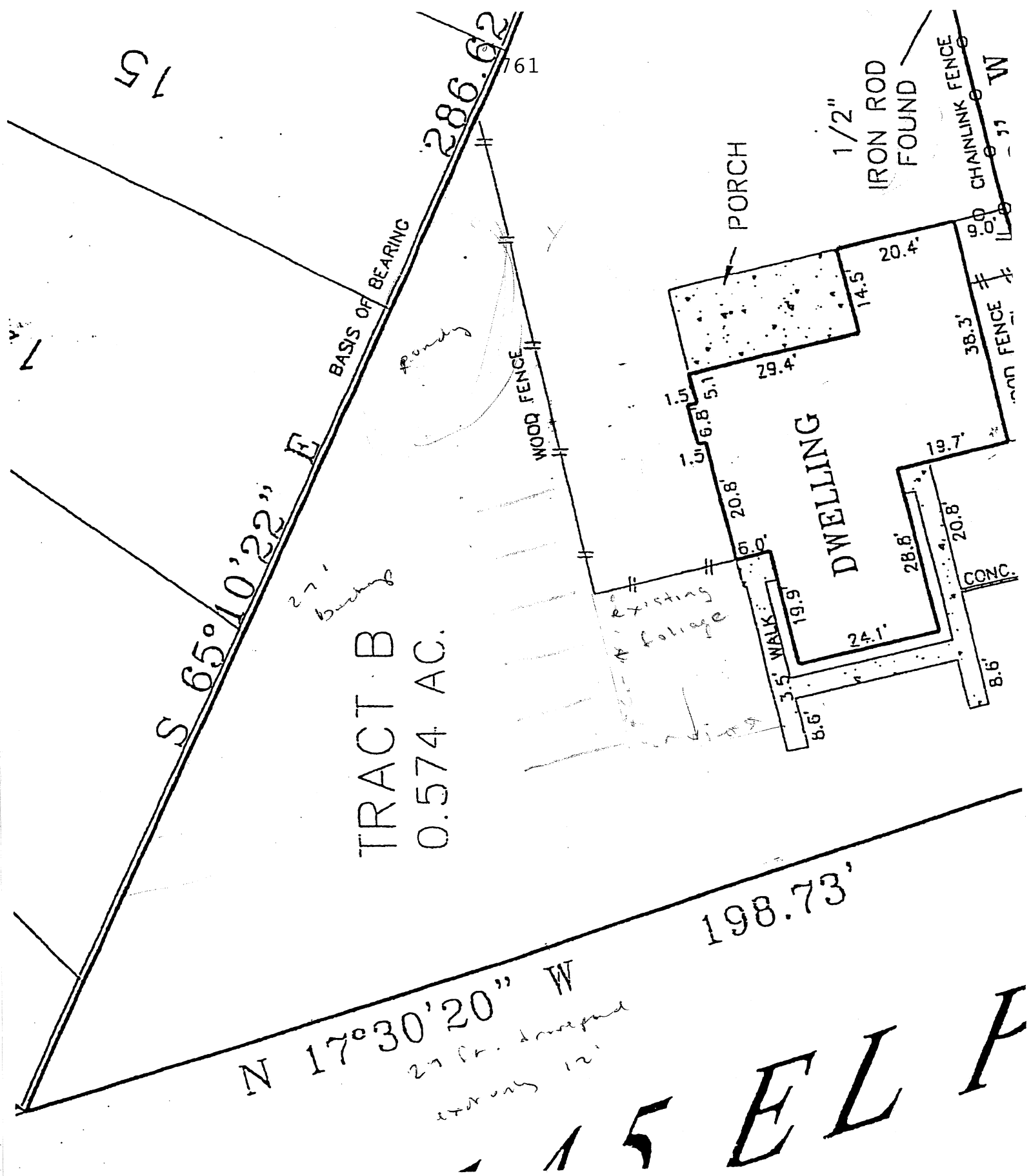
PLAT BOOK 1, PAGE 21
DONA ANA COUNTY RECORD
EL PASEO ROA
LATE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S 65°10'22" E
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WOOD FENCE
PORCH
1/2" IRON ROD FOUND
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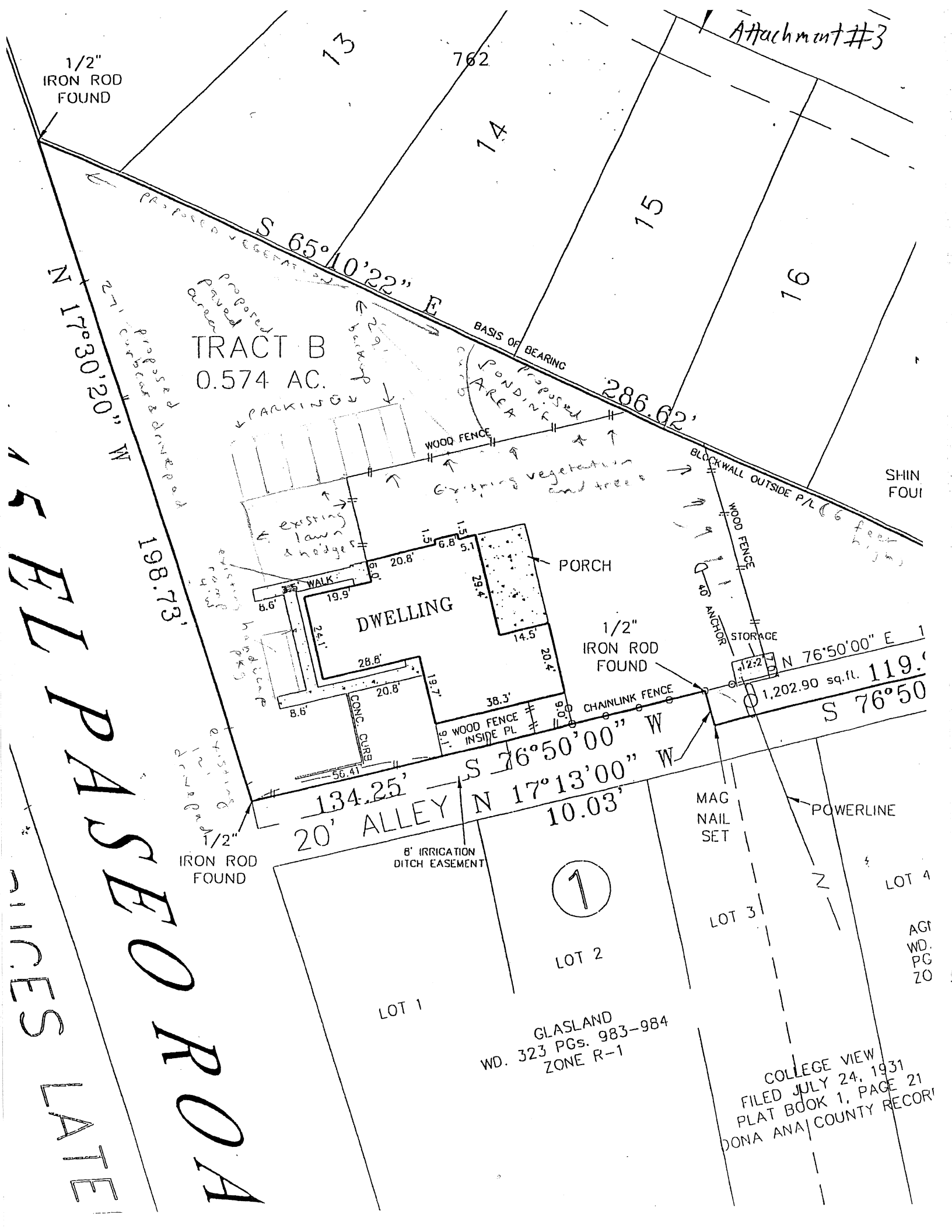
DWELLING
20.4'
9.0'
14.5'
38.3'
29.4'
5.1'
6.8'
1.5'
1.5'
20.8'
6.0'
19.7'
28.8'
20.8'
CONC.
19.9'
WALK
24.1'
3.5'
8.6'
8.6'
198.73'
N 17°30'20" W
existing foliage
27' building
27' (r. dwelling extends 12')
+5 for pug small

Attachment #3



Attachment #4

CASE NO. Z2804
PARCEL: 02-25949
OWNER: STUERT S. KELTER & LEORA R. ZEITLIN
ADDRESS: 2145 EL PASEO RD.
ZONING: R-1A TO O-2

0 62.5 125 250 375 500 Feet

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

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

Attachment "B"

Scholz: Obviously. So we'll move you up to board members present. I have a correction too, it says under call to order that I represent district 1, I actually represent district 6. And I know that and I don't know why I said that. Any other additions or corrections? Okay, I'll entertain a motion to accept the minutes.

Bustos: I make a motion.

Scholz: Is there a second?

Crane: On point of order, the minutes as amended.

Scholz: The minutes as amended. Thank you.

Crane: Second.

Scholz: Okay. All those in favor, say aye.

ALL COMMISSIONERS - AYE.

Scholz: Those opposed same sign. The minutes are approved as amended.

III. POSTPONEMENTS - NONE

Scholz: Staff, are there any postponements? No postponements.

IV. WITHDRAWALS - NONE

Scholz: Any withdrawals?

Rodriguez: None.

Scholz: No withdrawals. All right.

V. CONSENT AGENDA

1. **Case Z2802:** A request for a zone change from M-1/M-2 (Industrial Standard) to C-3 (Commercial High Intensity) for 0.7494 +/- acres located at 250 N. Telshor. The purpose of the zone change is to allow the use of a furniture store. Submitted by property owner Scott H. Achen, Tir Na Draiochta Properties, LLC.

2. **Case Z2804:** A request for a zone change from R-1a (Single-Family Medium Density) to O-2 (Office, Professional-Limited Retail Service) for 0.576 +/- acres located at 2145 El Paseo Road. The purpose of the zone change is to

allow the use of the existing home as a professional mental health office. Submitted by property owners Stuart S. Kelter & Leora R. Zeitlin.
MOVED TO NEW BUSINESS.

Scholz: Then we move to the consent agenda. This is how the consent agenda works folks: we have two items on the consent agenda today, Case Z2802 and Case Z2804; both are requests for zone change. And if there is anyone who wants to speak to this or anybody who opposes it I'd like them to indicate that now. Staff, any comments?

Rodriguez: If there is any member of the public who wishes this removed from the consent agenda I invite them to the podium to state their name for the record and ask for them to remove it.

Scholz: Right, I was just going to say that, thank you. Yes, sir, which item are you referring to, sir?

Hays: My name is John Hays. I'm a resident of Heritage Farm Subdivision. We'd like to talk to the Case Z2804.

Scholz: Okay, fine. I'll put that at the top of the new business agenda. So we'll remove Case Z2804 from the consent agenda. Anyone else? All right. I'll entertain a motion to accept the consent agenda which consists of Case Z2802.

Crane: So moved.

Scholz: Is there a second?

Beard: Second.

Bustos: Second.

Scholz: All those in favor say aye.

ALL COMMISSIONERS - AYE.

Scholz: Those opposed same sign. All right the consent agenda is approved.

VI. OLD BUSINESS - NONE

VII. NEW BUSINESS

Case Z2804: A request for a zone change from R-1a (Single-Family Medium Density) to O-2 (Office, Professional-Limited Retail Service) for 0.576 +/- acres located at 2145 El Paseo Road. The purpose of the zone change is to

allow the use of the existing home as a professional mental health office. Submitted by property owners Stuart S. Kelter & Leora R. Zeitlin

Scholz: So new business, the first item of new business then is going to be Z2804. Now here's how it works: the staff presents first, then the applicant presents, then we open it to public comment, and then we decide ... the Commissioners talk about it and then we have a vote. So, Mr. Ochoa you're going to speak for Case Z2804.

Ochoa: That is correct. Good evening gentlemen. Adam Ochoa, Community Development Department. First Case tonight is Z2804, a request for a zone change from R-1a single-family medium density to O-2 office professional limited retail service for approximately 0.576 acres located at 2145 El Paseo Road. Next item here we have our vicinity map of the subject property, it is a triangular shaped lot right here located on El Paso between Farney and Sandell, located on a principal arterial roadway as designated by the MPO.

The subject property like I said is a triangular shaped lot approximately 0.576 acres in size that is the current location of a single-family dwelling. Zone change will allow the applicant to convert the single-family dwelling into an office building for 4-5 mental health practitioners. This includes anywhere between psychologists, clinical social workers, counselors, and/or marriage and family therapists. The dwelling would no longer serve as a principal dwelling unit on the property. The subject property is located along El Paseo Road which is classified by the Metropolitan Planning Organization as an existing principal arterial roadway. Based on the gross floor area of the existing building, a range of four to six parking spaces are required with one of the stalls being ADA compliant. The applicant has proposed a total of seven improved parking stalls with the one ADA compliant parking stall at the northern portion of the property where a vacant dirt area currently exists on the property. The applicant will also be required to provide one bicycle parking stall for the subject property. No additional screening or landscaping is required for the subject property.

Here's an aerial photo of the triangular lot. As you can see here this is the dirt lot that I talked about earlier where the parking will be located at. As you can see there is already sufficient amount of landscaping all around the building with a wooden fence around certain areas as well. There is also I believe it is about a six foot rock wall behind here separating it from the subdivision to the north. And there is a small dead end alley that is right here as well.

Here's a site plan of the property. Like I said there is a 20-foot alley that ends abruptly right here. Again the proposed parking area and the dwelling as it exists right now. Staff recommendation for Case Z2804, staff has reviewed this zone change and recommends approval without conditions based on the preceding findings. The recommendation tonight

of the Planning and Zoning Commission will be forwarded to the City Council for final consideration. Gentlemen tonight your options will be to vote yes to approve the request as recommended by staff for Case Z2804, or vote yes to approve the request with additional conditions, vote no to deny the request, or to table or postpone the case. That is the end of my presentation. I stand for questions. And the applicant is present for any questions as well.

Scholz: Okay. Do you have questions for this gentleman? Commissioner Crane.

Crane: You mentioned in our written materials that there was a previous attempt to change the zoning in 2004 from R-1a to C-2. The staff recommended R-1a to O-2, Planning and Zoning agreed but City Council failed to pass that change. Do you anticipate any problems along those lines this time?

Ochoa: I received no public comment after public letters were sent out and basically public was made aware of the case. I received no written or e-mails, written letters against the case, nor phone calls about the case. Basically, we see no problems with it as now. I believe previously in 2001 it didn't pass by a vote of 3-3 at City Council, so it just failed is what it did.

Crane: Thank you.

Scholz: Okay, other questions? I have two. When you say improved parking, are we talking about paving that lot?

Ochoa: Mr. Chairman, that is correct.

Scholz: Okay. And what about the alley. What's to be done with the alley, anything? Is there development there, you know do we require it be paved or curbed or something like this?

Ochoa: Chairman Scholz the alley is not an issue for this case. They will not be allowed to use the alley any more for access to the building or to the subject property anymore because it will no longer be a dwelling. Now that it will be an actual office, if this case gets approved, since it'll be an office, the alley will no longer be able to be used by the applicant.

Scholz: Okay. Thank you. May we hear from the applicant please?

Kelter: My name is Stuart Kelter, I'm a psychologist. And the property in question I believe wouldn't introduce any kind of noise or much additional traffic. It's really a very quiet type of business. I think it'll be much quieter than what I understand was the previous use which was as a rental to college students, because I have a friend who used to live in the Heritage Farm and told me about some of the wild parties. It's a daytime usage so I

really don't see what objection there might be. It's a very accessible for parking and very busy thoroughfare.

Scholz: Okay, questions for this applicant? All right. Thank you. We'll open it to the public for comment. Sir, you had a comment, question?

Hays: Yes.

Scholz: Please identify yourself again.

Hays: John Hays.

Scholz: Thank you.

Hays: I'm an owner/resident of Heritage Farms.

Scholz: And that's the development right in back of this?

Hays: It's on the other ... yeah I think the subdivision owns that wall he talked about.

Scholz: Thank you.

Hays: We're concerned about the security of the neighborhood. We have been for some time and (*inaudible*) of this kind of a business in a residential neighborhood. One of things that we are really interested in knowing is, are there sex offenders to be a part of the clients that will be seen at any point in time in this office? That's what I have.

Scholz: That's your concern. All right. Well let's ask the applicant.

Kelter: It's not personally one of my specialities. It's really hard to say for sure. But it's not going to be a residential treatment facility. It's strictly outpatient. And I don't really quite see what the danger would be any more than if someone is using the bank down the street. I mean there are two banks on the block and as you know there are businesses up and down El Paseo and that whole area. So it's certainly not a big interest of mine. Whether a particular person might come in, I mean I can't imagine I could organize a practice by saying everyone's welcome except sex offenders.

Scholz: Okay. Thank you. Any other comment from the public? Okay, I'm going to close this to public comment then and Commissioner's I'll entertain a motion. Commissioner Crane, you're contemplating something here.

Crane: Yes, I'm not sure if this is addressed in our written materials but it occurs

to me a point might be how many hours a day is there going to be patients in and out of this facility? What's the latest in the evening, what's the earliest in the morning?

Kelter: Typically the earliest in the morning is about 8:00 a.m. and the latest is about 7:00 p.m.

Crane: And typically somebody will be staying for an hour or so?

Kelter; Yes, that's.

Crane: Thank you.

Scholz: Okay. All right gentlemen, I'll entertain a motion to accept.

Crane: So move.

Scholz: Okay. It's been moved. Is there a second?

Bustos: Second.

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

Crane: Aye findings, discussion, and site visit.

Scholz: Commissioner Bustos.

Bustos: Aye findings, discussion, and site visit.

Scholz: Commissioner Beard.

Beard: Aye findings and discussions.

Scholz: And the Chair votes aye for findings, discussions, and site visit. So the motion is approved.

1. **Case IDP-37:** A request for approval of an Infill Development Proposal (IDP) for property located at the northeast corner of Virginia Street and Picacho Avenue. The subject property comprises 0.169 ± acres and is zoned R-2 (Multi-Dwelling Low Density). The applicant proposes to replat the subject property from three lots to two lots for the purposes of new construction of two attached single-family structures. The applicant proposes to deviate from the R-2 development standards. The request is for (1) a 10.14 ± foot variance to the 20-foot required rear yard setback; and (2) a 25-foot variance to the required 25-foot garage setback. Submitted by Mesilla Valley Habitat for Humanity, property owner.

Attachment "C"

CASE NO. Z2804
PARCEL: 02-25949
OWNER: STUERT S. KELTER & LEORA R. ZEITLIN
ADDRESS: 2145 EL PASEO RD.
ZONING: R-1A TO O-2

0 62.5 125 250 375 500 Feet

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

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