

CITY COUNCIL AGENDA

Mayor
Eric Enriquez

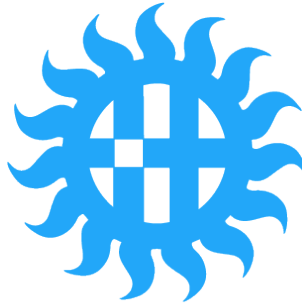
Monday, September 16, 2024 at 1:00 PM

Council Chambers

**CITY HALL
P.O. BOX 20000
LAS CRUCES, NM 88004**

Mayor Pro Tem
Johana Bencomo

Councilors
Cassie McClure
William Mattiace
Becki Graham
Becky Corran
Yvonne Flores



CITY OF LAS CRUCES

**700 N. Main St.
PHONE (575) 541-2067**

If you need an accommodation for a disability to enable you to fully participate in this event please contact us 72 hours before this event at [541-2115/V](tel:541-2115).

CONSENT AGENDA

Minutes and Items on the Consent Agenda Are Considered Routine Items and Will Be Voted on with One Motion Unless a Councilor Requests That a Specific Item Be Removed. There Will Be No Discussion.

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1. OPENING CEREMONIES

- 1.1. Pledge of Allegiance - Councilor Flores.
- 1.2. Presentation of Certificates of Appreciation/Proclamations - Councilor Flores.
- 1.3. Jobs of the Week.
- 1.4. Pets of the Week.

2. CONFLICT OF INTEREST INQUIRY BY MAYOR AS REQUIRED BY LCMC SECTION 2-27 (E)(2)

3. PUBLIC PARTICIPATION

4. ACCEPTANCE OF AGENDA

5. CITY COUNCIL MINUTES

- 5.1. Regular City Council Meeting of August 19, 2024. 3 - 24
[City Council - Aug 19 2024 - Minutes - Pdf](#)
- 5.2. Work Session of August 26, 2024. 25 - 30
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6. RESOLUTION(S) AND/OR ORDINANCE(S) FOR CONSENT AGENDA

7. RESOLUTION(S) AND/OR ORDINANCE(S) FOR DISCUSSION

- 7.1. RESOLUTION 25-035: A RESOLUTION AUTHORIZING THE CITY OF LAS CRUCES (CITY) TO ACCEPT A GRANT AWARD FROM THE NEW MEXICO DEPARTMENT OF TRANSPORTATION (NMDOT). 31 - 50
[Resolution No. 25-035 - Pdf](#)
- 7.2. RESOLUTION NO. 25-036: A RESOLUTION APPROVING A REIMBURSEMENT AGREEMENT BETWEEN THE CITY OF LAS CRUCES AND SIERRA NORTE DEVELOPMENT, INC., FOR CONSTRUCTION OF A NEIGHBORHOOD PARK LOCATED IN THE METRO VERDE ARCADIA PHASE 3 SUBDIVISION, IN AN AMOUNT NOT TO EXCEED \$525,000.00. 51 - 69
[Resolution No. 25-036 - Pdf](#)
- 7.3. RESOLUTION NO. 25-037: A RESOLUTION MAINTAINING THE EXISTING PARK LAND USE ASSUMPTIONS AND PARK DEVELOPMENT IMPACT FEES AND CONTINUING THE COLLECTION AND EXPENDITURE OF PARK IMPACT FEES UNDER THE CURRENT STRUCTURE NOT TO EXCEED A DATE OF JUNE 30, 2025, FOR THE PURPOSES OF COORDINATING WITH THE ADOPTION OF REALIZE LAS CRUCES. 70 - 79
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- 7.4. RESOLUTION NO. 25-038: A RESOLUTION REVERSING AN APPROVAL RECOMMENDATION BY THE PLANNING AND ZONING COMMISSION REGARDING A ZONE CHANGE REQUEST SEEKING A CHANGE FROM R-1A (SINGLE-FAMILY MEDIUM DENSITY) TO R-2C (MULTI-DWELLING LOW DENSITY - CONDITIONAL) FOR PROPERTY LOCATED AT 2795 N. ROADRUNNER PARKWAY. SUBMITTED BY THE COMMUNITY OF MORNING STAR DRIVE. 80 - 215
[Resolution No. 25-038 - Pdf](#)

8. BOARD APPOINTMENTS

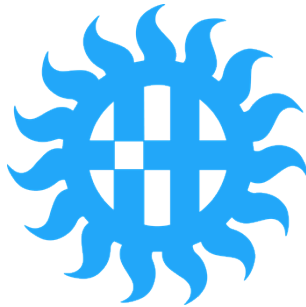
9. NOTICE OF PROPOSED ORDINANCE(S)

- 1) There will be no public discussion.
- 2) A Councilor may ask staff for clarification on the proposed ordinance(s).

10. CITY COUNCIL MEMBER BOARD REPORTS AND COMMENT

11. CITY MANAGER REPORT

12. ADJOURNMENT



MINUTES

City Council

Monday, August 19, 2024 @ 1:00 PM

City Council Chambers, City Hall

PRESENT: Mayor Eric Enriquez, Councilor Cassie McClure, Councilor William Mattiace, Councilor Becki Graham, Councilor Johana Bencomo, Councilor Becky Corran, and Councilor Yvonne Flores

ABSENT:

1. OPENING CEREMONIES

1.1 PLEDGE OF ALLEGIANCE - COUNCILOR GRAHAM.

1.2 PRESENTATION OF CERTIFICATES OF APPRECIATION/PROCLAMATIONS - COUNCILOR GRAHAM.

Councilor Graham presented Alice Carruth, Liz Vega, Richard Pacheco, and Rani Bush with a proclamation for Las Cruces Space Festival Week.

1.3 JOBS OF THE WEEK.

Sarah Raney, New Mexico Workforce Connection presented Jobs of the Week.

1.4 PETS OF THE WEEK.

Amy Defelix, Animal Services of the Mesilla Valley presented Pets of the Week.

2. CONFLICT OF INTEREST INQUIRY BY MAYOR AS REQUIRED BY LCMC SECTION 2-27 (E)(2)

2.1

None.

3. PUBLIC PARTICIPATION

3.1

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Bob Butler, Member of the Public said I am very supportive of the Police and Fire Department. I went to New Mexico Family Services off of Telshor on Missouri across from the National Republican Headquarters of Dona Ana County. I met a very nice lady there and she told me that she felt or thought our Chief of Police was immature. I immediately agreed with her. I was surprised and then I assured her she would make a very good United State Senator. To close, Martin Heinrich is in trouble.

Susan Cabello, Member of the Public said I am Executive Director of Downtown Las Cruces Partnership. I would like to first say that we have some exciting things happening downtown. Smokey Sensations, the bar-b-que place is open right across the street from us. We have two salons opening within this week and Cha-chis says that they are close. So, lots of movement downtown. What I would like to ask your help with today is that we are having a merchants meeting with Film Las Cruces. We are trying to get all of our merchants to sign up on Film Las Cruces vendor list. Vendor list means that if a film production is in town they try to source things locally. If businesses are on that list, then they are kind of the first go to. So, I have sent everyone the press release and I will be going door to door to our businesses here in the next few days to ask them to join us for that. It is going to be on Thursday, September 5th from 5:30 to 6:30 with Film Las Cruces. That will also be recorded so we will be able to put it on our website as well if people can't make that meeting. I have 100 spaces available. Right now, I have 9 people signed up. I would like to get that closer to the 90 something range by September 5th.

Jim Hurst, Member of the Public said reading from the New Mexico Constitution Article 2, Section 11, "No person shall be required to attend any place of worship or support any religious sect or denomination, nor shall any preference be given by law to any religious denomination or mode of worship". No person shall be required to support any religious sect or denomination. On May 2nd this year an assembly was held in honor of National Day of Prayer. It was not on the City Calendar. It was not approved by City Council. As far as I am able to determine apart from my comments to this City Council there is no record of the event. Mayor's staff has informed me that it was a private meeting therefore no documentation is required. No Mr. Mayor with all due respect it was not a private meeting. Typically, private meetings are held in places not open to the general public. This assembly was held in front of the City Hall at noon. Typically, private meetings are not open to the general public. This assembly was open to everyone. I was there. Typically, private meetings don't require city security guards. This one had two. Typically, private meetings don't use a public address system so the general public can hear what is being said and they don't have amplified instruments so everybody can sing along, and finally private events are usually not advertised to the general public. This one was. Mr. Mayor, this was not a private meeting. It was a religious service. You participated in it and apparently you authorized it. I think that Police Chief Story will back me on this point, when a suspect lies to you it means they have something to hide. What are you trying to hide Mr. Mayor? Perhaps you are aware that what you are doing is unconstitutional. Perhaps you decided to do it anyway, Constitution be damned. Mr. Mayor you have no right to authorize City Hall for public religious services. To do so constitutes a burden on the citizens of this community and by implication a requirement that citizens support religion. Consider the words of the Constitution, again no person shall be required to attend any place of worship or support any religious sect or denomination.

Juan Garcia, Member of the Public said I want to recognize the exceptional work of our city staff. The staff has been instrumental in helping us navigate the often complex issues bringing members of CCIA to a greater understanding and ultimately positive change that benefits our entire community. A recent meeting with Natalie and Jan on housing issues is a perfect example of their excellence. I arrived with preconceived notions, but Natalie's remarkable expertise and clear explanations gave me a completely new and enlightened prospective. The same goes for Chris, Ms. Delgado and Ms. Bencomo and of course Chief Story. Their willingness to clarify important issues is a testament to the extraordinary caliber of our city staff. I also want to extend special and well-deserved recognition to Catrina. Her consistent support and readiness to assist has been invaluable. Her commitment to the community shines through into everything she does with dedication and passion. The recent developments at MMC have generated substantial local controversy. Community advocate Yoli Diaz has catalytic concerns to the NM AG after reportedly being dismissed by local and county officials. While a complete understanding of the situation requires further investigation here are my comments, allegations suggest that around 2015 MMC discontinued outpatient Oncology and chemo services. It is crucial to comprehend why such a decision. Equally concerning is the potential lack of oversight from city and county representatives attending joint meetings. The public deserves access to minutes, agendas, and reports that could clarify the situation. Who possess these documents and what actions were taken in response to the decision? The accountable government entity must address these questions. The hospital's corporate ownership has been criticized for profits in healthcare. We expect experienced medical staff and administrators to manage this complex operations effectively which requires competitive compensation to attract and retain talent yet we demand hospitals like MMC ensure access to care for those unable to afford it. Costs are inedible, someone must absorb them. It is unrealistic to expect both nonprofit operations and have unrestricted access. The situation underscores the need for healthcare models balancing access, quality, and financial sustainability. This controversy with MMC warrants through investigation to determine the facts to access accountability and develop solutions ensuring such situations are prevented in the future.

Lucas Herndon, Member of the Public said I am a resident in District 2. I am here to try and be proactive under this new spirit of such concern over public safety as that term has been thrown around for the last few months. In the last two weeks I have been driving around our city and noticing some of the things what I think people are talking about when they think of public safety which is to say people walking around, pedestrians, people moving around. My assumption is the people are making their assumptions about what those people are doing. I don't know what they are doing just like people don't know what I am doing when I am driving around but what I have noticed is that this is not a great place for people to walk around. We are not a pedestrian friendly city. In my own neighborhood along Locust there is an entire mile long section of sidewalk that is obstructed with utility poles and unusable to anyone using a walker or wheelchair or pulling a wagon or for kids riding their bikes and yes there are bike lanes on Locust but they are frequently clogged up with trash and trash bins because that is where the apartments are instructed to put their trash bins on trash day. Whether that is up to the resident or the apartment manager or the city

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those are issues in conflict with utilizing those bicycle lanes which means people need to ride on the sidewalks, but they can't because there are utility poles. Additionally, there are large stretches of roads in our town between intersections that have no protected way to cross. I live near the university, the students are returning this weekend and I have already stopped frequently as people utilize the pedestrian crossing areas that have been installed along University that have flashing lights but are not affiliated with car crossings. It is clear because of that and because of things like school crossings that we do have some level of care for some people to be able to cross the streets safely. So, when we talk about pedestrian safety, I feel there is a lot this city could do to ensure that everybody is safe if they choose to walk or ride a bike or do anything other than drive a car so as we continue to talk about public safety, I greatly encourage this body to look into how they can help.

Eddie Thomas, Member of the Public said the reason I am here is because I want to bring to your attention, there is a situation in my neighborhood, and it happens to be in your district Mayor Pro Tem. There was a recent issue with power outages caused by sheets of metal roofing that flew during a windstorm on to the power lines and knocked out the power three times. Not only did it cause us an inconvenience, the house is in very poor repair. The elderly man that lives there I don't know if he has any family or what his family situation is but there are gaping holes in his roof right now. They are currently covered by tarp that I think were nailed down by his other neighbor. I call this to your attention Mayor Pro Tem because it is your district, okay something at the very least a safety check, a safety visit should be conducted to see how this man is getting along. To see if he has any family. The other issues I have with that is that the streets, they look like graham crackers that were stepped on. When are we going to do something about that? I am also the one that sent you, both of you Mayor and Mayor Pro Tem pictures of the flooding situation at my house, the across the street neighbor and my surrounding neighbors because I am at the lowest portion of Calle del Encanto. Every time it rains it ponds there. After a few days, the water stinks, tadpoles form, mosquitoes form, it is not a good situation. It is apparent by your last email communication, Mayor Pro Tem that I don't know if you have any intention of ever doing anything about it. I know there is some projects in the winds, okay well you can respond to me and let me know what is in the works. I have done some investigation myself but at the very least send a street sweeper so that they can at least clean up the residue, the debris that forms there. Something needs to be done.

Aaron Kaiser, Member of the Public said I have been a resident here since 2020. I am here hoping for some type of commentary from the City Council or the Mayor to the city in clarification on the ordinance for the shopping carts here in the city. There seems to be a lot of confusion of what it is and what it means. How we are going to go forward with it and also does it fully offer the dignity that some of our people here in Las Cruces should have even though all of their belongings do fit within a shopping cart. I have a lot of concern about how we are going to retrieve property for people that do not live here in Las Cruces. There is people here that are working for companies that are far, far away from us but are my son and daughter going to get asked to put themselves in a position to retrieve something that does not belong to them but to the company they work for and what risk happens whenever they do go out and retrieve that property that possibly the businesses that do send them out to

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retrieve to be a part of the job that they have at a company here in town? I think maybe some amendments might be in order to this ordinance. We do need to make sure we are protecting all citizens here in Las Cruces and doing the best we can for not just the taxpayers of the community but those who the taxpayers support in this community. I am not looking for one way or the other but there is a best way forward for this community and I am not sure that has been properly spoken of. I am new to this kind of arena. Maybe I will be here more. I feel guilty that I do not have more information and I am not a bigger part of this community and so maybe going forward I am here more, but I would just ask that you consider some type of amendment or some type of campaign to let us know what the ordinance means how we are going to do it going forward. Are we going to be putting employees that are here and residents of the city as well in danger trying to get property? Are we asking them to confront people? What if there is nobody with the cart and they go out and someone says the cart is theirs, what happens in that moment? Are we asking citizens to do things that possibly law enforcement should be doing and are we putting anybody at risk that wasn't at risk before because of the ordinance? Whether that is better communication than what there is. I know that I spend a great amount of time trying to figure out what the ordinance was. I can't find the verbiage anywhere outside of just a little bit of the information that you can find through articles that are available online and I am not going to trust Facebook for what the facts are on what is happening. I would ask that there is some type of communication to the community to let us know exactly what it means, what it is for, or how it is going to be fulfilled and possibly if there is a need for some amendments to the ordinance of the city for the shopping cart issue that we have here in the city.

4. READ CLOSED MEETING STATEMENT

4.1 READ AUGUST 5, 2024 CLOSED MEETING STATEMENT INTO THE RECORD.

The Las Cruces City Council met in closed session and only discussed those limited as stated in the posted notice to discuss pending or threatening litigation regarding Texas v. New Mexico & Colorado, Original No. 141, which is closed pursuant to NMSA 1978, Section 10-15-1H(7).

4.2 READ AUGUST 12, 2024 CLOSED MEETING STATEMENT INTO THE RECORD.

The Las Cruces City Council met in closed session and only discussed those limited as stated in the posted notice to discuss pending or threatening litigation regarding:

1. To discuss pending litigation regarding Francisco Estrada v. City of Las Cruces, ET AL., D-307-cv-2021-01309, which is closed pursuant to NMSA 1978, Section 10-15-1H(7).
2. To discuss pending litigation regarding the Estate of Teresa Gomez, ET AL., v. City of Las Cruces ET AL., 23CV952, which is closed pursuant to NMSA 1978, Section 10-15-1H(7).

5. ACCEPTANCE OF AGENDA

Councilor Becki Graham moved, seconded by Councilor Becky Corran, to accept the agenda as presented.

RESULT:	Carried
MOVER:	Councilor Becki Graham
SECONDER:	Councilor Becky Corran
AYES:	Mayor Eric Enriquez, Councilor Cassie McClure, Councilor William Mattiace, Councilor Becki Graham, Councilor Johana Bencomo, Councilor Becky Corran, and Councilor Yvonne Flores

6. CITY COUNCIL MINUTES

6.1 REGULAR CITY COUNCIL MEETING OF JULY 15, 2024.

6.2 WORK SESSION OF JULY 22, 2024.

7. RESOLUTION(S) AND/OR ORDINANCE(S) FOR CONSENT AGENDA

- 7.1 RESOLUTION NO. 25-017: A RESOLUTION AUTHORIZING THE CITY OF LAS CRUCES FIRE DEPARTMENT TO PURCHASE EMERGENCY MEDICAL SERVICE EDUCATION COURSES THROUGH AIR METHODS OF ENGLEWOOD, COLORADO, IN AN AMOUNT NOT TO EXCEED \$199,407.
- 7.2 RESOLUTION NO. 25-018: A RESOLUTION AUTHORIZING A PURCHASE AGREEMENT FOR MEDICAID AMBULANCE REPORTING WITH PUBLIC CONSULTING GROUP, LLC OF BOSTON, MASSACHUSETTS IN AN ANNUAL AMOUNT NOT TO EXCEED \$300,000, SUBJECT TO APPROVED BUDGET APPROPRIATIONS.
- 7.3 RESOLUTION NO. 25-019: A RESOLUTION AUTHORIZING A CONTRACT FOR AMERICANS WITH DISABILITIES ACT (ADA) ACCESSIBILITY ASSESSMENT WITH KIMLEY-HORN AND ASSOCIATES, INC., OF FORT WORTH, TEXAS, IN AN AMOUNT NOT TO EXCEED \$105,003, PLUS APPLICABLE TAXES, SUBJECT TO APPROVED BUDGET APPROPRIATIONS (PROCUREMENT NO. 23-24-046).

8. RESOLUTION(S) AND/OR ORDINANCE(S) FOR DISCUSSION

- 8.1 RESOLUTION NO. 25-020: A RESOLUTION AUTHORIZING THE CITY OF LAS CRUCES (CITY) TO ACCEPT GRANT AWARDS FOR VARIOUS CITY DEPARTMENTS THROUGH AN AMENDMENT TO THE CITY’S ADOPTED FY2025 BUDGET.

Joe Padilla, Budget Analyst gave the overhead presentation.

Councilor Flores asked awards for various city departments through an amendment to the city’s adopted FY2025 Budget, so there is an amendment that exists already?

Joe Padilla said in regard to 8.1 we are bringing in Grant Awards to the city. The three that were in question WERE the Curb Your Waste Program, the New Mexico HIDTA

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modifications, and the New Mexico HIDTA Grant. So, we are just amending the budget to bring in grant award funding.

Gloria Molina, Member of the Public asked you had kind of stopped on something that the residents were welcome to use, what was it that you were talking about?

Joe Padilla said it is for a Curb Your Waste Food Program. So, what happens is our Utilities Department is going to start a new program and they will be allowing compost to the residents at no cost. So, they are going to start with the schools. They will start trying to get a lot of the food out of the landfills and turning into compost.

Councilor Johana Bencomo moved, seconded by Councilor Becki Graham, to Approve Resolution No. 25-020.

RESULT:	Carried
MOVER:	Councilor Johana Bencomo
SECONDER:	Councilor Becki Graham
AYES:	Mayor Eric Enriquez, Councilor Cassie McClure, Councilor William Mattiace, Councilor Becki Graham, Councilor Johana Bencomo, Councilor Becky Corran, and Councilor Yvonne Flores

8.2 RESOLUTION NO. 25-021: A RESOLUTION AUTHORIZING THE CITY OF LAS CRUCES (CITY) TO ACCEPT BUDGET ADJUSTMENTS FOR VARIOUS CITY DEPARTMENTS THROUGH AN AMENDMENT TO THE CITY’S ADOPTED FISCAL YEAR (FY) 2024-25 BUDGET, THE FY2025 CAPITAL IMPROVEMENTS PROGRAM (CIP), AND THE FY2025 VEHICLE ACQUISITION FUND (VAF).

Vanessa Perez, Budget Analyst gave the overhead presentation.

Cynthia Campo, CIP Analyst continued the presentation.

Councilor Mattiace asked there was a \$5 million, it was removed from fund 4613, are you familiar with that?

Vanessa Perez said this was a \$5 million revenue in debt services for the Fire Department. It was incorrectly budgeted. They should not have that budget in there at all. We are just removing it entirely.

Councilor Mattiace asked can someone answer why there is \$110 million of carryover projects?

Vanessa Perez asked is there a specific page you are referring to or are you referring to a total?

Councilor Mattiace said it would be all of your carryover in Capital Outlay, \$110 million. Page 10, it showed \$110 million of carryover projects from the previous fiscal year. I was wondering if it was due to more funds were needed to finish the project, delays in projects, staffing of projects, getting contractors so?

Cynthia Campo said our carry over projects are a mixture of things. We budget so

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early in the year that when we are doing the projections just like we do with budget we are just making an estimate of how much we think we will be carrying over to the next fiscal year for projects that still need to be completed in the next fiscal year and so these amendments that we bring forward are to actually bring the project to the actual beginning balance either because we spent less and now we need to bring that budget over so that we can continue the project and spend all the funds for the project. Most of those carryover projects are due to that.

Councilor Mattiace said on some of the items where you have a separate fund memo where it is coming from. I noticed it said non-departmental/non-subsection. Can you clarify that? There was like \$50,000, \$300,000, \$200,000 and then the memo just had non-department/non-subsection as the others were very descriptive of where it came from and where it went and who it was for.

Vanessa Perez said that is because a lot of the ones that you're stating the one that say non-department or non-subsection are actually transfers within our budget. We are not pinpointing a certain account, it is just reflecting a transfer. So those non-subsection or non-department are transfers. We are transferring funds from one account to another and the way that our system pulls up those is as non-department or non-subsection. It just signals that there is a transfer within our budget. It is not increasing or decreasing the bottom line of our budget, it is just a transfer, removing money from one pot to another.

Councilor Mattiace said the other memos are more descriptive, but this is a generalization, non-department. Can somebody explain a Discretionary Fund and what amount it starts with every fiscal year? Does the Discretionary Fund start with \$1 million, \$500,000? I noticed there was \$300,000 in there and then \$300,000 went to Utilities and left a balance of \$100,000. How is the Discretionary Fund designed? How is it budgeted every year?

Vanessa Perez asked are you referring to the non-subsection lines that you were referring to earlier?

Councilor Mattice said it is actually called a Contingency Fund.

Leeann DeMouche, Finance Director said so within the City Manager's budget he does have an object code for contingency and so we do budget that for him. He receives every year about \$250,000 for contingency and that is for his discretion to spend. There is no particular fund. It is just within his budget.

Councilor Becki Graham moved, seconded by Councilor Becky Corran, to Approve Resolution No. 25-021.

RESULT:	Carried
MOVER:	Councilor Becki Graham
SECONDER:	Councilor Becky Corran
AYES:	Mayor Eric Enriquez, Councilor Cassie McClure, Councilor William Mattiace, Councilor Becki Graham, Councilor Johana Bencomo, Councilor Becky Corran, and Councilor Yvonne Flores

8.3 RESOLUTION NO. 25-022: A RESOLUTION TO AWARD CONTRACTS FOR

TEMPORARY EMPLOYMENT SERVICES ON AN AS-NEEDED BASIS TO 22ND CENTURY TECHNOLOGIES, INC.; ATHENA CONSULTING, LLC; COGENT INFOTECH CORPORATION; COMPUNNEL SOFTWARE GROUP, INC.; CATHYJON ENTERPRISES, INC. D/B/A HB STAFFING; ITSQUEST, INC.; MANPOWERGROUP US, INC.; RS EMPLOYMENT SERVICES, LLC D/B/A REDCAP STAFFING; SPARROW COMPANY, LLC; AND THINK BEYOND, INC. IN AN AMOUNT NOT TO EXCEED \$2,000,000 PER VENDOR ANNUALLY, FOR A TERM OF FOUR (4) YEARS THROUGH JUNE 30, 2028, SUBJECT TO APPROVED BUDGET APPROPRIATIONS (PROCUREMENT NO. 23-24-047).

Greg Gonzales, Buyer gave the overhead presentation.

Councilor Flores asked how many temp agencies does the city contract with?

Greg Gonzales said currently in the last contract we did have five. The new proposal is carrying a total of 10.

Councilor Flores asked I think it was page 4 or 5, temporary employment services four-year term is for the companies that the city is contracting with?

Greg Gonzales said that is correct.

Councilor Flores asked has there been a study or an assessment as to looking at how it plays out financially for the city to have temps as opposed to permanent employees?

Greg Gonzales said to that effect I do not have that answer for you. We do have the specifics as far as the amount that each department is carrying and so forth but as far as the comparison, I do not have that information, but I can get that for you.

Councilor Flores said my understanding of Manpower and all of those companies is that they are the ones who are responsible for the, say there is an injury on the job like a worker's comp claim. They are the ones that have to defend it. Is that correct? Are there benefits to having this? Four years, some people don't even stay. Just in terms I am not an HR person, but it just seems that you would want to hire employees who are committed to working up to retirement plan, having the benefits of dental and medical and that sort of stuff. Has there been an analysis on that?

Greg Gonzales said as far as the first part of your question, the City's interview process is quite extensive so some departments would defer if they do have back logs and extensive positions that they need to fill they would go with a temp service. The temp service would do all the background checks, all of the drug screening. Now the departments go in initially hiring a temp service personnel. They look at also possibly also hiring that person into a full-time person onto the city. Now to the effects of your second part of the question where the analysis between those two, I don't have that information but again I can get that for you at a later date.

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Donny Prosis, Purchasing Supervisor said we do frequently have temps put into positions while we are going through a hiring process for a permanent staff member and like he said we do occasionally attempt to hire because we do know that it will take a while for people to onboard through the usual HR process. Sometimes we are able to get that person onboarded as a temp with one of the agencies we contract with until the HR process is completed, and we are able to put them on payroll. As far as the time involved ideally there are times when folks end up being in a temporary position for longer than is probably expected but it really kind of depends on what is going on in that department with their hiring process or changes to staffing or programs. We do typically pay a bit higher in an hourly billing rate for temporary staff members because of course the agencies do have their overhead but when you look at the hourly salary of a city employee and then you also add to that the cost of benefits and everything that goes along with it. It may not be that different at the end of the day depending on the position we are talking about, but we would have to do a more rigorous analysis just to give that kind of information.

Councilor Flores said I think a rigorous analysis would be good. I am looking at this as a person who has worked most of their life at this point and I just don't see how it would really benefit a person to be a temp worker and to work in an environment side by side by someone who is a fulltime worker. I just don't see the commitment, maybe aspiration to go up the ladder and then draw from the benefits and it also with all due respect I am part of the city as well, but it just seems to with all due respect to temps it is like cheap labor. Is there a cost analysis insofar as to what the city is saving?

Donny Prosis said what I can tell you is that we are really contracting with these firms to have the services available on an as needed basis. So, in order to not have city services grind to a halt because of a vacancy which could be for multiple reasons. It could be illness, it could be that the person chooses to leave our employment, or they might accept a position elsewhere in the city. So, in order to have everything grind to a halt we are able to quickly bring somebody in that we can have just kind of keep things moving until we are able to more permanently replace those staff members. So, we are not really using them with the intention I would say with having them in those positions for really extended periods of time. It is really just a stop gap until we are able to have a more permanent solution.

Councilor Flores asked what is the percentage of the outside workforce, you know of these companies? Do you have a break down on that?

Donny Prosis said we actually were looking at numbers last week in advance of this presentation and as of last week according to HR data we had 113 temporary staff members in the system. They range anywhere from 1 to 48 people per department at the highest.

Councilor Flores asked has there ever been an inhouse study as to productivity and how temps measure up?

Donny Prosis said I am not sure if any sort of study like that has been done.

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Jo Richards, HR Director said no there has not been a productivity study done with these types of employees as far as how well they are performing and that type of thing. I think part of what we do is report back to the temp agencies. I think the supervisors generally keep in touch with them and let them know how things are going with the employees, and this really gives them the opportunity to have a choice in where they are able to go. These firms charge different rates for different positions and so part of the answer to your question about the cost involved, it really boils down to the position and the fees that they charge compared with what our salary would be and of course if you build benefits into that it does increase the cost.

Councilor Flores asked so temps do get benefits?

Jo Richards said no but if we were to hire them. If we were to hire them into a regular position they would of course as long as it was a full-time position be afforded our benefits. So, then that would be an additional cost.

Councilor Flores asked the temp position is four years? Have you kept comparison as to non-temps and regular employees as to how many stay on?

Jo Richards said I think the goal typically is to have them on a temporary basis. The four-year term is our contract term with these agencies. The individual employees don't necessarily stay with us for those four years. As Donny and other staff have mentioned it is really a stop gap if you will until they can either hire or get the position through budget. Some of these temp agency employees are being utilized because we don't have the position in the budget.

Councilor Mattiace asked it used to be five companies previously? Were they guaranteed the \$2 million a year?

Jo Richards said yes it was five agencies and I am not sure the amount.

Donny Prosise said we actually contracted with four firms during the last RFP but one of those firms, dm Dickason, they sold their franchise back to the company that they had spun off from many years before, so they were succeeded by HireQuest LLC doing business as Snelling and they did not respond to this latest solicitation. So, there were technically only four on the last one but we will be awarding to ten this time.

Councilor Mattiace asked so on that approximately \$8 million that was budgeted how much was remaining?

Donny Prosise said initially that set of contracts was brought forward to council with an annual amount not to exceed two and half million but in I believe in the second year of that contract we brought another resolution forward to remove the \$2.5 million not to exceed amount in favor of indefinite cost/indefinite quantity award but over the course of that four year term between all of the five agencies we spent a total of \$16.3 million across the entire four year period of those agreements so in lieu of requesting indefinite cost/indefinite quantity we are requesting an annual amount not to exceed

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\$2 million per contracted firm.

Councilor Mattiace asked times ten?

Donny Prosise said correct.

Councilor Mattiace asked that is \$80 million in four years?

Donny Prosise said yes. It is an amount not to exceed \$2 million per vendor per year. So, it will still be based on the amounts that were brought to council for the budget that was approved. The individual departments lines business of program they will all be limited to the amount of budget that they have available for these services.

Mayor Enriquez said we went from technically you said was four to ten and it is for four years, you had a list of local and then you had a list of those who are outside the area. If a local company moves in and is local and is a temporary service, could they be added within the four years or would they have to wait the four years, or can someone be added through a competitive process?

Donny Prosise said once the contracts are awarded, we wouldn't really be able to add anybody new that didn't respond to the original RFP. However, I will say that our pricing service agreements are not exclusive so while we encourage all city staff to take advantage of existing price and service agreements because our competitive process usually has been done that has resulted in those contracts, as long as folks are following the thresholds for our small purchases in the procurement code they might be able to seek temporary employment services from a new company as you described. They would just have to make sure that they were following all of our quoting thresholds depending on how much they were going to be spending.

Councilor Johana Bencomo moved, seconded by Councilor Becki Graham, to Approve Resolution No. 25-022.

RESULT:	Carried
MOVER:	Councilor Johana Bencomo
SECONDER:	Councilor Becki Graham
AYES:	Mayor Eric Enriquez, Councilor Cassie McClure, Councilor Becki Graham, Councilor Johana Bencomo, Councilor Becky Corran, and Councilor Yvonne Flores
NAYS:	Councilor William Mattiace

8.4 RESOLUTION NO. 25-023: A RESOLUTION AUTHORIZING A PURCHASE AGREEMENT FOR AN ENTERPRISE ASSET MANAGEMENT SOFTWARE WITH SHI INTERNATIONAL CORP OF SOMERSET, NEW JERSEY, IN AN AMOUNT NOT TO EXCEED \$187,595.49, PLUS GROSS RECEIPTS TAX, FOR THE FIRST SUBSCRIPTION YEAR AND IMPLEMENTATION COSTS, AND AN AMOUNT NOT TO EXCEED \$107,846.73, PLUS GROSS RECEIPTS TAX, FOR FUTURE ANNUAL SOFTWARE RENEWALS, SUBJECT TO APPROVED BUDGET APPROPRIATIONS (PROCUREMENT NO 24-25-011).

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Virginia Barela, Buyer gave the overhead presentation.

Councilor McClure asked is there a public portal that say this goes online and they could see where their street might be in terms of maintenance plan?

David Sedillo, Public Works Director said yes, the software does have the ability to have a public facing portal which will help residents or anyone throughout the city to actually take a look and see when maintenance of those streets are coming up.

Councilor Bencomo asked I am wondering if you can just speak to the need for this? In just like the context that Public Works finds itself regarding pavement management, the challenges, and then what your hopes are?

David Sedillo said the purpose of number one, obtaining the software for this is like Virginia stated we are currently using four different types of this software to piece together the maintenance of this program. So, by consolidating all of those efforts it is going to make staff more efficient, we will be able to do further analysis within the software itself which can also bring us to be able to provide more information. More information during the budget process, where we are at, updating the PCIs as improvements are being done instead of waiting five years to get a report. So, there are benefits not only to staff in their efficiency but also in us planning to be able to maximize the dollars that we do have through the approved budget.

Councilor Bencomo asked just a clarifying question for the public about what you just said around PCIs and reports every five years?

David Sedillo said we as a department assigned to maintain this asset, we have a company come in and do a survey of every paved roadway within the city limits. Now that is done every five years. Based on that data that is collected that is how the pavement condition index or the PCI is calculated. That is put into the program and that is what we use to actually schedule the maintenance that we have with our funding.

Councilor Flores asked it would be more efficient in terms of keeping our streets functioning as they should? Going out there and accessing what the condition is and then doing the repairs or whatever, is that part of this?

David Sedillo said that is a portion of it. So yes, that would make our staff more efficient because they are spending less time working with multiple pieces of software to get the information into the system. Getting that information sooner and then planning those dollars out. Now again we will do whatever we can based on these results from the software with the money that we actually get approved through budget. So, we are still limited on what we can do based on the amount that is approved through budget.

Councilor Flores said once you have all that information, and you can pretty much project prospective and then when budget comes around you can use those figures.

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David Sedillo said yes, you are correct.

Councilor Becky Corran moved, seconded by Councilor Johana Bencomo, to Approve Resolution No. 25-023.

RESULT:	Carried
MOVER:	Councilor Becky Corran
SECONDER:	Councilor Johana Bencomo
AYES:	Mayor Eric Enriquez, Councilor Cassie McClure, Councilor William Mattiace, Councilor Becki Graham, Councilor Johana Bencomo, Councilor Becky Corran, and Councilor Yvonne Flores

8.5 RESOLUTION NO. 25-024: A RESOLUTION AUTHORIZING A CONTRACT FOR AIRPORT CONSULTANT - PLANNING, ADMINISTRATIVE, AND PROFESSIONAL SERVICES WITH DUBOIS & KING, INC. OF RANDOLPH, VERMONT FOR A TERM OF FIVE (5) YEARS, IN AN AMOUNT NOT TO EXCEED \$500,000 ANNUALLY, SUBJECT TO APPROVED BUDGET APPROPRIATIONS (PROCUREMENT NO. 23-24-055).

Lisa Padron, Buyer gave the overhead presentation.

Councilor Bencomo asked the cost of this, is this coming out of the Airport Fund?

Andy Hume, Airport Director said the source of funding would be either airport funds, could be grant funding from New Mexico DOT, could be grant funding from the FAA. It could be a wide variety of sources that we would seek for funding of these projects.

Councilor Bencomo asked for the actual amount of this contract?

Andy Hume said we would seek funding from a variety of sources. We would not just necessarily rely on funding from the airport funds directly.

Councilor Bencomo asked these monies are not confirmed yet?

Andy Hume said that is correct.

Councilor Bencomo said I ask because I do have just some light concerns about the health of the airport, and I would love us if we discussed that in a Work Session soon and I am just curious about long term where we are going and how it is all working for all of us. Especially as we find ourselves in a conversation around tight budgets and I do just want us to be very responsible when it comes to the airport so maybe that is a question for you both here, our City Manager and Mayor but I think that is something I would really like to see in the near future.

Councilor Mattiace asked the strategic plan, when was it initiated? Do you have a 20-year, 15 year, 10 and can I get a copy?

Andy Hume said right now our airport master plan is under final review by the FAA. So, we are anticipating them having their final approval here pretty much any day and based on that we are beginning a new strategic update for the airport.

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Councilor Mattiace asked on the master plan does it go out how many years?

Andy Hume said master planning for the airport goes out 20 years.

Councilor Flores asked can you share with us what DuBois & King have done or has done for the airport?

Andy Hume said we have had a relationship with DuBois & King since 2019. They have provided services such as the Passenger Air Service Study, the original Passenger Air Service Study. They have also worked on projects like the current Airport Master Plan, the Airport Security Plan, currently they are working on the design for the reconstruction of Runway 523, they are working on a sewer extension plan. Some of the projects that we will be working on this contract is the update to our DBE, our Disadvantaged Business Enterprise Program. We need to do an update to our Wildlife Hazard Management Program. Much like the Public Works project before us we are going to be doing an update to our Pavement Management Program. So, it is a wide variety of services that they have done for us and will be doing for us.

Councilor Becki Graham moved, seconded by Councilor Becky Corran, to Approve Resolution No. 25-024.

RESULT:	Carried
MOVER:	Councilor Becki Graham
SECONDER:	Councilor Becky Corran
AYES:	Mayor Eric Enriquez, Councilor Cassie McClure, Councilor William Mattiace, Councilor Becki Graham, Councilor Johana Bencomo, Councilor Becky Corran, and Councilor Yvonne Flores

8.6 COUNCIL BILL NO. 25-010; ORDINANCE NO. 3081: AN ORDINANCE APPROVING A ZONE CHANGE FROM A-2 (RURAL AGRICULTURAL, 1981 ZONING CODE) TO C-3 (COMMERCIAL HIGH INTENSITY). THE SUBJECT PROPERTIES ENCOMPASSING 1.89 ± ACRES IS LOCATED AT 3098 E UNIVERSITY AVENUE. THE ZONE CHANGE REQUEST SEEKS TO BRING A PORTION OF THE PROPOSED TRACT OF LAND INTO COMPLIANCE WITH THE 2001 ZONING CODE, AS AMENDED.

Adam Ochoa, Senior Urban Planner gave the overhead presentation.

Councilor Bencomo asked are we doing this a little bit backwards or was the gas station allowed over the previous zoning code?

Adam Ochoa said no it was not under the previous zoning designation all you could do was farm and maybe have a house, raise horses. The thing is this is NMSU property so they did their thing first if you will, now we are trying to bring it into compliance with our current codes.

Councilor Bencomo asked can anybody do that?

Adam Ochoa said there is some weird things there because it is one entity telling another entity what to do if you will. We have limited powers of what we can tell

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NMSU because it being state land. The reason this is here now is the gas station itself contacted staff and was asking for all these documentations including statement of zoning, to sign off on their business registration and they weren't following our rules unfortunately so the Maverik themselves they actually initiated the zone change I believe.

Councilor Bencomo said I will obviously vote yes at this point. What do we do? I just have some serious concerns about the way this was done by the entity that owns this. So, on any of the land that is considered Aggie Uptown, is NMSU just able to develop it and then come back and ask for a zoning designation?

Adam Ochoa said the majority of what is Aggie Uptown is not in the city limits. If I direct you back to, if you see that red line there that is actually the city limits right there. This is really one of maybe a couple of parcels of land that are in the city.

Councilor Bencomo asked I don't know if you are in contact with the person at NMSU that is in charge of this project but perhaps there is an education piece that needs to happen here given that you said that there are maybe a couple other parcels. I just have some serious concerns with this. Listen, I am totally about ask for forgiveness and permission later in some parts of my life but I feel like this is not one of those and so I think there should be some education. I am hoping you are able to engage in some of those conversations.

Adam Ochoa said we actually do have a pretty decent relationship with them. This one just kind of slipped through the rocks but typically the Pan Am Plaza and other property they own along University they have come before us not only for construction. You are part of the University Citizens Design Committee for approval of things like that.

Councilor Mattiace said before I had the City Council position there was something that came up last year about annexation from a request from the university. Was this any part of this land or was it a different part of this land that was brought up by the real estate? I think it was a real estate person with NMSU.

Adam Ochoa said this is not part of it. This is directly east of it of that red line that I showed you what is considered Aggie Uptown and the redevelopment, the golf course and stuff like that. A much larger area but this is not part of it. It is already in the city though.

Councilor Mattiace asked the area in question is how many acres have they proposed?

Adam Ochoa said I do not know the exact size of what they are looking to annex into the city. It was rather large though.

Councilor Mattiace said if there is any information in the past that you could share with me, I appreciate it.

Councilor Becki Graham moved, seconded by Councilor Becky Corran, to Approve Ordinance No. 3081.

RESULT:	Carried
MOVER:	Councilor Becki Graham
SECONDER:	Councilor Becky Corran
AYES:	Mayor Eric Enriquez, Councilor Cassie McClure, Councilor William Mattiace, Councilor Becki Graham, Councilor Johana Bencomo, Councilor Becky Corran, and Councilor Yvonne Flores

9. BOARD APPOINTMENTS

9.1 BRIAN MORROW

Councilor Becky Corran moved, seconded by Councilor Johana Bencomo, to appoint Brian Morrow to the Veterans Advisory Board.

RESULT:	Carried
MOVER:	Councilor Becky Corran
SECONDER:	Councilor Johana Bencomo
AYES:	Mayor Eric Enriquez, Councilor Cassie McClure, Councilor William Mattiace, Councilor Becki Graham, Councilor Johana Bencomo, Councilor Becky Corran, and Councilor Yvonne Flores

9.2 VICTOR ERES

Councilor Becki Graham moved, seconded by Councilor Johana Bencomo, to reappoint Victor Eres to the Veterans Advisory Board.

RESULT:	Carried
MOVER:	Councilor Becki Graham
SECONDER:	Councilor Johana Bencomo
AYES:	Mayor Eric Enriquez, Councilor Cassie McClure, Councilor William Mattiace, Councilor Becki Graham, Councilor Johana Bencomo, Councilor Becky Corran, and Councilor Yvonne Flores

10. NOTICE OF PROPOSED ORDINANCE(S)

- 1) There will be no public discussion.
- 2) A Councilor may ask staff for clarification on the proposed ordinance(s).

10.1 COUNCIL BILL NO. 25-011; ORDINANCE NO. 3082: AN ORDINANCE AUTHORIZING REPAYMENT TO THE NEW MEXICO ECONOMIC DEVELOPMENT DEPARTMENT (NMEDD) FOR THE LOCAL ECONOMIC DEVELOPMENT ACT (LEDA) PROJECT TO ARTICO COLD STORAGE NEW MEXICO LLC, IN THE AMOUNT OF \$600,000.00 FOR THE TERMINATION OF THE PROJECT PARTICIPATION AGREEMENT AND MATCH REQUIREMENT OF \$281,400.00 IN THE FORM OF A LEDA FORGIVABLE LIEN.

Council agreed to bring it forward.

10.2 COUNCIL BILL NO. 25-012; ORDINANCE NO. 3083: AN ORDINANCE APPROVING A ZONE CHANGE FROM C-2 (COMMERCIAL MEDIUM INTENSITY) TO R-1AM (SINGLE-FAMILY MEDIUM DENSITY MOBILE) FOR

**A PROPERTY ENCOMPASSING APPROXIMATELY 0.99 ACRES AND
LOCATED AT 6175 LEMO ROAD. SUBMITTED BY SUPREME
INVESTMENTS, LLC., REPRESENTATIVE. (24ZO0500053).**

Council agreed to bring it forward.

**10.3 COUNCIL BILL NO. 25-013; ORDINANCE NO. 3084: AN ORDINANCE
REPEALING AND REPLACING CHAPTER 2, ARTICLE III., DIVISION 6.
ACCOUNTABILITY I-N GOVERNMENT OF THE LAS CRUCES MUNICIPAL
CODE (LCMC), 1997 AS AMENDED.**

Council agreed to bring it forward.

11. CITY COUNCIL MEMBER BOARD REPORTS AND COMMENT

11.1 COUNCILOR MCCLURE

All I wanted to say is last Friday I went on a ride along with Meals on Wheels and I just wanted to express my appreciation for letting me tag along and getting to see how other departments that we don't usually associate with care taking in our city reaches out to some of our more vulnerable populations and just how glad they were to see Valerie that day and getting a sense of what that service means to our public was just really heartwarming and I really appreciated it.

11.2 COUNCILOR MATTIACE

I just want to thank the departments, Chief Story and things that are happening. I am getting a lot of positive comments. There have been tents removed from a park where children were afraid to go into the park. It looks like it has been cleaned out. There has been needles picked up on Oak Street and again I don't know who is responsible for getting it done but it looks like that area has been cleaned up. The neighbors called me and said thank you. I would also like to if Larry is not here if we could follow up on the blight on 1710 Espina. I see where the building has been repurchased and I would like to know when that would be removed. It is a condemned burnt down building.

I would just like to read a letter into the record. "Mr. Mattiace, I was homeless many, many years ago in Arizona. They are a diverse group. There are some who can't be helped, just want to panhandle and won't go to the shelters and won't take the aid because there are rules there. Some people with a cardboard sign are scammers, not homeless. People with shopping carts usually have mental illnesses need to be helped. People with dogs don't like to follow the rules in the shelters and they are also unstable. Some like me just had no job, lost my job and ran out of money. People who want and need help, need a place to live and help finding work, counseling, etcetera until they can afford an apartment may have some money to be independent. The public should be advised not to donate to panhandlers. They should be told about other aid available and relay it to the homeless. They have a good communication network. There should be ads on TV and radio with information about what is available in the city of Las Cruces for the homeless or unhoused. Also, in watching your volume is too low at your meetings when I use my computer. Thank you, Ben."

11.3 COUNCILOR GRAHAM

Just a quick shoutout to County Animal Control Officer Duran, got to interact when I found a couple of dogs while on a bike ride and she really went above and beyond to find her way out to me because the first question to me was what's the nearest intersection? About four miles away. So, we talked each other through various county roads and trails, and she showed up. Luckily both dogs were chipped so shoutout to keep getting those dogs chipped, keep those chips updated. I just really wanted to acknowledge her really going above and beyond to find her way out to me in the middle of the desert.

11.4 COUNCILOR CORRAN

I wanted to give a few quick shoutouts to the staff and Department of Workforce Solutions that showed up to the GenGreen event last week. There was a number of staff folks there Lisa from Sustainability, Cathy who does all of our landscape architecture as well as a bunch of folks from Workforce Solutions to hear about the sort of climate change in our future and Workforce Solutions was working with all the young people that showed up to that event which were many. It was standing room only at NMSU and we heard a lot about the incentives available for electrification and ways that the state and the city are and NMSU are supporting the sort of shift to non-fossil fuel future. So that was a really cool event so thanks to the organizers and staff that participated and engaged in the partners that also showed up to that.

I also wanted to give a quick shoutout to the Office of the Superintendent of Insurance. They came to town and gave an open forum for folks to share about healthcare. The situation of healthcare that is in New Mexico including the influence of private equity funded institutions which we have a number of. Something like 17% of all healthcare institutions in New Mexico are private equity backed and we have a few here in Las Cruces. We are looking at state legislative priorities in terms of making sure the communities don't get left behind as profit driven healthcare is coming in and our community and sort of how to influence that through state level regulations. So, thanks to Senator Duhigg and Representative Szczepanski who joined us also during the day for a meeting to hear from some of the providers from the community and their continued work and we can look for that in the upcoming legislative session. So that is something that effects things that come up here a lot in our community, so I wanted to give a shout out to the OSI for including us and giving us some food for thought I think as a city.

11.5 COUNCILOR FLORES

None.

11.6 COUNCILOR BENCOMO

I did want to address the Calle del Encanto neighborhood situation. I actually pulled up an email from 2021, between myself, David Sedillo, and back then ACM Eric Enriquez actually because I have been advocating for these two streets to be invested in. Calle del Sol and Calle del Encanto absolutely need full reconstruction and are on the CIP list. They were also awarded some ARPA Funding, some of those roads were reconstructed fully but they do absolutely need storm drains. So, it is not a matter of

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caring, we care very deeply actually it is a matter of money and then just recently David Sedillo with Public Works let me know that they are looking for funding. You know they had three bids for some of this work and, the lowest bid that came in was still over budget by \$1.3 million and so these are the conversations that are worth exploring when we are talking about the GRT. These aren't someone said pandora's box items. These are basic government services and public safety services that we need to be investing in that our community obviously is in a huge need of. I did just want to note that these projects are definitely on the top of mine for myself, for Mayor, for our city staff.

I want to let you all know that this week a new intern is starting with us from the NMSU School of Social Work. Andres Uribe, he is a senior at the School of Social Work and will be interning with us here. He is also my constituent, that is really cool, but he is working with Catrina. Thank you very much for helping onboard him. We are doing something a little bit different this year. He will really be under Catrina with some of my supervision given that I am an MSW, but he is also available to work with any of you if you need any support with constituent services or any additional support for research from Sergio. He just really wants to learn the function of government and how it impacts people's lives and so we are really excited to have him on board.

I did want to note that in the last two weeks since the ordinances regarding shopping carts and others were approved, I worked with Councilor Corran and Community of Hope given the incident that happened the day after to engage our community in some fundraising efforts and meet the burden that was placed on Community of Hope much sooner than what we would have hoped. In two weeks, I do want to report that we raised about \$4,000. About 20 wagons were donated and delivered to Community of Hope and quite a few of you donated a ton of your used luggage and so for that I just want to say thank you. I think community care is real policy work and community care is something that we should be investing in even more.

The last thing I want to add which I wasn't sure I was going to but given that I have received multiple emails on and I have been told that there has been multiple official complaints made about me to the Inspector General and to the City Attorney, I did just want to address this today and then we will no longer be addressing it but to the folks especially the men that are asking the Mayor, the City Manager, the Inspector General, and our City Attorney, four men to dress code me, a woman of color is weird behavior and I just wanted to say that. I think it is weird and that's where I will leave it.

11.7 MAYOR ENRIQUEZ

I just wanted to mention that last week we were in Clovis. We attended the New Mexico Municipal League Conference. Myself, Councilor McClure, City Manager, Assistant City Managers Sonya, and JC, also Chris Faivre, Christine was there, and Steve from Utilities. It is good to get together to attend the conference. We looked at some resolutions. We looked at some policies, IPRA requests. You get together with your cohorts in the state who are all facing the same things and we are trying to come up with solutions whether it is homelessness, whether it is mental illness, panhandling, all those issues are coming up. I am happy that we were there to represent Las Cruces well, show a good representation and Ruidoso will have it next year and then the following year we will be here in Las Cruces. So, we hope to really

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be gracious hosts and out do them. Clovis did a tremendous job. It was a great welcoming.

12. CITY MANAGER REPORT

12.1 IKANI TAUMOEPEAU

We are very competitive, and we look forward to the opportunity to show Las Cruces very well and how we do things here in two years.

We have Economic Development, mark your calendars the El Paseo/South Solano MRA has a community workshop kick off on Monday, September 9th and community open house on September 11th. More details to come.

For Transit, City of Las Cruces Transit will introduce its first five fully battery electric buses into regular service tomorrow on August 20th, 9:30 Intermodal will have the ribbon cutting and have Mayor, Councilor Corran speaking along with the company BYD from California who manufactured the EV buses so it should be a fun little turn out tomorrow morning.

Parks & Recreation, the Summer Community Concert will be held at 6 p.m. on Saturday, August 24th at Plaza de Las Cruces in Downtown. The concert is a free family event featuring Cuarenta y Cinco, one of New Mexico's top groups since 1991, which will be featuring along with Angelica Padilla and Illusion Band.

From Tourism, Baila Las Cruces free dance lessons this Thursday at the Plaza starting at 7 p.m. There will be food trucks and family games and we appreciate Visit Las Cruces, Rochelle and her team doing a fantastic job with that.

From Communication we have NOTOA Government Programing Awards. Finalist is the Communications team, for five categories and three honorable mentions. Kudos to the communications team, to additionally Parks, LCPD, Quality of Life for the content featured. Additionally, Communication Staff let us know that the promotional video was developed for Quality of Life's Treasure Hunt Campaign is a finalist in the 2024 Savy Awards Competition and are candidate for one of three awards, Savy, Silver Circle, and Award of Excellence. The awards are announced on September 5th so stay tuned. This was a fun campaign for Quality of Life developed with assistance along with Communications and a contract with a local advertising company Wilson Binkley.

For the Fire Department members from LCFD just returned from the F2024 Fire Rescue International Conference. This is one of the largest conferences for Chief Officers and is hosted by International Association of Fire Chiefs. Last but not least for fire, LCFD begins public input on the development of the department's master plan. Staff from the Fire Department will be developing a master plan this fiscal year and have invited the public to participate through in person meetings and online survey. City Council will be asked to add their voices to the plan through Work Session later this fall. Public will have multiple opportunities this month to participate August 8 at 3 p.m. and August 21st at the Branigan Library.

This is from Housing, in conjunction with Office Comptroller of Currency the Federal Deposit Insurance Corporation and the US Department of Housing and Urban Development the City of Las Cruces will co-host an inter-agency forum supporting affordable housing in El Paso, Las Cruces, and the surrounding areas on September 18, 2024, in El Paso at the Center of Civic Engagement Blue Flame Building. It is open to local governments, area housing authorities, bankers, community organizations and developers. The event aims to provide an overview of affordable housing needs and challenges and offer insights into how effectively to use resources in collaboration strategies and improve access to develop home ownership and rental housing development. There is no fee to participate but registration is required.

Last announcement that I wanted to share, this is something that was posted on the LCPD Facebook page. On August 6, 2024, for your awareness the Las Cruces Police Department was informed that a community member's belongings that were allegedly left on the ground when a local business reclaimed the shopping cart. This incident was shared to social media and received considerable attention. A lot of inaccurate information was shared about this incident on social media which again can be found on LCPD Facebook page if you are interested. We have learned more and for transparency's sake have shared security footage of that event on the LCPD Facebook page with full details. We would like to remind everyone to not reclaim carts that are being used by others without first contacting police. Information about this ordinance is posted on our city website. It includes specific ordinance language and also required permits for businesses.

13. ADJOURNMENT

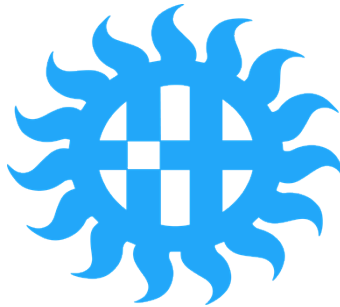
13.1

Councilor Johana Bencomo moved, seconded by Councilor Yvonne Flores, to adjourn at 3:00 p.m.

RESULT:	Carried
MOVER:	Councilor Johana Bencomo
SECONDER:	Councilor Yvonne Flores
AYES:	Mayor Eric Enriquez, Councilor Cassie McClure, Councilor William Mattiace, Councilor Becki Graham, Councilor Johana Bencomo, Councilor Becky Corran, and Councilor Yvonne Flores

Mayor

City Clerk



MINUTES

Work Session

Monday, August 26, 2024 @ 1:00 PM

City Council Chambers, City Hall

PRESENT: Councilor Yvonne Flores, Councilor Becki Graham, Councilor Becky Corran, Mayor Eric Enriquez, Councilor Cassie McClure, and Councilor William Mattiace

ABSENT: Councilor Johana Bencomo

1. JOBS OF THE WEEK

1.1

Sarah Raney, New Mexico Workforce Connection presented Jobs of the Week.

2. PETS OF THE WEEK

2.1

Amy Defelix, Animal Services of the Mesilla Valley presented Pets of the Week.

3. AGENDA ITEM

3.1 CITY STRATEGIC PLAN REPORT.

Srijana Basnyat, Innovation Strategy Administrator gave the overhead presentation.

Mark Miller, Lead Planner continued the overhead presentation.

Srijana Basnyat continued the overhead presentation.

Councilor Corran said thank you so much both of you for this presentation. I also really appreciate all the efforts of all the staff who I know translating qualitative of things into numbers is not an easy task and I realize that at some level this is all for us because some of us are here for the graphs and the Venn diagrams, thank you. I think also it is really important for the public to know I think I know a lot of departments really and this is not necessarily the reporting that you think about doing but when folks say what are you doing? It is not always completely apparent, and this is really

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translating something that is making what our city government does translated to public and consumable place and so I just really want to thank you and all the folks who have contributed to putting data into the system and it really does help us understand where we are and what we are doing and what we should invest our advocacy time or efforts into so thank you I really appreciate it and I look forward to all the future presentations that you all do.

Councilor Flores said your reporting was very comprehensible to me, so I appreciate that. I would like to see or hear in the future the how or why of prioritizing certain projects, is it monetary, is it something that is pie in the sky dream that the city council had, and you just want to appease us and be polite and kind? There is 96 associated actions required, which requires council approval so the ones you are working on now have had that council approval, is that correct? Or is it forthcoming projects?

Srijana Basnyat said I believe you are referencing the 96 actions that are associated with the land development code. So yes, those are looked at as actions that will come into effect upon adoption by the city council so there is a huge assumption on our part just to simplify things I suppose but the rest of the actions don't necessarily go through city council adoption. Really the policies and the goals are what you adopted for us and then it is our job to start implementing them with tasks and projects and so I don't know that gets to a little bit of the question that you have.

Councilor Flores asked can you in any way see how long or project how long it would be when those 96 goals be implemented or come to fruition or met?

Srijana Basnyat said I will say two things and then defer to the department that is running that project for you and while they approach, I am just going to maybe frame it by again just referencing back to that evaluation phase. So 100% of everything that the city Strat Plan or Elevate listed out as actions that are associated with that particular document may or may not be completed through that document and so there is still that piece left to evaluate upon adoption and so there is a little bit of uncertainty there because of course it is the will of the public and the city council to make amendments or change or whatever you all may do.

Larry Nichols, Community Development Director said you heard reference several times in the presentation today of Realize Las Cruces and how it relates to Elevate Comprehensive Plan. The Realize Las Cruces land use ordinance that we are using now is a 2001 version. So here we are 2024, that is 20 some years of waiting for things to be updated and brought into a use for our new technology, our new strategy for further developing community. We have been working with Realize Las Cruces now for about 2 ½ years. We had hired a consultant to help us with that and then we also formed an Ad Hoc Committee of 13 to 15 different developers, real estate agents, interested associations in the community. That review has gone through some 30 to 40 meetings. We are now in the process of having a draft and trying to get it completed by October so that we can codify the language in the adoption and bring it to the council and we are going to have a P&Z workshop I think in another month and you will have a workshop as well in the next month or so and then the spring of 25 about March, February or March we will bringing it to city council for your

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consideration for adoption. So those are the dates of progress, but we mentioned about progress through the presentation today. We have been meeting every single month. We have been making progress on the updating of the land use code which is Realize Las Cruces.

Councilor Flores said on page 16 there was a category for lack of a better word for underrepresented groups and I think there hadn't been any progress or outcomes, that would be page 16 on the monitor.

Mark Miller asked are you referring to the report that we provided you?

Councilor Flores said I am referring to your presentation. There was a statement on one of those pages, it was the lowest progress regarding the underrepresented group, and I don't remember what the goal was but are they so underrepresented that they are invisible? Or what does that mean?

Mark Miller said I think I can clarify. When I was talking about the underrepresented groups here, the full council goal is identifying appropriate communication methods to reach underrepresented groups. The reason there is no progress shown is not because there is 0% progress it is because instead of assigning progress percentage to it because that would imply that there was a time this goal would be complete and so staff recommended not to include this as a goal that can be complete at a certain point and rather say this is an ongoing goal and that we are always going to be trying to improve and identify additional appropriate communication methods to reach those underrepresented groups.

Councilor Flores asked how would you go about that? If they are underrepresented groups, is there a survey? Do you go by the census? How exactly is that?

Mark Miller said there was some narrative provided in the report.

Mandy Guss, Communications Director said there were several groups that were specifically identified. I don't know if that was in Elevate or the Council Goals, it was those in poverty, we had seniors, and those with disabilities and so we have made ongoing efforts to identify where certain underrepresented groups are getting their information. We made several and I think was noted in some of the things we have done for progress are things like reaching out to Spanish speakers, for ADA compliance, making sure that everything on our website is ADA compliant, that we are providing closed captioning not only in English but also in Spanish and we are expanding to allow for other languages and so there are multiple ways that we are addressing that. The reason that it is an ongoing action is that we know there will be continued improvements. Like Mark said there is not an end goal, yeah, we have reached everyone, we always need to improve the way that we reach all groups.

Councilor Flores said it seems to me that there would be some underprivileged groups in that categorization and by underprivileged, I mean people that wouldn't have access to even know that this information is being gathered and so that is my concern there.

Mayor Enriquez asked in the presentation it was building local wealth as one of the categories or actions, can you define that?

Mark Miller said the full council goal is establish a building local wealth component within the city's Economic Development Department. I would defer to Economic Development to assist in answering that question for me.

Elizabeth Teeters, Economic Development Director said the building local wealth is because of anti-donations and how hard it is to get certain programs in place and processes in place. It is just taking us a little longer to get going on that, but we are making progress. We are getting the MRAs in place. We are working our industrial park and everything, so it is moving along it is just moving along a little slower.

Mayor Enriquez said that was my question. It is not so much like what is building local wealth like specific, but it is more general and that is what I was looking at that category and how is it defined?

Srijana Basnyat said building local wealth is a fairly new approach. A few years ago the Strong Towns philosophy kind of pushed that into our repertoire in terms of planning where we are looking at not just at attracting big businesses but really trying to grow wealth within our community so the intent behind that goal was really geared toward empowering people who already own or could own for example property in Las Cruces and could develop their own little plot of land in ways that would build their own wealth and then cumulative effort or the e-fact is building local wealth together as a city. Also, that is a general sort of background behind it.

Mayor Enriquez said I was looking for something in general and I the economic element aspect of it all, but I was wondering if there was more getting out of poverty would be, you know being an entrepreneur and doing those things, so I guess it all ties in. That is what I was getting at so thank you.

3.2 6TH SEMI-ANNUAL POLICE AUDIT REPORT PRESENTED BY THE OIR GROUP.

Viola Perea, City Auditor introduced the topic.

Teresa Magula, OIR Group gave the overhead presentation.

Stephen Connolly, OIR Group continued the overhead presentation.

Teresa Magula continued the overhead presentation.

Councilor Flores asked how do you find out about the cases that are problematic? Who reports it to you?

Teresa Magula said we receive cases directly from the department. The way that the process works for the department is that any member of the public who has a complaint, whether that be on the scene of a particular incident or after the fact has

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access to be able to communicate that complaint to the supervisor on that particular watch. So, the member of the public can submit a form, an actual paper form to do so. You can submit a complaint on the city website. You can call directly to the Police Department and speak to a supervisor who will take your complaint. The other way is to call the city's anonymous hotline. So, there is the city's hotline that will also take complaints against members of the Las Cruces Police Department. So those are the avenues that a member of the public could potentially take if he or she had what they perceive to be a negative encounter that requires that action from the Police Department. Another means of course is to email us directly if that is something that the member of the public feels more comfortable doing. So, we will forward those complaints to the Police Department in those cases. The other category that we review is those complaints that are internally generated. So that would be something that either the Chief or his command staff or supervisors determine is an issue that needs to be investigated formally because it involves potential misconduct. Those cases also come to us and so we review both categories and those are the mechanisms by which those categories are initiated.

Councilor Flores asked has there been a rise in reports that you receive about misconduct or disciplinary problems or anything of that sort?

Stephen Connolly said I think the information Teresa provided was helpful. I am wondering if you were almost expressing how do we know we are getting everything that is actually is being raised?

Councilor Flores said that is my question and I am asking it for transparency's sake and to let our public know and our fellow employees, our city people know here how the information gets to you.

Stephen Connolly said I would think that it is a very fair question. I will say a couple of things that are checks and balances there. One is as Teresa said the public is aware of when it has made a complaint. It is aware of the different mechanisms that are in existence and theoretically there is accountability there in terms of somebody having the opportunity to make sure that any issue they have raised has been processed appropriately and second in terms of the things the Police Department is presenting to us obviously we are dependent on them and their transparency and cooperation with process but we have had no reason to believe that they have held things back and in fact they have shared things with us that obviously don't reflect particularly well on the department, so we don't think that they are trying to massage or sensor material in anyway. The last thing I would say is that I don't think there are any guarantees if there was going to be a big conspiracy but again we have had a very positive impression of the department and I think from a checks and balances perspective having something like that come to light a year later, two years later, wow this thing should have been given to the independent auditor and it wasn't and it looks like they were hiding information from us. That would obviously be a very negative consequence in and of itself. We have not had that experience in any of the agencies that we have worked with and all of the indications that we get in Las Cruces the process is legitimate in working the way it is supposed to.

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Councilor Flores said Ms. Perea does provide us with the reports that you submit to the city, and they seem somewhat thorough. Some of those cases I think are based on people who call in. Is everything submitted to Ms. Perea?

Stephen Connolly said everything that we have hands on is going to go to Ms. Perea for her review and the City Attorney’s office as well. To be clear and as Teresa said in the beginning there were actually other categories of complaint that are less severity that are not part of our scope of work so we don’t see those, but other city officials there is transparency in terms of those things and the Chief actually provided us with some information today about some of the cases, some aggregate data on some of the cases that we don’t have exposure to because they are at a lower level or below our scope.

Councilor Flores asked you do review some? You review everything that is sent to you and then you have an opinion on that?

Stephen Connolly said everything that is sent to us gets the same processing. We scrutinize them all pretty carefully.

4. **ADJOURNMENT**

4.1

Councilor Yvonne Flores moved, seconded by Councilor Becky Corran, to adjourn at 2:48 p.m.

RESULT:	Carried
MOVER:	Councilor Yvonne Flores
SECONDER:	Councilor Becky Corran
AYES:	Councilor Yvonne Flores, Councilor Becki Graham, Councilor Becky Corran, Mayor Eric Enriquez, Councilor Cassie McClure, and Councilor William Mattiace
ABSENT:	Councilor Johana Bencomo

Mayor

City Clerk



25-035

City Council Action and Executive Summary

Type of Action:
☒ Resolution
☐ Ordinance
☐ TIDD Resolution

District:	☐ 1 ☐ 2 ☐ 3 ☐ 4 ☐ 5 ☐ 6 ☒ N/A		
1st Reading:	Adopted: September 16, 2024		
Drafter:	Crystal Silva	Department:	Financial Services
Program:	Grants Administration	Line of Business:	Fiscal Management
Title:	A RESOLUTION AUTHORIZING THE CITY OF LAS CRUCES (CITY) TO ACCEPT A GRANT AWARD FROM THE NEW MEXICO DEPARTMENT OF TRANSPORTATION (NMDOT).		

TYPE OF ACTION: ☒ Administrative ☐ Legislative ☐ Quasi-Judicial

PURPOSE(S) OF ACTION:
To accept an NMDOT grant award.

BACKGROUND / KEY ISSUES / CONTRIBUTING FACTORS:
The City of Las Cruces (City) requests funding on an annual basis from the New Mexico State Legislature to complete capital outlay projects throughout the City. The City was granted the following capital appropriation from the New Mexico Department of Transportation (NMDOT) during the 2024 Legislative Session:

Control Number: C1243281 (24-I3281) for the Las Cruces Active Transportation Improvement project in the amount of \$350,000.00.

The funding is to acquire property and rights of way for and to plan, design, construct and improve projects identified in the Las Cruces active transportation plan, including bicycle and pedestrian routes and networks, in Las Cruces in Dona Ana County.

The priority projects are as follows:

- 1. First priority: design and construction of a multiuse trail associated with Valley View Park connecting Esperanza Ave. to Espina St.
- 2. Second priority: construction of pedestrian improvements such as bulb outs at intersections, on Ethel Ave. from Alameda Blvd. to Miranda St. and Houma St.
- 3. Third priority: augmentation of bicycle and pedestrian improvements on ongoing active transportation projects such as Madrid Ave. from Evelyn St. to North Triviz Dr.

This capital appropriation has a reversion date of June 30, 2028. There is no match required for State Legislative Appropriations.

NMDOT requires a resolution of acceptance by the local governing body before an agreement can become fully executed.

SUPPORT INFORMATION:

[ATTACHMENT "A" PR-SFY24 IGA 24-3281 Agreement Unsigned](#)

PLAN(S):

None

COMMITTEE/BOARD REVIEW:

None

DOES THIS AMEND THE BUDGET?:

☐ Yes

☒ No

Does this action amend the Capital Improvement Plan (CIP)?

☐ Yes

☒ No

Does this action align with Elevate Las Cruces?

☒ Yes

☐ No

OPTIONS / ALTERNATIVES:

1. Vote "Yes"; this will approve the Resolution to accept NMDOT grant award C1243281.
2. Vote "No"; this will not approve the Resolution to accept NMDOT grant award C1243281 and will result in a loss of funds.
3. Vote to "Amend"; this will require further direction to staff.
4. Vote to "Table"; this will result in a loss of funds needed to complete City projects.

RESOLUTION 25-035

A RESOLUTION AUTHORIZING THE CITY OF LAS CRUCES (CITY) TO ACCEPT A GRANT AWARD FROM THE NEW MEXICO DEPARTMENT OF TRANSPORTATION (NMDOT).

The City Council is informed that:

WHEREAS, the City has been offered a grant in the amount of \$350,000.00 from the New Mexico Department of Transportation (NMDOT) for the Las Cruces Active Transportation Improvement project (Attachment "A"); and

WHEREAS, NMDOT requires a resolution of acceptance by the local governing body before an agreement can become fully executed.

NOW, THEREFORE, Be it Resolved by the Governing Body of the City of Las Cruces:

(I)

THAT the City will accept the legislative grant award through NMDOT Agreement Control No. C1243281 for \$350,000.00 with no match required.

(II)

THAT the City Manager is hereby authorized to execute all necessary contracts and amendments necessary in the accomplishment of the herein above.

(III)

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

DONE AND APPROVED this day of

Agenda Item #7.1.

APPROVED

ATTEST:

Moved by:

Seconded by:

AYES

NAYS

Contract Number: _____
Vendor Number: 0000054342
Control Number: C1243281

**STATE OF NEW MEXICO
DEPARTMENT OF TRANSPORTATION
FUND 93100 CAPITAL APPROPRIATION PROJECT**

THIS AGREEMENT is between the Department of Transportation, hereinafter called the “Department” or abbreviation such as “NMDOT”, and City of Las Cruces, hereinafter called the “Grantee”. This Agreement is effective as of the date of the last party to sign it on the signature page below.

RECITALS

WHEREAS, in the Laws of 2024, SB 275, Chapter 66, Section 33, Subsection 51, the Legislature made an appropriation to the Department, funds from which the Department is making available to the Grantee pursuant to this Agreement; and

WHEREAS, the Department is granting to Grantee, and the Grantee is accepting the grant of, funds from this appropriation, in accordance with the terms and conditions of this Agreement; and

WHEREAS, pursuant to the NMSA 1978, Section 67-3-28, as amended, and State Highway Commission Policy No. 44, the Department has the authority to enter into this Grant Agreement.

AGREEMENT

NOW, THEREFORE, in consideration of the mutual covenants and obligations contained herein, the parties hereby mutually agree as follows:

ARTICLE I. PROJECT DESCRIPTION, AMOUNT OF GRANT AND REVERSION DATE

A. The project that is the subject of this Agreement is described as follows:

DFA Appropriation ID I3281 NMDOT Control Number C1243281 **\$350,000**

APPROPRIATION REVERSION DATE: 6/30/2028

Laws of 2024, Chapter 66, Section 33, Subsection 51, Three Hundred Fifty Thousand Dollars and No Cents (\$350,000), to acquire property and rights of way for and to plan, design, construct and improve projects identified in the Las Cruces active transportation plan, including bicycle and pedestrian routes and networks, in Las Cruces in Dona Ana county;

The Grantee's total reimbursements shall not exceed Three Hundred Fifty Thousand Dollars and No Cents \$350,000 (the "Appropriation Amount") minus the allocation for Art in Public Places ("AIPP amount")¹, if applicable, (), which equals () (the "Adjusted Appropriation Amount").

In the event of a conflict among the Appropriation Amount, the Reversion Date, as defined herein and/or the purpose of the Project, as set forth in this Agreement, and the corresponding appropriation language in the laws cited above in this Article I(A), the language of the laws cited herein shall control.

This project is referred to throughout the remainder of this Agreement as the "Project"; the information contained in Article I(A) is referred to collectively throughout the remainder of this Agreement as the "Project Description." Optional Attachment A sets forth additional or more stringent requirements and conditions, which are incorporated by this reference as if set forth fully herein. If Optional Attachment A imposes more stringent requirements than any requirement set forth in this Agreement, the more stringent requirements of Attachment A shall prevail, in the event of irreconcilable conflict. The Grantee shall reference the Project's number in all correspondence with and submissions to the Department concerning the Project, including, but not limited to, Requests for Payment and reports.

ARTICLE II. LIMITATION ON DEPARTMENT'S OBLIGATION TO MAKE GRANT DISBURSEMENT TO GRANTEE

A. Upon the Effective Date of this Agreement, for permissible purposes within the scope of the Project Description, the Grantee shall only be reimbursed monies for which the Department has issued and the Grantee has received a Notice of Department's Obligation to Reimburse² Grantee (hereinafter referred to as "Notice of Obligation"). This Grant Agreement and the disbursement of any and all amounts of the above referenced Adjusted Appropriation Amount are expressly conditioned upon the following:

- (i) Irrespective of any Notice of Obligation, the Grantee's expenditures shall be made on or before the Reversion Date and, if applicable, an Early Termination Date (i.e., the goods have been delivered and accepted or the title to the goods has been transferred to the Grantee and/or the services have been rendered for the Grantee); and
- (ii) The total amount received by the Grantee shall not exceed the lesser of: (a) the Adjusted Appropriation Amount identified in Article I(A) herein or (b) the total of all amounts stated in the Notice(s) of Obligation evidencing that the Department has received and accepted the Grantee's Third Party Obligation(s), as defined in subparagraph iii of this Article II(A); and
- (iii) The Grantee's expenditures were made pursuant to the State Procurement Code and execution of binding written obligations or purchase orders with third party contractors or vendors for the provision of services, including professional services, or the purchase of tangible personal property and real property for the Project, hereinafter referred to as "Third Party Obligations"; and
- (iv) The Grantee's submittal of timely Requests for Payment in accordance with the procedures set forth in Article IX of this Agreement; and

¹ The AIPP amount is "an amount of money equal to one percent or two hundred thousand dollars (\$200,000), whichever is less, of the amount of money appropriated for new construction or any major renovation exceeding one hundred thousand dollars (\$100,000)." Section 13-4A-4 NMSA 1978.

² "Reimburse" as used throughout this Agreement includes Department payments to the Grantee for invoices received, but not yet paid, by the Grantee from a third party contractor or vendor, if the invoices comply with the provisions of this Agreement and are a valid liability of the Grantee.

- (v) In the event that capital assets acquired with Project funds are to be sold, leased, or licensed to or operated by a private entity, the sale, lease, license, or operating agreement:
 - a. must be approved by the applicable oversight entity (if any) in accordance with law; or
 - b. if no oversight entity is required to approve the transaction, the Department must approve the transaction as complying with law.

Prior to the sale, lease, license, or operating agreement being approved pursuant to Articles II(A)(v)(a) and II(A)(v)(b) herein, the Department may, in its sole and absolute discretion and unless inconsistent with State Board of Finance imposed conditions, reimburse the Grantee for necessary expenditures incurred to develop the Project sufficiently to make the sale, lease, license, or operating agreement commercially feasible, such as plan and design expenditures; and

- (vi) The Grantee's submission of documentation of all Third Party Obligations and amendments thereto (including terminations) to the Department and the Department's issuance and the Grantee's receiving of a Notice of Obligation for a particular amount in accordance with the terms of this Agreement shall be governed by the following:
 - a. The Grantee shall submit to the Department one copy of all Third Party Obligations and amendments thereto (including terminations) as soon as possible after execution by the Third Party **but prior to execution by the Grantee.**
 - b. Grantee acknowledges and agrees that if it chooses to enter into a Third Party Obligation prior to receiving a Notice of Obligation that covers the expenditure, it is solely responsible for such obligations.
 - c. The Department may, in its sole and absolute discretion, issue to Grantee a Notice of Obligation for the particular amount of that Third Party Obligation that only obligates the Department to reimburse Grantee's expenditures made on or before the Reversion Date or an Early Termination Date. The current Notice of Obligation form is attached to this Agreement as Exhibit 2.
 - d. The date the Department signs the Notice of Obligation is the date that the Department's Notice of Obligation is effective. After that date, the Grantee is authorized to budget the particular amount set forth in the Notice of Obligation, execute the Third Party Obligation and request the Third Party to begin work. Payment for any work performed or goods received prior to the effective date of the Notice of Obligation is wholly and solely the obligation of the Grantee.

B. The Grantee shall implement, in all respects, the Project. The Grantee shall provide all necessary qualified personnel, material, and facilities to implement the Project. The Grantee shall finance its share (if any) of the costs of the Project, including all Project overruns.

C. Project funds shall not be used for purposes other than those specified in the Project Description.

D. Unless specifically allowed by law, Project funds cannot be used to reimburse Grantee for indirect Project costs.

ARTICLE III. NOTICE PROVISIONS AND GRANTEE AND DEPARTMENT DESIGNATED REPRESENTATIVES

Whenever written notices, including written decisions, are to be given or received, related to this Agreement, the following provisions shall apply.

Agenda Item #7.1.

The Grantee designates the person(s) listed below, or their successor, as their official representative(s) concerning all matters related to this Agreement:

Grantee: City of Las Cruces
Name: Gabriela M. Prats, C.M., ACE
Title: Grant Manager
Address: P.O. Box 20000, Las Cruces, New Mexico 88004
Email: gprats@lascruces.gov
Telephone: 575-541-2430

The Grantee designates the person(s) listed below, or their successor, as their Fiscal Officer or Fiscal Agent concerning all matters related to this Agreement:

Grantee: _____
Name: _____
Title: _____
Address: _____
Email: _____
Telephone: _____

The Department designates the persons listed below, or their successors, as the Points of Contact for matters related to this Agreement.

Department: Department of Transportation District 1 Office
Name: Debra Hudson
Title: Capital Outlay District Coordinator
Address: 2912 East Pine Street, Deming, NM 88030
Email: DebraA.Hudson@dot.nm.gov
Telephone: 575-640-2779

The Grantee and the Department agree that either party shall send all notices, including written decisions, related to this Agreement to the above named persons by email or regular mail. In the case of mailings, notices shall be deemed to have been given and received upon the date of the receiving party’s actual receipt or five calendar days after mailing, whichever shall first occur. In the case of email transmissions, the notice shall be deemed to have been given and received on the date reflected on the delivery receipt of email.

ARTICLE IV. REVERSION DATE, TERM, DEADLINE TO EXPEND FUNDS

A. As referenced in Article I(A), the applicable law establishes a date by which Project funds must be expended by Grantee, which is referred to throughout the remainder of this Agreement as the “Reversion Date.” Upon being duly executed by both parties, this Agreement shall be effective as of the date of execution by the Department. It shall terminate on 6/30/2028 the Reversion Date unless Terminated Before Reversion Date (“Early Termination”) pursuant to Article V herein.

B. The Project's funds must be expended on or before the Reversion Date and, if applicable, Early Termination Date of this Agreement. For purposes of this Agreement, it is not sufficient for the Grantee to encumber the Project funds on its books on or before the Project's Reversion Date or Early Termination Date. Funds are expended and an expenditure has occurred as of the date that a particular quantity of goods are delivered to and received by the Grantee or title to the goods is transferred to the Grantee and/or as of the date particular services are rendered for the Grantee. Funds are *not* expended and an expenditure has *not* occurred as of the date they are encumbered by the Grantee pursuant to a contract or purchase order with a third party.

ARTICLE V. EARLY TERMINATION

A. Early Termination Before Reversion Date Due to Completion of the Project or Complete Expenditure of the Adjusted Appropriation or Violation of this Agreement

Early Termination includes:

- (i) Termination due to completion of the Project before the Reversion Date; or
- (ii) Termination due to complete expenditure of the Adjusted Appropriation Amount before the Reversion Date; or
- (iii) Termination for violation of the terms of this Agreement; or
- (iv) Termination for suspected mishandling of public funds, including but not limited to, fraud, waste, abuse, and conflicts of interest.

Either the Department or the Grantee may early terminate this Agreement prior to the Reversion Date by providing the other party with a minimum of fifteen (15) days' advance, written notice of early termination. Grantee hereby waives any rights to assert an impairment of contract claim against the Department or the State of New Mexico in the event of Early Termination of this Agreement by the Department pursuant to Article V(A).

B. Early Termination Before Reversion Date Due to Non-appropriation

The terms of this Agreement are expressly made contingent upon sufficient appropriations and authorization being made by the Legislature of New Mexico for the performance of this Agreement. Throughout this Agreement the term "non-appropriate" or "non-appropriation" includes the following actions by the New Mexico Legislature: deauthorization, reauthorization or revocation of a prior authorization. The Legislature may choose to non-appropriate the Appropriation referred to in Article I and, if that occurs, the Department shall early terminate this Agreement for non-appropriation by giving the Grantee written notice of such termination, and such termination shall be effective as of the effective date of the law making the non-appropriation. The Department's decision as to whether sufficient appropriations or authorizations are available shall be accepted by the Grantee and shall be final. Grantee hereby waives any rights to assert an impairment of contract claim against the Department or the State of New Mexico in the event of Early Termination of this Agreement by the Department pursuant to Article V(B).

C. Limitation on Department's Obligation to Make Grant Disbursements to Grantee in the Event of Early Termination

In the event of Early Termination of this Agreement by either party, the Department's sole and absolute obligation to reimburse the Grantee is expressly conditioned upon the limitations set forth Article II.

ARTICLE VI. SUSPENSION OF NEW OR FURTHER OBLIGATIONS

A. The Department may choose, in its sole and absolute discretion, to provide written notice to the Grantee to suspend entering into new and further obligations. Upon the receipt of such written notice by the Grantee:

- (i) The Grantee shall immediately suspend entering into new or further written obligations with third parties; and
- (ii) The Department will suspend the issuance of any new or further Notice of Obligation under this Agreement; and
- (iii) The Department may direct the Grantee to implement a corrective action plan in accordance with Article VI(D) herein.

B. In the event of Suspension of this Agreement, the Department's sole and absolute obligation to reimburse the Grantee is expressly conditioned upon the limitations set forth in Article II herein.

C. A suspension of new or further obligations under this Agreement shall remain in effect unless or until the date the Grantee receives written notice given by the Department informing the Grantee that the Suspension has been lifted or that the Agreement has been Early Terminated in accordance with Article V herein. If the Suspension is lifted, the Department will consider further requests for Notice of Obligation.

D. Corrective Action Plan in the Event of Suspension

In the event that the Department chooses, in its sole and absolute discretion to direct the Grantee to suspend entering into new or further written obligations with third parties pursuant to Article VI(A), the Department may, but is not obligated to, require the Grantee to develop and implement a written corrective action plan to remedy the grounds for the Suspension. Such corrective action plan must be approved by the Department and be signed by the Grantee. Failure to sign a corrective action plan or meet the terms and deadlines set forth in the signed corrective action plan, is hereby deemed a violation of the terms of this Agreement for purposes of Early Termination, Article V(A)(iii). The corrective action plan is in addition to, and not in lieu of, any other equitable or legal remedy, including but not limited to Early Termination.

ARTICLE VII. AMENDMENT

This Agreement shall not be altered, changed, or amended except by instrument in writing duly executed by both the parties hereto.

ARTICLE VIII. REPORTS

A. Database Reporting

The Grantee shall report quarterly Project activity by entering such Project information as the Department and the Department of Finance and Administration may require, such information entered directly into a database maintained by the Department of Finance and Administration (<http://cpms.dfa.state.nm.us>). Additionally, the Grantee shall certify on the Request for Payment form (Exhibit 1) that updates have been maintained and are current in the database. The Grantee hereby acknowledges that failure to perform and/or certify updates into the database will delay or potentially jeopardize the reimbursement of funds. The Department shall give Grantee a minimum of thirty (30) days' advance written notice of any changes to the information the Grantee is required to report.

Quarterly reports shall be due on the last day of the month that is 30 days prior to the end of the quarter following execution of this Agreement by the Department and ending during the quarter of the submission of the final request for reimbursement for the Project, or the following quarter.

B. Requests for Additional Information/Project Inspection

During the term of this Agreement and during the period of time during which the Grantee must maintain records pursuant to Article VIII, the Department may:

- (i) request such additional information regarding the Project as it deems necessary; and
 - (ii) conduct, at reasonable times and upon reasonable notice, onsite inspections of the Project.
- Grantee shall respond to such requests for additional information within a reasonable period of time, as established by the Department.

ARTICLE IX. REQUEST FOR PAYMENT PROCEDURES AND DEADLINES

A. The Grantee shall request payment by submitting a Request for Payment, in the form attached hereto as Exhibit 1. Payment requests are subject to the following procedures:

- (i) The Grantee must submit a Request for Payment; and
- (ii) Each Request for Payment must contain proof of payment by the Grantee or liabilities incurred by the Grantee showing that the expenditures are valid or are liabilities incurred by the Grantee in the form of actual unpaid invoices received by the Grantee for services rendered by a third party or items of tangible personal property received by the Grantee for the implementation of the Project; provided, however, that the Grantee may be reimbursed for unpaid liabilities only if the Department, in its sole and absolute discretion, agrees to do so and in accordance with any special conditions imposed by the Department.
- (iii) In cases where the Grantee is submitting a Request for Payment to the Department based upon invoices received, but not yet paid, by the Grantee from a third party contractor or vendor, if the invoices comply with the provisions of this Agreement and are a valid liability of the Grantee, the Grantee shall make payment to those contractors or vendors within five (5) business days from the date of receiving reimbursement from the Department or such shorter period of time as the Department may prescribe in writing. The Grantee is required to certify to the Department proof of payment to the third party contractor or vendor within ten (10) business days from the date of receiving reimbursement from the Department.

B. The Grantee must obligate 5% of the Adjusted Appropriation Amount within six months of acceptance of the grant agreement and must have expended no less than 85% of the Adjusted Appropriation Amount six months prior to the reversion date.

C. Deadlines

Requests for Payments shall be submitted by Grantee to the Department on the earlier of:

- (i) Immediately as they are received by the Grantee but at a minimum thirty (30) days from when the expenditure was incurred or liability of the Grantee was approved as evidenced by an unpaid invoice received by the Grantee from a third party contractor or vendor; or
- (ii) Twenty (20) days from date of Early Termination; or
- (iii) Twenty (20) days from the Reversion Date.

D. The Grantee's failure to abide by the requirements set forth in Article II and Article IX herein will result in the denial of its Request for Payment or will delay the processing of Requests for Payment. The Department has the right to reject a payment request for the Project unless and until it is satisfied that the expenditures in the Request for Payment are for permissible purposes within the meaning of the Project Description and that the expenditures and the Grantee are otherwise in compliance with this Agreement, including but not limited to, compliance with the reporting requirements and the requirements set forth in Article II herein to provide Third Party Obligations and the Deadlines set forth in Article IX herein. The Department's ability to reject any Request for Payment is in addition to, and not in lieu of, any other legal or equitable remedy available to the Department due to Grantee's violation of this Agreement.

ARTICLE X. PROJECT CONDITIONS AND RESTRICTIONS; REPRESENTATIONS AND WARRANTIES

- A. The following general conditions and restrictions are applicable to the Project:
- (i) The Project's funds must be spent in accordance with all applicable state laws, regulations, policies, and guidelines, including, but not limited to, the State Procurement Code (or local procurement ordinance, where applicable).
 - (ii) The Project must be implemented in accordance with the New Mexico Public Works Minimum Wage Act, Section 13-4-10 through 13-4-17 NMSA 1978, as applicable. Every contract or project in excess of sixty thousand dollars (\$60,000) that the Grantee is a party to for construction, alteration, demolition or repair or any combination of these, including painting and decorating, of public buildings, public works or public roads and that requires or involves the employment of mechanics, laborers or both shall contain a provision stating the minimum wages and fringe benefits to be paid to various classes of laborers and mechanics, shall be based upon the wages and benefits that will be determined by the New Mexico Department of Workforce Solutions to be prevailing for the corresponding classes of laborers and mechanics employed on contract work of a similar nature in the locality. Further, every contract or project shall contain a stipulation that the contractor, subcontractor, employer or a person acting as a contractor shall pay all mechanics and laborers employed on the site of the project, unconditionally and not less often than once a week and without subsequent unlawful deduction or rebate on any account, the full amounts accrued at time of payment computed at wage rates and fringe benefit rates not less than those determined pursuant to Section 13-4-11 (B) NMSA 1978 to be the prevailing wage rates and prevailing fringe benefit rates issued for the project.
 - (iii) The Project may only benefit private entities in accordance with applicable law, including, but not limited to, Article IX, Section 14 of the Constitution of the State of New Mexico, the "Anti-Donation Clause."
 - (iv) The Grantee shall not for a period of 10 years from the date of this agreement convert any property acquired, built, renovated, repaired, designed or developed with the Project's funds to uses other than those specified in the Project Description without the Department's and the Board of Finance's express, advance, written approval, which may include a requirement to reimburse the State for the cost of the project, transfer proceeds from the disposition of property to the State, or otherwise provide consideration to the State.
 - (v) The Grantee shall comply with all federal and state laws, rules and regulations pertaining to equal employment opportunity. In accordance with all such laws, rules and regulations the Grantee agrees to assure that no person shall, on the grounds of race, color, national origin, sex, sexual preference, age or handicap, be excluded from employment with Grantee, be excluded

from participation in the Project, be denied benefits or otherwise be subject to discrimination under, any activity performed under this Agreement. If Grantee is found to be not in compliance with these requirements during the life of this Agreement, Grantee agrees to take appropriate steps to correct any deficiencies. The Grantee's failure to implement such appropriate steps within a reasonable time constitutes grounds for terminating this Agreement.

- B. The Grantee hereby represents and warrants the following:
- (i) The Grantee has the legal authority to receive and expend the Project's funds.
 - (ii) This Agreement has been duly authorized by the Grantee, the person executing this Agreement has authority to do so, and, once executed by the Grantee, this Agreement shall constitute a binding obligation of the Grantee, enforceable according to its terms.
 - (iii) This Agreement and the Grantee's obligations hereunder do not conflict with any law or ordinance or resolution applicable to the Grantee, the Grantee's charter (if applicable), or any judgment or decree to which the Grantee is subject.
 - (iv) The Grantee has independently confirmed that the Project Description, including, but not limited to, the amount and Reversion Date, is consistent with the underlying appropriation in law.
 - (v) The Grantee's governing body has duly adopted or passed as an official act a resolution, motion, or similar action authorizing the person identified as the official representative of the Grantee to sign the Agreement and to sign Requests for Payment.
 - (vi) The Grantee shall abide by New Mexico laws regarding conflicts of interest, governmental conduct and whistleblower protection. The Grantee specifically agrees that no officer or employee of the local jurisdiction or its designees or agents, no member of the governing body, and no other public official of the locality who exercises any function or responsibility with respect to this Grant, during their tenure or for one year thereafter, shall have any interest, direct or indirect, in any contract or subcontract, or the proceeds thereof, for work to be performed or goods to be received, pursuant to this Grant. Further, Grantee shall require all of its contractors to incorporate in all subcontracts the language set forth in this paragraph prohibiting conflicts of interest.
 - (vii) No funds have been paid or will be paid, by or on behalf of the Grantee, to any person for influencing or attempting to influence an officer or employee of this or any agency or body in connection with the awarding of any Third Party Obligation and that the Grantee shall require certifying language prohibiting lobbying to be included in the award documents for all subawards, including subcontracts, loans and cooperative agreements. All subrecipients shall be required to certify accordingly.

ARTICLE XI. STRICT ACCOUNTABILITY OF RECEIPTS AND DISBURSEMENTS; PROJECT RECORDS

A. The Grantee shall be strictly accountable for receipts and disbursements relating to the Project's funds. The Grantee shall follow generally accepted accounting principles, and, if feasible, maintain a separate bank account or fund with a separate organizational code, for the funds to assure separate budgeting and accounting of the funds.

B. For a period of six (6) years following the Project's completion, the Grantee shall maintain all Project related records, including, but not limited to, all financial records, requests for proposals, invitations to bid, selection and award criteria, contracts and subcontracts, advertisements, minutes of pertinent meetings, as well

as records sufficient to fully account for the amount and disposition of the total funds from all sources budgeted for the Project, the purpose for which such funds were used, and such other records as the Department shall prescribe.

C. The Grantee shall make all Project records available to the Department, the Department of Finance and Administration, and the New Mexico State Auditor upon request. With respect to the funds that are the subject of this Agreement, if the State Auditor or the Department of Finance and Administration finds that any or all of these funds were improperly expended, the Grantee may be required to reimburse to the State of New Mexico, to the originating fund, any and all amounts found to be improperly expended.

ARTICLE XII. IMPROPERLY REIMBURSED FUNDS

If the Department determines that part or all of the Appropriation Amount was improperly reimbursed to Grantee, including but not limited to, Project funds reimbursed to Grantee based upon fraud, mismanagement, misrepresentation, misuse, violation of law by the Grantee, or violation of this Agreement, the Grantee shall return such funds to the Department for disposition in accordance with law.

ARTICLE XIII. LIABILITY

Neither party shall be responsible for liability incurred as a result of the other party's acts or omissions in connection with this Agreement. Any liability incurred in connection with this Agreement is subject to immunities and limitations of the New Mexico Tort Claims Act.

ARTICLE XIV. SCOPE OF AGREEMENT

This Agreement constitutes the entire and exclusive agreement between the Grantee and Department concerning the subject matter hereof. The Agreement supersedes any and all prior or contemporaneous agreements, understandings, discussions, communications, and representations, written or verbal.

ARTICLE XV. REQUIRED NON-APPROPRIATIONS CLAUSE IN CONTRACTS FUNDED IN WHOLE OR PART BY FUNDS MADE AVAILABLE UNDER THIS AGREEMENT

The Grantee acknowledges, warrants, and agrees that Grantee shall include a “non-appropriations” clause in all contracts between it and other parties that are (i) funded in whole or part by funds made available under this Agreement and (ii) entered into after the effective date of this Agreement that states:

“The terms of this Agreement are contingent upon sufficient appropriations and authorization being made by the Legislature of New Mexico for the performance of this Agreement. If sufficient appropriations and authorization are not made by the Legislature, the City of Las Cruces may immediately terminate this Agreement by giving Contractor written notice of such termination. The City of Las Cruces’s decision as to whether sufficient appropriations are available shall be accepted by the Contractor and shall be final. Contractor hereby waives any rights to assert an impairment of contract claim against the City of Las Cruces or the Department of Transportation or the State of New Mexico in the event of immediate or Early Termination of this Agreement by the City of Las Cruces or the Department”

ARTICLE XVI. REQUIRED TERMINATION CLAUSE IN CONTRACTS FUNDED IN WHOLE OR PART BY FUNDS MADE AVAILABLE UNDER THIS AGREEMENT

Grantee acknowledges, warrants, and agrees that Grantee shall include the following termination clause in all contracts that are (i) funded in whole or part by funds made available under this Agreement and (ii) entered into after the effective date of this Agreement:

“This contract is funded in whole or in part by funds made available under a Department of Transportation Grant Agreement. Should the Department of Transportation early terminate the grant agreement, the City of Las Cruces may early terminate this contract by providing Contractor written notice of such termination. In the event of termination pursuant to this paragraph, the City of Las Cruces only liability shall be to pay Contractor for acceptable goods delivered and services rendered before the termination date.”

Grantee hereby waives any rights to assert an impairment of contract claim against the Department or the State of New Mexico in the event of Early Termination of this Agreement by the Department.

XVII. COMPLIANCE WITH UNIFORM FUNDING CRITERIA.

A. Throughout the term of this Agreement, Grantee shall:

1. submit all reports of annual audits and agreed upon procedures required by Section 12-6-3(A)-(B) NMSA 1978 by the due dates established in 2.2.2 NMAC, reports of which must be a public record pursuant to Section 12-6-5(A) NMSA 1978 within forty-five days of delivery to the State Auditor;
2. have a duly adopted budget for the current fiscal year approved by its budgetary oversight agency (if any);
3. timely submit all required financial reports to its budgetary oversight agency (if any); and
4. have adequate accounting methods and procedures to expend grant funds in accordance with applicable law and account for and safeguard grant funds and assets acquired by grant funds.

B. In the event Grantee fails to comply with the requirements of Paragraph A of this Article XVII, the Department may take one or more of the following actions:

1. suspend new or further obligations pursuant to Article VI(A) of this Agreement;
2. require the Grantee to develop and implement a written corrective action plan pursuant to Article VI(D) of this Agreement to remedy the non-compliance;
3. impose special grant conditions to address the non-compliance by giving the Grantee notice of such special conditions in accordance with Article III of this Agreement; the special conditions shall be binding and effective on the date that notice is deemed to have been given pursuant to Article III; or
4. terminate this Agreement pursuant to Article V(A) of this Agreement.

ARTICLE XVIII. SEVERANCE TAX BOND AND GENERAL OBLIGATION BOND PROJECT CLAUSES

A. Grantee acknowledges and agrees that the underlying appropriation for the Project is a severance tax bond or general obligation bond appropriation, and that the associated bond proceeds are administered by the New Mexico State Board of Finance (SBOF), an entity separate and distinct from the Department. Grantee acknowledges and agrees that (i) it is Grantee's sole and absolute responsibility to determine through SBOF staff what (if any) conditions are currently imposed on the Project; (ii) the Department's failure to inform Grantee of a SBOF imposed condition does not affect the validity or enforceability of the condition; (iii) the

SBOF may in the future impose further or different conditions upon the Project; (iv) all SBOF conditions are effective without amendment of this Agreement; (v) all applicable SBOF conditions must be satisfied before the SBOF will release to the Department funds subject to the condition(s); and (vi) the Department's obligation to reimburse Grantee from the Project is contingent upon the then current SBOF conditions being satisfied.

B. Grantee acknowledges and agrees that the SBOF may in its sole and absolute discretion remove a project's assigned bond proceeds if the project doesn't proceed sufficiently. Entities must comply with the requirement to encumber five percent (5%) of Project funds within six months of bond issuance as certified by the grantee in the Bond Questionnaire and Certification documents submitted to the SBOF. Failure to comply may result in the bond proceeds reassignment to a new ready project. If this should occur this grant agreement will be suspended until the entity has demonstrated readiness as determined by the SBOF and the Department.

C. Grantee acknowledges and agrees that this Agreement is subject to the SBOF's Bond Project Disbursements rule, NMAC 2.61.6, as may be amended or re-codified. The rule provides definitions and interpretations of grant language for the purpose of determining whether a particular activity is allowable under the authorizing language of the agreement.

[THIS SPACE LEFT BLANK INTENTIONALLY]

IN WITNESS WHEREOF, the parties have duly executed this Agreement as of the date of execution by the Department.
GRANTEE

Signature of Official with Authority to Bind Grantee

City of Las Cruces
Entity Name

By: __ Ikani Taumoepeau_____
(Type or Print Name)

Its: ____ City Manager_____
(Type or Print Title)

Date

APPROVED AS TO FORM:

City Attorney

Date

DEPARTMENT OF TRANSPORTATION

By:

Its: Cabinet Secretary or Designee

Date

**REVIEWED AND APPROVED AS TO FORM AND LEGAL SUFFICIENCY BY THE
DEPARTMENT’S OFFICE OF GENERAL COUNSEL**

By: Aaron Frankland or Designee

Its: Deputy General Counsel

Date

STATE OF NEW MEXICO CAPITAL GRANT PROJECT Request for Payment Form Exhibit 1									
I. Grantee Information (Make sure information is complete & accurate)					II. Payment Computation				
A. Grantee:					A. Payment Request No.				
B. Address:					B. Grant Amount:				
(Complete Mailing, including Suite, if applicable)					C. AIPP Amount <i>(If Applicable)</i> :				
					D. Funds Requested to Date:				
					E. Amount Requested this Payment:				
					F. Reversion Amount <i>(If Applicable)</i> :				
City State Zip					G. Grant Balance:				
C. Phone No:					H. ☐ GF ☐ GOB ☐ STB <i>(attach wire if first draw)</i>				
D. Grant No:					I. ☐ Final Request for Payment <i>(if Applicable)</i>				
E. Project Title:									
F. Grant Expiration Date:									
III. Fiscal Year : <i>(The State of NM Fiscal Year is July 1, 20XX through June 30, 20XX of the following year)</i>									
IV. ☐ Reporting Certification: I hereby certify to the best of my know ledge and belief, that database reporting is up to date; to include the accuracy of expenditures and grant balance, project status, project phase, achievements and milestones; and in compliance with Article VIII of the Capital Outlay Grant Agreement.									
V. ☐ Compliance Certification: Under penalty of law , I hereby certify to the best of my know ledge and belief, the above information is correct; expenditures are properly documented, and are valid expenditures or actual receipts; and that the grant activity is in full compliance w ith Article IX, Sec. 14 of the New Mexico Constitution know n as the "anti donation" clause.									
Grantee Fiscal Officer or Fiscal Agent <i>(if applicable)</i>					Grantee Representative				
Printed Name					Printed Name				
Date:					Date:				
(State Agency Use Only)									
Vendor Code:			Fund No.:			Loc No.:			
I certify that the State Agency financial and vendor file information agree with the above submitted information.									
Division Fiscal Officer					Date				
Division Project Manager					Date				

NOTICE OF OBLIGATION TO REIMBURSE GRANTEE
EXHIBIT 2

Notice of Obligation to Reimburse Grantee [# 1]

DATE: [_____]

TO: Department Representative: [_____, _____]

FROM: Grantee: [_____]

Grantee Official Representative: [_____]

SUBJECT: Notice of Obligation to Reimburse Grantee

Grant Number: [_____]

Grant Termination Date: [_____]

As the designated representative of the Department for Grant Agreement number [_____] entered into between Grantee and the Department, I certify that the Grantee has submitted to the Department the following third party obligation executed, in writing, by the third party’s authorized representative:

Vendor or Contractor:	[_____]
Third Party Obligation Amount:	[_____]
Vendor or Contractor:	[_____]
Third Party Obligation Amount:	[_____]
Vendor or Contractor:	[_____]
Third Party Obligation Amount:	[_____]

I certify that the State is issuing this Notice of Obligation to Reimburse Grantee for permissible purposes within the scope of the project description, subject to all the terms and conditions of the above referenced Grant Agreement.

Grant Amount (Minus AIPP if applicable):	[_____]
The Amount of this Notice of Obligation:	[_____]
The Total Amount of all Previously Issued Notices of Obligation:	[_____]
The Total Amount of all Notices of Obligation to Date:	[_____]

Note: Contract amounts may exceed the total grant amount, but the invoices paid by the grant will not exceed the grant amount.

Department Rep. Approver:	[_____]
Title:	[_____]
Signature:	[_____]
Date:	[_____]

1 Administrative and/or Indirect Cost – generally, the legislation authorizing the issuance of bonds prohibits the use of its proceeds for indirect expenses (e.g. penalty fees or damages other than pay for work performed, attorney fees, and administrative fees). Such use of bond proceeds shall not be allowed unless specifically authorized by statute.

NMDOT ATTACHMENT A

The City of Las Cruces shall agree to comply with the following Provisions:

1. Assume the lead role for the Project.
2. Be responsible for all applicable design, environmental and archaeological clearances, and right-of-way acquisition, in accordance with current local, state, federal laws, Uniform Relocation Act, and current design practices and specifications.
3. Be responsible for project development, project construction, construction management, and testing.
4. Utilize the Project Control Number in all correspondence and submittals to the Department.
5. Adopt a written resolution of support for the Project, including as applicable an assumption of ownership, liability, and maintenance responsibility for the scope, or related amenities and required funding to support the Project.
6. Complete the Project using current American Public Works Association (APWA) specifications, implemented Grantee's design standards and specifications, or Department specifications.
7. Use Rental Rate Blue Book rates, if not provided in the Department established equipment rates, in the implementation of this Project. Any equipment rates not found in the Department established rates shall be reimbursed at the Blue Book rates.

The City of Las Cruces shall agree to comply with the following Lighting and Signal Provisions as applicable:

1. After subject signal system(s) has/have been constructed, make provisions for and provide, at its own expense, all electrical energy, routine maintenance such as lamp replacement, emergency shutdown in case of accidental damage or equipment failure and make any repairs necessary due to accidental damage to, or equipment failure of, the signal head and poles.
2. In the event that accidental damage or equipment failure should occur, provide for equipment shut down/or emergency traffic control as needed. In addition, should the accidental damage or equipment failure involve the Controller (and cabinet) or the loop detection system, promptly notify the Traffic Technical Support Bureau of the Department.
3. In the event that the traffic signal should be rendered completely inoperable as a result of accidental damage, secure the intersection with stop signs at all approach legs until such time as the traffic signal is made operable.
4. Make ample future provisions in its budget each year for the cost of maintaining and providing energy to the traffic signals and telephone service to the signal system and intersection lighting.
5. At its own expense, maintain the signal controller and control equipment (the "Controller") including and maintenance of the machine vision vehicle detection system with cameras and emergency vehicle pre-empt system and repair or replace the Controller in the event the Controller and/or cabinet is damaged or there is an equipment failure.
6. After the installation of the roadway lighting system, if any, provide any and all utilities, maintenance, and such other items as may be necessary of continued satisfactory operation of said subject lighting system.
7. Make all timing adjustments to the Signal Control equipment and review the Signal System(s) for efficient and satisfactory operation.
8. Obtain approval from the Department for all signal equipment prior to installation.
9. Require the construction contractor to name the Department and the Grantee as an additional insured in the construction contractor's general liability policy.
10. Enter into a Signalization and Lighting Agreement with the Department's Traffic Technical Support Bureau as required.



25-036

City Council Action and Executive Summary

Type of Action:
☒ Resolution
☐ Ordinance
☐ TIDD Resolution

District:	☐ 1 ☐ 2 ☐ 3 ☐ 4 ☒ 5 ☐ 6 ☐ N/A		
1st Reading:	Adopted: September 16, 2024		
Drafter:	Cathy Mathews	Department:	Parks & Rec
Program:	Office of the Director	Line of Business:	Special Projects
Title:	A RESOLUTION APPROVING A REIMBURSEMENT AGREEMENT BETWEEN THE CITY OF LAS CRUCES AND SIERRA NORTE DEVELOPMENT, INC., FOR CONSTRUCTION OF A NEIGHBORHOOD PARK LOCATED IN THE METRO VERDE ARCADIA PHASE 3 SUBDIVISION, IN AN AMOUNT NOT TO EXCEED \$525,000.00.		

TYPE OF ACTION: ☒ Administrative ☐ Legislative ☐ Quasi-Judicial

PURPOSE(S) OF ACTION:

To authorize reimbursement for neighborhood park design and construction.

BACKGROUND / KEY ISSUES / CONTRIBUTING FACTORS:

One current method to add new neighborhood parks to the Parks & Recreation (P&R) system is to make agreements with developers of new housing subdivisions to reimburse Park Impact Fees (PIF) during the entitlement process either when the subdivision is approved or building permits are issued. Currently, the PIF is \$2,600 per lot. The PIF is an assessment imposed on new residential development to cover the cost of new infrastructure park design and construction. The developer works with City staff to select the site and design a park to meet the needs of the residents while achieving the guidelines of the Parks & Recreation (P&R) Master Plan. The developer at their cost will design and build the park with oversight from P&R and other City departments. When the park is completed, a final walkthrough occurs. If the park is determined to be acceptable, the developer then works with Land Management to transfer ownership of the land to the City—with a Council-authorized agreement in place—at no cost to the City.

Since the purpose of the PIF is to cover the costs of park design and construction, a reimbursement payment is made back to the developer, per the Council-approved agreement, Exhibit "A". The reimbursement is made from the PIF account and is based on a portion of the amount collected or anticipated to be collected from the subdivision within or near which the park is located. If the park is not built or is not built to the City's specifications for acceptance, then the City is not obligated to accept the park or reimburse the developer.

P&R staff completed negotiations with the developer, Sierra Norte Development, Inc. (SNDI) to provide a full design and build-out of a neighborhood park in the Metro Verde Arcadia Phase 3 subdivision. The neighborhood park is identified as Tract E, at Metro Verde Arcadia Phase 3, consisting of 1.945 acres. The neighborhood park will serve residents in and visitors to Metro Verde Arcadia Phases 1, 2, 3, 5, and 6 and Metro Verde North Phases 2 and 3. The number of residential lots within these subdivisions is 592. The Park Impact Fee to be collected for these lots is \$2,600.00 per lot for a total of \$1,539,200.00.

Agenda Item #7.2.

The park will be constructed in compliance with City codes and with State and Federal standards. All construction will be completed by the developer and delivered to the City free of all liens, claims, and demands. The reimbursement for the park will not exceed \$525,000.00 and will be paid from the Public Park Development Fund (PIF). The project is on the FY 25 Capital Improvements Program as Metro Verde Neighborhood Parks.

The completed park will finish grading, irrigation system, walking paths, playground equipment, shade structures, tables, benches, a book walk, a sport court, turfgrass open play space, and landscape elements per the agreed plan, among other amenities in accordance with City standards. The cost for the design and construction of the park is estimated at \$525,000.00, not including the cost of the land. The land will be donated to the City by SNDI, and the developer will contribute any and all costs above \$525,000.00 to the project without reimbursement.

SUPPORT INFORMATION:

[Exhibit "A" MetroVerdeArcadia-ReimbursementAgreement](#)

COMMITTEE/BOARD REVIEW:

None

DOES THIS AMEND THE BUDGET?:

- ☐ Yes
☒ No

Does this action amend the Capital Improvement Plan (CIP)?

- ☐ Yes
☒ No

Does this action align with Elevate Las Cruces?

- ☒ Yes
☐ No

OPTIONS / ALTERNATIVES:

1. Vote "Yes" will approve the Resolution and will allow the reimbursement to occur.
2. Vote "No" will reject the Resolution and will not allow the reimbursement to occur.
3. Vote to "Amend" will require direction to staff.
4. Vote to "Table" will not approve the Resolution and may result in not allowing the reimbursement to occur.

RESOLUTION 25-036

A RESOLUTION APPROVING A REIMBURSEMENT AGREEMENT BETWEEN THE CITY OF LAS CRUCES AND SIERRA NORTE DEVELOPMENT, INC., FOR CONSTRUCTION OF A NEIGHBORHOOD PARK LOCATED IN THE METRO VERDE ARCADIA PHASE 3 SUBDIVISION, IN AN AMOUNT NOT TO EXCEED \$525,000.00.

The City Council is informed that:

WHEREAS, the City of Las Cruces negotiated a reimbursement agreement with Sierra Norte Development, Inc. (SNDI), the developer of the Metro Verde Arcadia Phase 3 subdivision; and

WHEREAS, the developer is completing design and construction of the park for the benefit of the city's residents; and

WHEREAS, staff will inspect the park to determine if the improvements are in compliance with relevant rules and regulations and with the construction plans; and

WHEREAS, based on negotiations with the developer and upon successful review of invoices and acceptance of the park, staff may recommend reimbursement in an appropriate amount not to exceed \$525,000.00.

NOW, THEREFORE, Be it Resolved by the Governing Body of the City of Las Cruces:

(I)

THAT the Reimbursement Agreement for the neighborhood park at Metro Verde Arcadia Phase 3 subdivision attached hereto as Exhibit "A", and made part of this Resolution, and authorized in an amount not to exceed \$525,000.00.

(II)

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

DONE AND APPROVED this day of

Agenda Item #7.2.

APPROVED

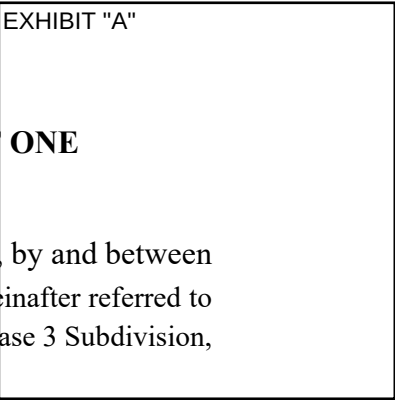
ATTEST:

Moved by:

Seconded by:

AYES

NAYS



**REIMBURSEMENT AGREEMENT FOR CONSTRUCTION OF ONE
NEIGHBORHOOD PUBLIC PARK**

THIS AGREEMENT made and entered into this ____ day of _____, 2024, by and between the City of Las Cruces, Dona Ana County, New Mexico, a Municipal Corporation, hereinafter referred to as “Owner”, and Sierra Norte Development, Inc. Developer of Metro Verde Arcadia, Phase 3 Subdivision, hereinafter referred to as “Contractor”.

WITNESSETH:

WHEREAS, for valuable consideration, the Contractor will furnish the labor, tools, equipment, material and complete in every detail the design and construction of a Neighborhood Public Park for a total area of 1.945 acres within the Metro Verde Arcadia, Phase 3 Subdivision.

**FOR SAID CONSIDERATION, IT IS AGREED BETWEEN THE PARTIES AS
FOLLOWS:**

ONE PUBLIC PARK will be designed and constructed within the Metro Verde Arcadia, Phase 3 Subdivision. The park will be a total of 1.945 acres in size and will be deeded to the City of Las Cruces. The park is identified as Tract E, at Metro Verde Arcadia, Phase 3, consisting of 1.945 acres.

The subdivisions to be served by the park are Metro Verde Arcadia, Phases 1, 2, 3, 5, and 6 and Metro Verde North, Phases 2 and 3. The number of residential lots within these subdivisions is 592 lots. The Park Impact Fee to be collected for these lots is \$2,600 per lot for a total of \$1,539,200.

- 1. The Contractor will design and construct the park at its cost in exchange for the City’s reimbursement of the costs of design and construction of said park from park impact fees.
 - a. The Park will be constructed in compliance with City codes as well as applicable State and Federal standards (e.g. AMERICANS WITH DISABILITIES ACT).
 - b. The Park will include finish grading, irrigation system, walking paths, playground equipment, a sport court, a book walk, site furnishings, and landscape elements per the agreed plan. (Exhibit A)
 - c. The work will be completed by Contractor and shall be delivered to the Owner free of all Liens, claims and demands of any kind for materials, equipment, supplies, services, labor, taxes and damages to property or person.
- 2. The amount of reimbursement will be based on the actual costs of design and construction for the parks and invoices provided to the City by the Contractor and will not exceed \$525,000. The total projected park impact fees to be collected in Metro Verde Arcadia, Phases 1, 2, 3, 5, and 6 and Metro Verde North, Phases 2 and 3 is based on the current Park Impact Fee of \$2,600.00 per dwelling unit and the projected build-out is for 592 residential lots for total Park Impact Fees of \$1,539,200 for the subdivision. The City will reimburse Contractor for designing and building the park from the Park Impact Fee General account.

Agenda Item #7.2.

3. The Contractor will submit invoices to the City outlining actual costs and/or expenses, paid by the Contractor, associated with design and construction for all park improvements. City Staff will review the invoices for completeness.
4. The final design and construction of the Park will be completed to the satisfaction of the Owner, under the direction of the City Landscape Architect and Parks & Recreation Department Director.
5. The Contractor will deed the park tract to the City by Special Warranty Deed prior to City remitting reimbursement payment.
6. This Agreement incorporates all the agreements, covenants, and understandings between the parties hereto concerning the subject matter hereof and that all such covenants, agreements, and understandings have been merged into this written agreement. No prior agreement or understanding verbal or otherwise of the parties or their agents shall be valid or enforceable unless embodied in this agreement. This agreement shall inure to the benefit of and be binding upon the parties and upon their respective successors and assigns.

CITY OF LAS CRUCES

SIERRA NORTE DEVELOPMENT, INC.

By: _____

By: _____

Ikani Taumoepeau, City Manager

John Moscato, Vice President

•APPROVED AS TO FORM

 for BD 8/22/24
CITY ATTORNEY

ACKNOWLEDGEMENTS

[illegible]

The foregoing instrument was acknowledged before me on this ____ day of _____ 2024, by Ikani Taumoepeau, City Manager of the City of Las Cruces, a New Mexico municipal corporation, on behalf of said municipal corporation.

Notary Public

My commission expires: _____

STATE OF NEW MEXICO)
) ss.

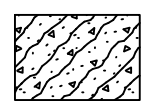
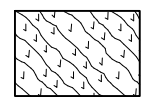
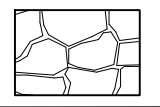
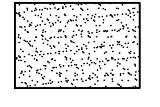
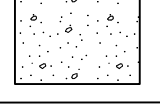
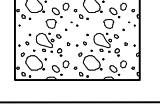
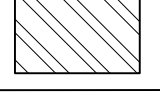
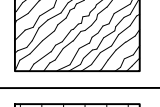
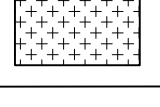
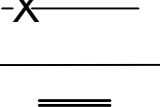
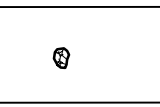
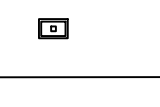
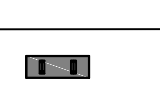
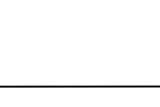
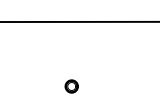
Agenda Item #7.2.

COUNTY OF DOÑA ANA)

The foregoing instrument was acknowledged before me on this ____day of _____ 2024, by John Moscato, Vice President of Sierra Norte Development, Inc., a New Mexico corporation, on behalf of said corporation.

Notary Public

My commission expires: _____

HARDSCAPE SCHEDULE					
	SYMBOL	DESCRIPTION	COLOR	QTY	DETAIL
	 [1]	Concrete		4,933 sf	
	 [2]	Integral Colored Concrete Davis Colors	Harvest Gold, 5084	1,216 sf	
	 [3]	4"–8" Rip Rap Slope Toro Rock	Tan	5,542 sf	1/LH201
	 [4]	Stabilized Decomposed Granite Pathway 3/16" fines Toro Rock	Tan	4118 sf	5/LH201
	 [5]	3" Granite Mulch (Screened) Toro Rock	Tan	4620 sf	
	 [6]	Desert Cobble Mix, 50% Cover Tan, Toro Rock	Tan	16,776 sf	4/LH201
	 [7]	Engineered Wood Fiber		3,691 sf	7/LH201
	 [8]	Concrete Sport Court		2,688 sf	
	 [10]	Woody Mulch (for recessed planting area)		34 cy	6/LH201
	 [11]	Preserve in Place Vegetation		7,462 sf	
	 [12]	Preservation Fencing		603 lf	8/LH201
	 [13]	6" Wide Curb		1050 lf	
	 [14]	2' X 2' Boulder-- All 2' seating boulders are called out in this plan	Tan	11	2/LH201 3/LH201
	 [15]	1' X 1' Boulder	Tan	14	2/LH201
	 [16]	Storybook Signs. Install according to manufacturer's details.		16	
	 [17]	Global Industrial Outdoor Bottle Filler w/Bi-Level Drinking Fountain & Pet Station. Install according to manufacturer's details.	Sliver	1	
	 [18]	Series 1800 6' Bench, GameTime. All benches surface mount on concrete pad. Install according to manufacturer's details.	Brown	6	
	 [19]	Wildlife Bubbler	Tan	1	5/LI201
	 [20]	GameTime Loop Bike Rack, 9 position. Model #7700. Install according to manufacturer's details.	Butterscotch	1	
	 [21]	GameTime Basketball Hoop Model #436SS. Install according to manufacturer's details.		1	
	 [22]	GameTime Trash Receptacle--32 Gal S1800 Bamboo w/AU. Model #S1802A. Install according to manufacturer's details.	Brown	1	
	 [23]	Recessed Planting Area (10" Max. depth)		112 cy	1/LH202 2/LH202

GENERAL NOTES:

- All work and materials shall conform to the current City of Las Cruces Design Standards. All work and materials not in compliance with these specifications and details are subject to the removal and replacement at the Contractor's expense.
- Project Site area is 1.9 AC.
- Drainage will remain in its natural state and will not be altered, disturbed, or obstructed other than as shown on this site plan
- No additional runoff is anticipated as minimal impervious area is being constructed.
- Any relocation or modification of existing utilities and/or public improvements necessitated by the proposed development will be at no expense to the public.
- Approval of locations and layout of all facilities by owner's representative is required prior to proceeding with affected work.
- Every effort has been made to show actual existing conditions, however, some conditions may differ from those shown on these plans, contractor shall notify the Owner's representative of discrepancies discovered in the field.
- Contractor shall obtain all Blue Stake clearances.
- Contractor shall be responsible for all temporary fencing during construction.
- Contractor shall be responsible for water meter and backflow preventer application.
- Contractor shall coordinate any and all special inspections with owner's Representative, whether or not specified in permit.
- The contractor shall be responsible for the care, maintenance and repair or replacement of existing improvements in the work area which have been removed or damaged during the course of construction. All repair, replacement or cleanup shall be done to the satisfaction of the Owner's Representative.
- Owner's representative shall pay for all required plan check and permit fees.
- Contractor shall visit project site & familiarize themselves with site conditions prior to submitting bid proposal.
- Existing topography surveyed November 2022. Contractor to verify existing conditions.

LANDSCAPE GRADING NOTES:

- The Landscape Contractor is responsible for grading of recessed planting areas. Refer to Hardscape Details.

HARDSCAPE NOTES:

- Work shall be done in accordance with City of Las Cruces Design Standards. Contractor is responsible to obtain copies of the above, as well as all other standards and specifications which may be necessary to completely and accurately interpret these plans.
- All quantities listed are approximate. They are shown for the contractor's convenience. It is the contractor's responsibility to generate quantities based upon the project plans and the actual quantity of materials shown on the plans. In case of discrepancy, quantities shown on plan will prevail.
- Contractor shall make no hardscape substitutions, of type or quantity, that deviate from the Hardscape Plans, without prior approval from the Owner's Representative and Landscape Architect.
- The Contractor shall be responsible for locating and protecting all underground utilities, pipes and structures prior to starting work. Contractor shall take sole responsibility for any cost incurred due to damage of these utilities during the landscape installation.
- Refer to Irrigation Plan for locations of Irrigation Sleeves, to be installed during earthworks, and prior to paving.
- Refer to Detail 5 on Sheet LH 2--01 for Instructions on clearing for Stabilized Decomposed Granite Pathway

STABILIZED GRANITE PATH NOTES:

- Stabilized granite pathway shall consist of 3/16" minus crushed aggregate. Color of aggregate shall be Tan or approved equal (Toro Rock Products, Organ, NM).
- Aggregate shall consist of inert materials that are hard and durable, with stone free from surface coatings and deleterious materials.
- Rock shall come from a single, local source and present a uniform appearance
- Stabilizer binder shall be non-toxic, organic binder that is colorless and odorless concentrated powder that binds to 1/4" minus aggregate. Submit binder manufactures /brand for approval.
- A 1-gallon bucket of of the 1/4" minus crushed aggregate shall be delivered to the Engineer at the project site for approval. The sample must be approved by the City of Las Cruces Representative prior to delivery to the site.

ORGANIC WOODY MULCH NOTES:

- Organic woody mulch shall consist of 3" minus woodchips. The hardwood material is natural, made without color additives or chemical additives, and is composed of locally sourced materials from mesquites, palo verdes, pines, and eucalyptus. The term "organic" applies to a natural material derived from living organisms. No inorganic rock material shall be incorporated into the mix.
- Mulch shall be applied evenly at a 4" thickness within recessed planting areas. Do not mix mulch into soil.
- Keep mulch 4" away from trunks of trees or shrubs to prevent rot.
- Replenish mulch every 1–3 years to maintain a depth of 2"–4". Inspect and replenish mulch after monsoon season.
- Tree and plant trimmings, in addition to deciduous leaf litter, can be chopped and used to replenish the organic mulch layer. Tree trimmings shall be chipped and prunings from plants smaller than 1/2" in diameter shall be cut to 4" or shorter.
- If native soil is severely compacted or degraded, apply compost or mulch before mechanically tilling the top 8" to 12" of soil prior to planting.
- Keep mulch at least 5' away from building foundations.
- Keep spillways clear of mulch to allow outflow of excess water.
- Do not plant cacti and plants that are prone to rot in mulched basins. Refer to Planting Plan for plant locations.

PLAYGROUND NOTES:

GameTime
Ron Romero
New Mexico and W. Texas Sales,
Altitude Recreation, Inc
480--315--9103
rromero@altituderec.com

PLAY STRUCTURE
MODEL: Metamorphosis
PT21004
COLORS:
UPRIGHTS: Periwinkle
ACCENTS: Butterscotch
PLASTIC: Azure
ROCK PLASTIC: Azure
ROOFS: Azure
HDPE: Dolphin Gray
SWINGS: Periwinkle
DECKS: Gray
METAL ROOFS:
TUBES: Azure
2HDPE: Gray/black

FREE STANDING PLAY:
MODEL: Merry--Go--All
MODEL NUMBER: 6272
COLOR: Periwinkle

MODEL: Saucer Swing
MODEL NUMBER 5208
COLOR: Azure

EXHIBIT A

WHEAT

DESIGN GROUP

LANDSCAPE ARCHITECTS

500 N TUCSON BLVD SUITE 150

TUCSON AZ 85716

PHONE 520 884 7911

METRO VERDE ARCADIA PARK

LAS CRUCES, NEW MEXICO

Project NO.



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REVISIONS		
REV. NO.	REV. DATE	DESCRIPTION

DATE: 02.23.2024

SCALE: N/A

DRAWN BY: JM

CHECKED BY: LM

SHEET TITLE

LH-101 Hardscape Summary

SHEET NUMBER

1
OF
12



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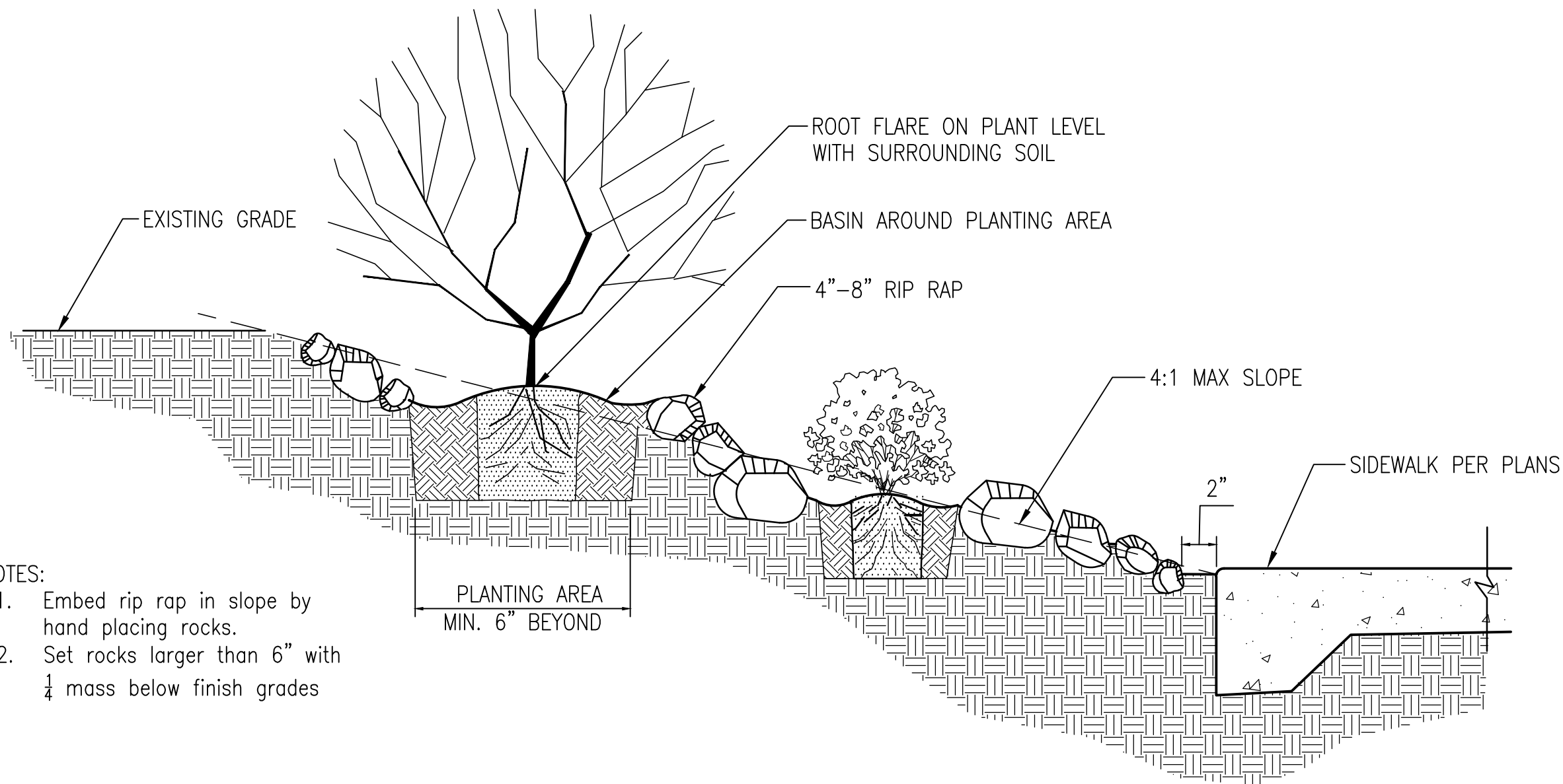
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REV. NO.	REV. DATE	DESCRIPTION

DATE: 02.23.2024
SCALE: N/A
DRAWN BY: JM
CHECKED BY: LM
SHEET TITLE

LH-201 Hardscape Details

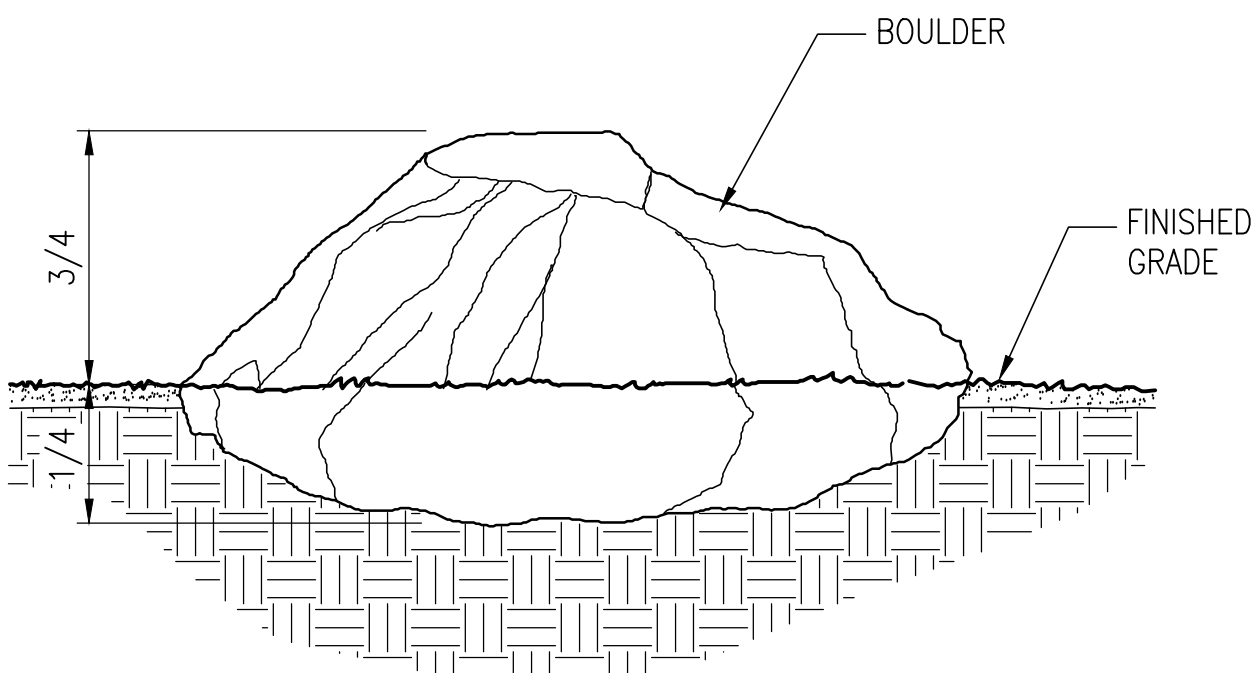
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2
OF
12



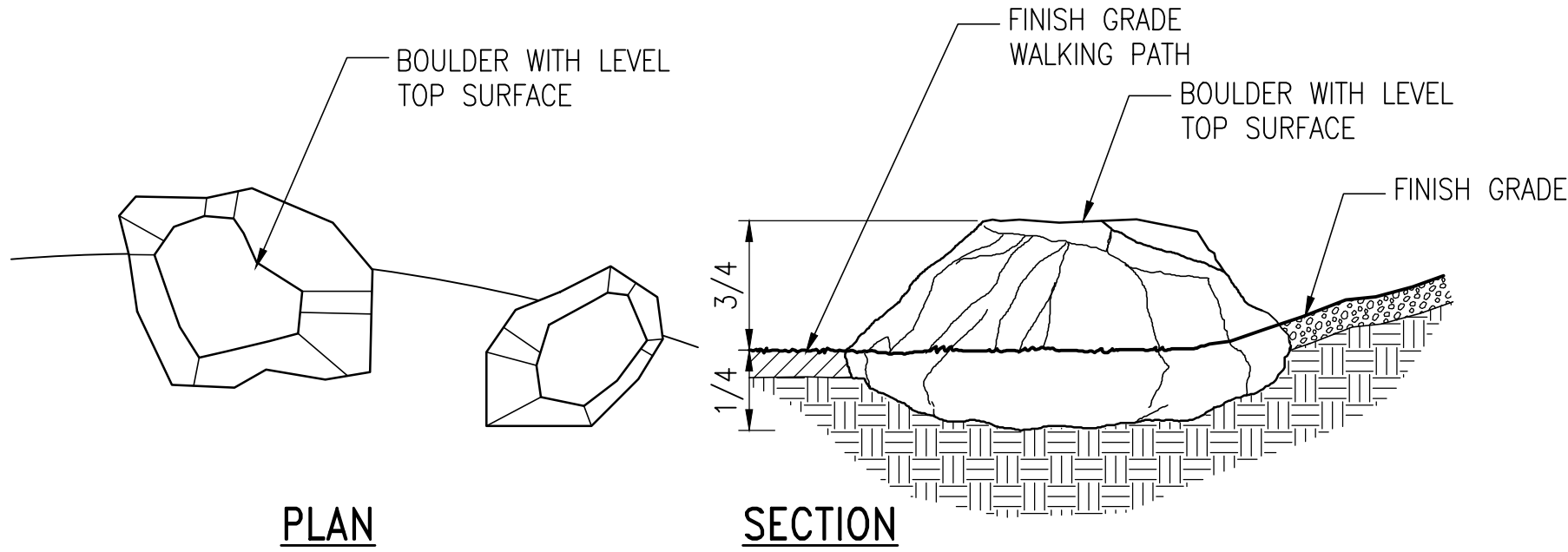
- NOTES:
1. Embed rip rap in slope by hand placing rocks.
 2. Set rocks larger than 6" with 1/4 mass below finish grades

1 RIP RAP SLOPE-SECTION
N.T.S.



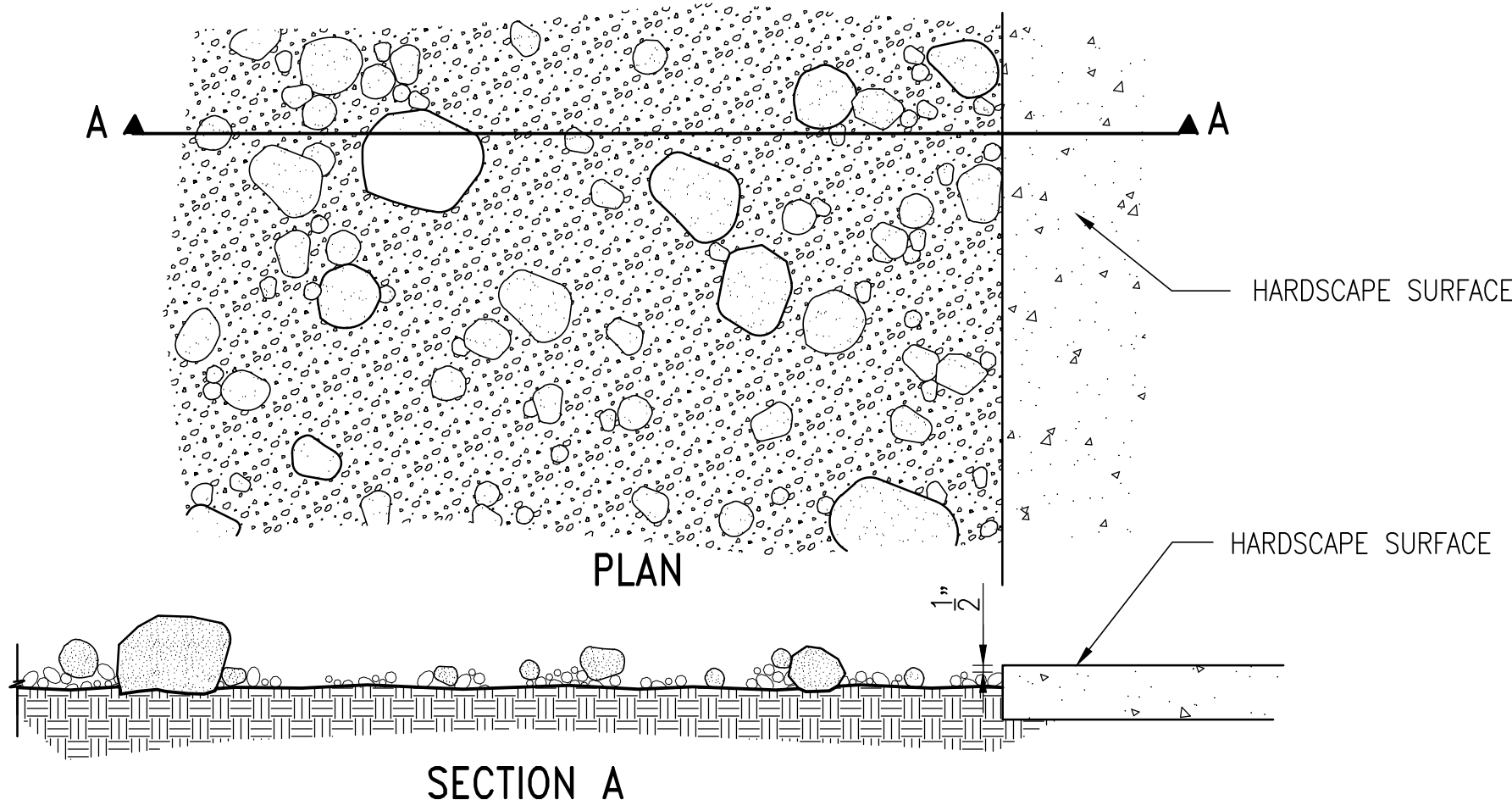
- NOTES:
1. Boulder to be set with 1/4 mass below finished grade.
 2. Set Boulders firmly so they do not rock. Compact soil around edges.
 3. All Boulders to have weathered surface exposed.

2 BOULDER PLACEMENT
N.T.S.



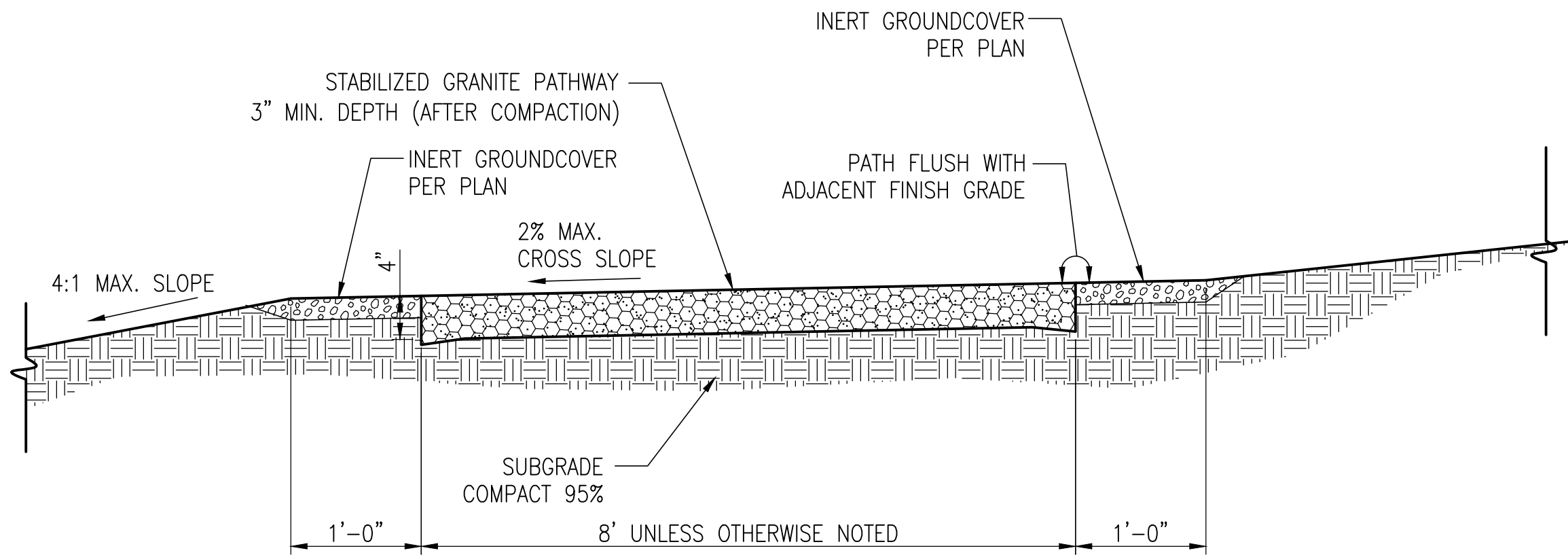
- NOTES:
1. Boulder to be set with 1/4 mass below finish grade.
 2. Set boulders firmly so they do not rock. Compact soil around edges.
 3. All boulders to exhibit relatively level top surface, adequate for seating.
 4. All boulder to have weathered surface exposed.
 5. Selection and placement of boulders to be coordinated with Project Landscape Architect.
 6. Refer to Hardscape Plans for location and arrangement of boulders.

3 BOULDER SEATING
NTS



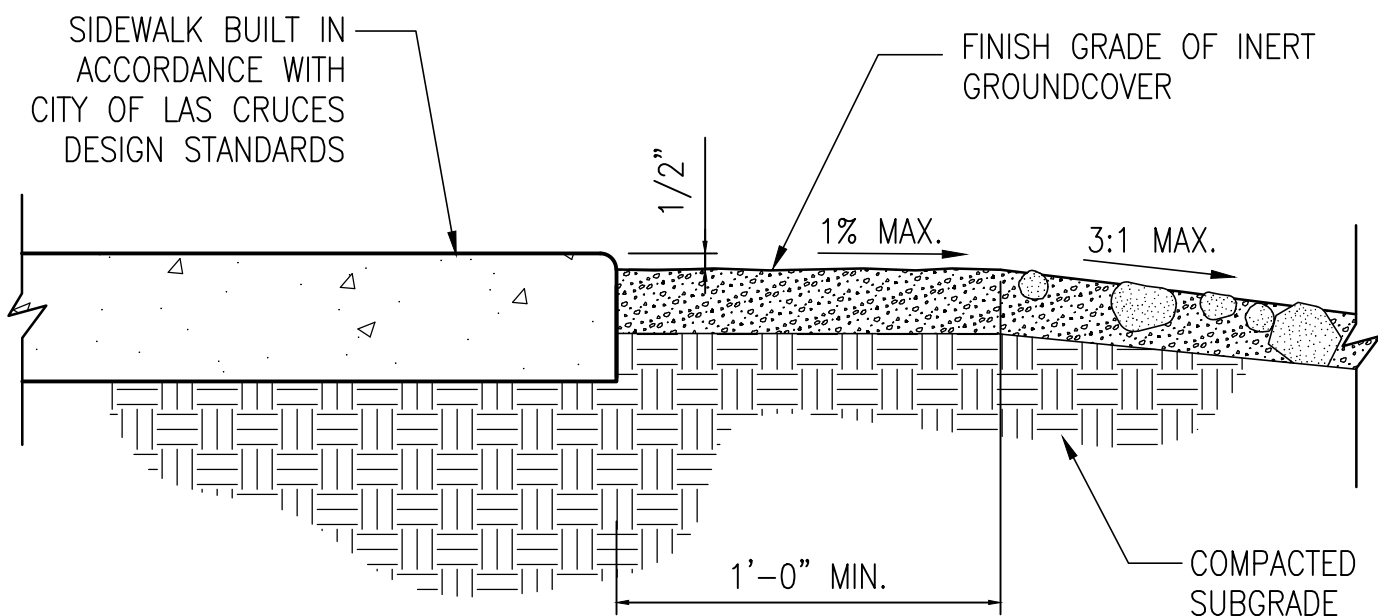
- NOTES:
1. Coverage shall be 50%.
 2. Finish grade to allow top of Desert Cobble to be 1/2" below surface of sidewalk or top of curb.
 3. Desert Cobble shall be angular in shape and shall be comprised of the following four sizes of screened rock, in the following percentages: 25% 3/8 inches, 50% 1/2 inches, 20% 1-2 inches, 5% 3 inches.
 4. The four sizes of screened rock shall be thoroughly combined prior to placement on site.

4 DESERT COBBLE
N.T.S.

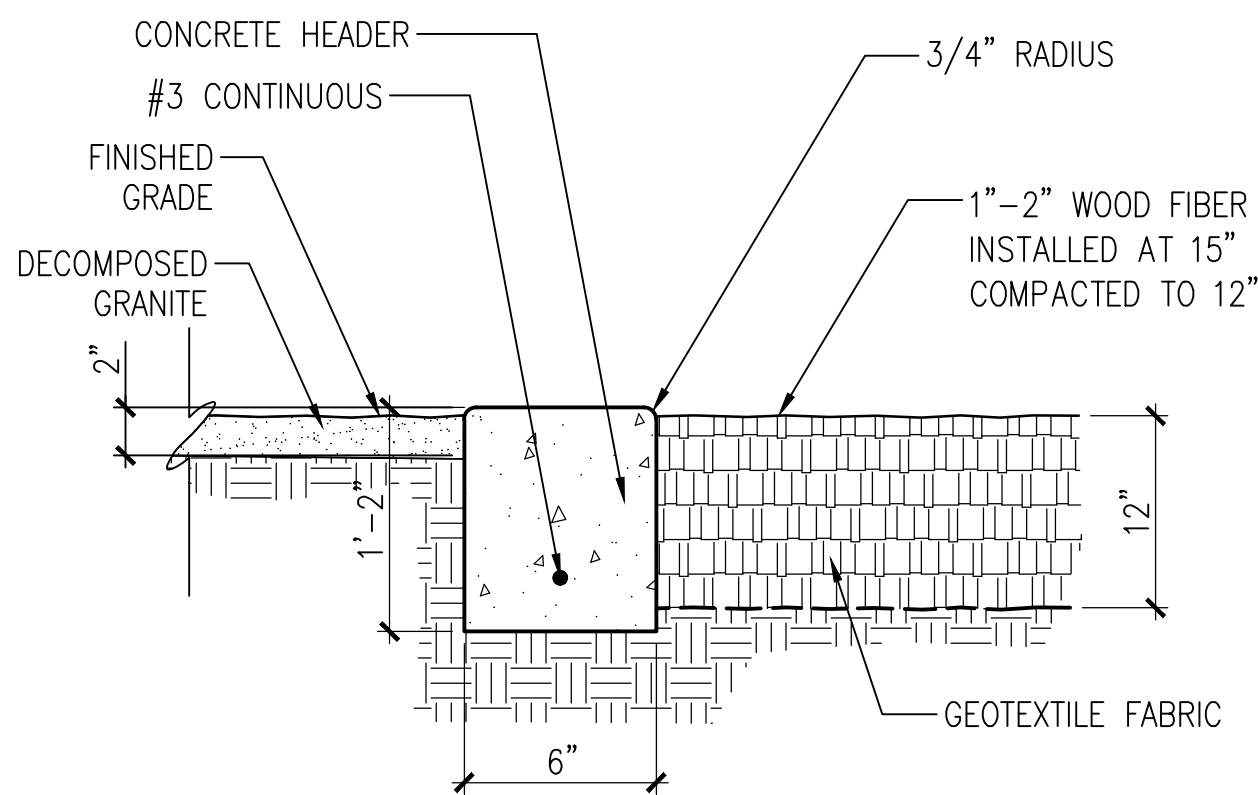


- NOTES:
1. Stabilized Granite Pathway with 3/16" minus decomposed granite and stabilizer.
 2. Excavate soil prior to installation of decomposed granite.
 3. Compact with sand vibrator/tamper.

5 STABILIZED DECOMPOSED GRANITE PATH - SECTION
N.T.S.

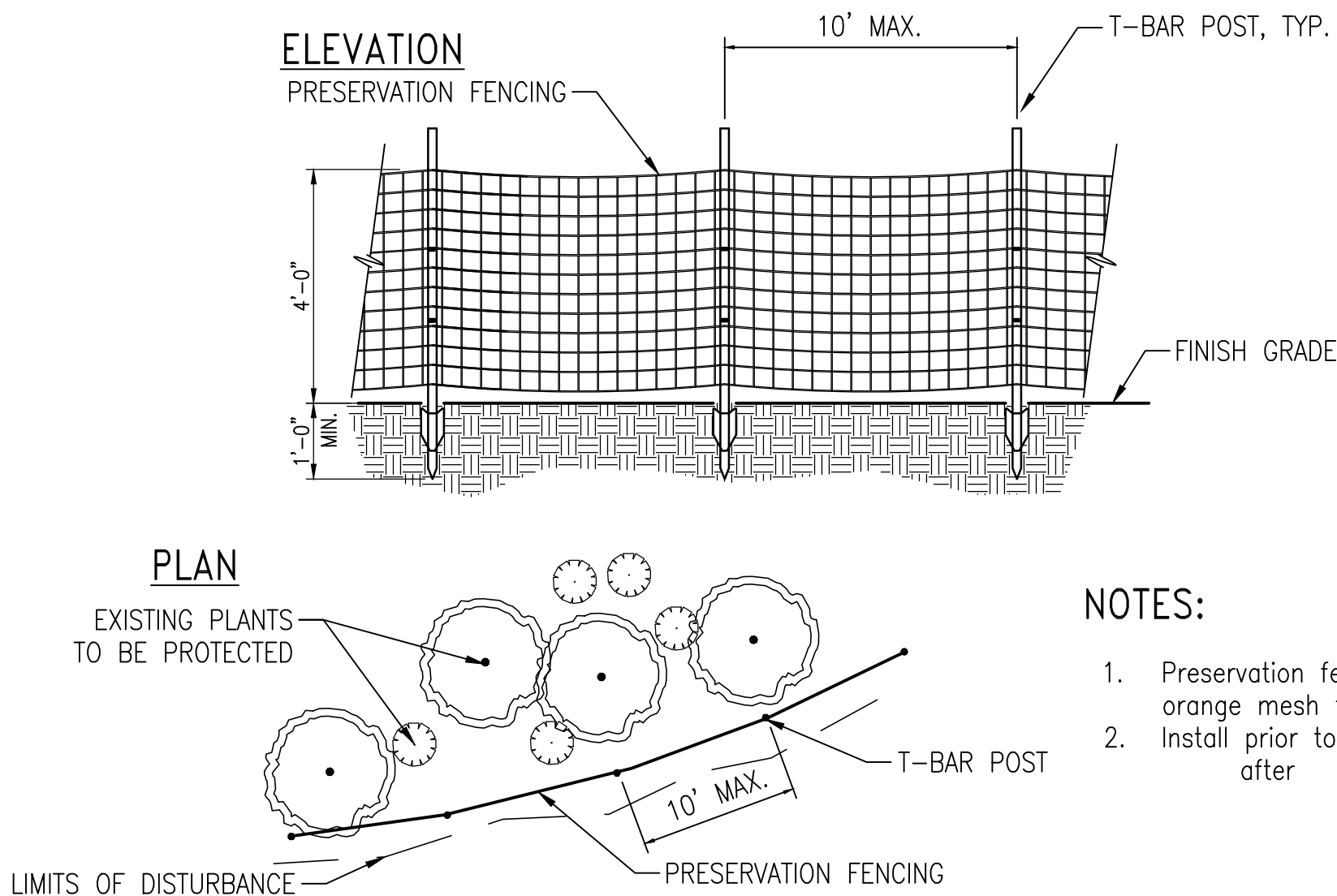


6 FINISH GRADE AT CONCRETE PAVEMENT
N.T.S.



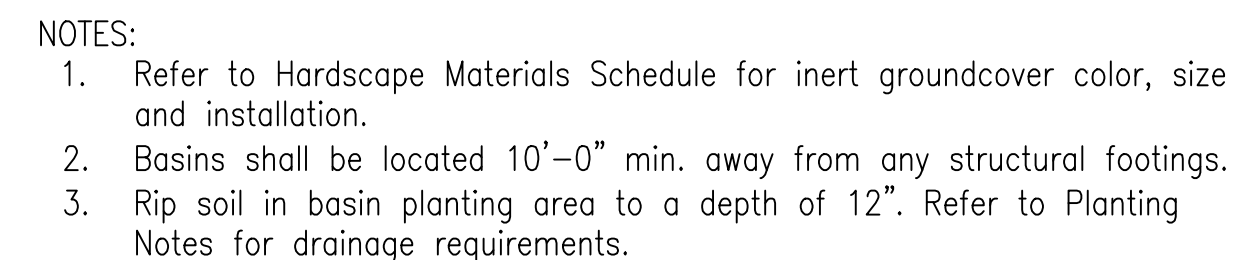
- NOTES:
1. Top of concrete header shall meet flush wherever it contacts other pavement or curb. Provide 1/2" bituminous joint filler where header meets sidewalk.

7 ENGINEERED WOOD FIBER AT FLUSH CURB
N.T.S.

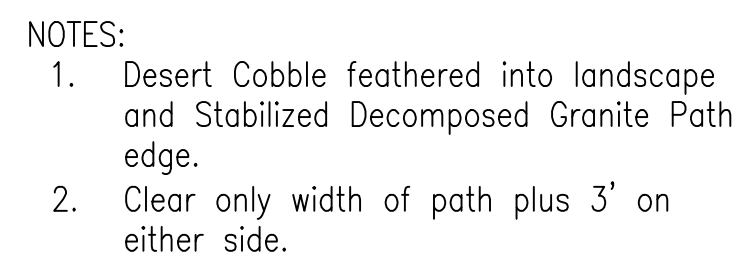
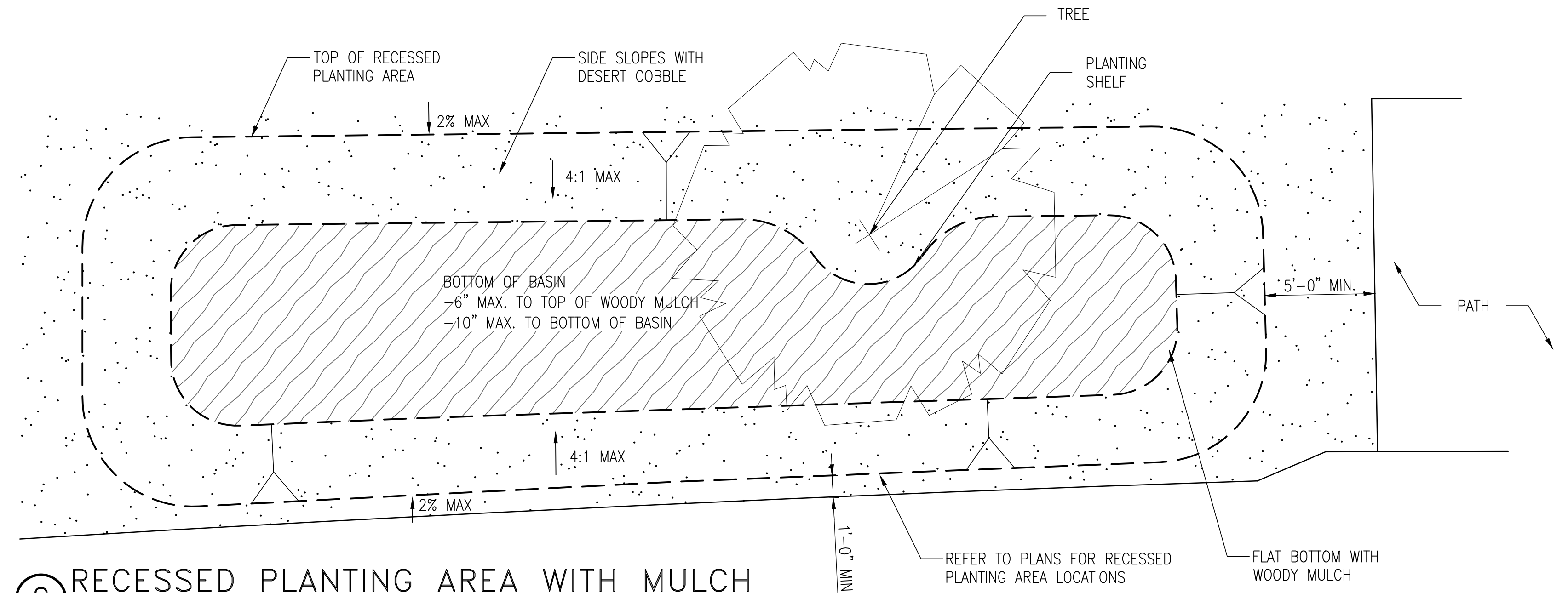


- NOTES:
1. Preservation fencing is tensor 4' orange mesh fence or approved equal.
 2. Install prior to construction and remove after

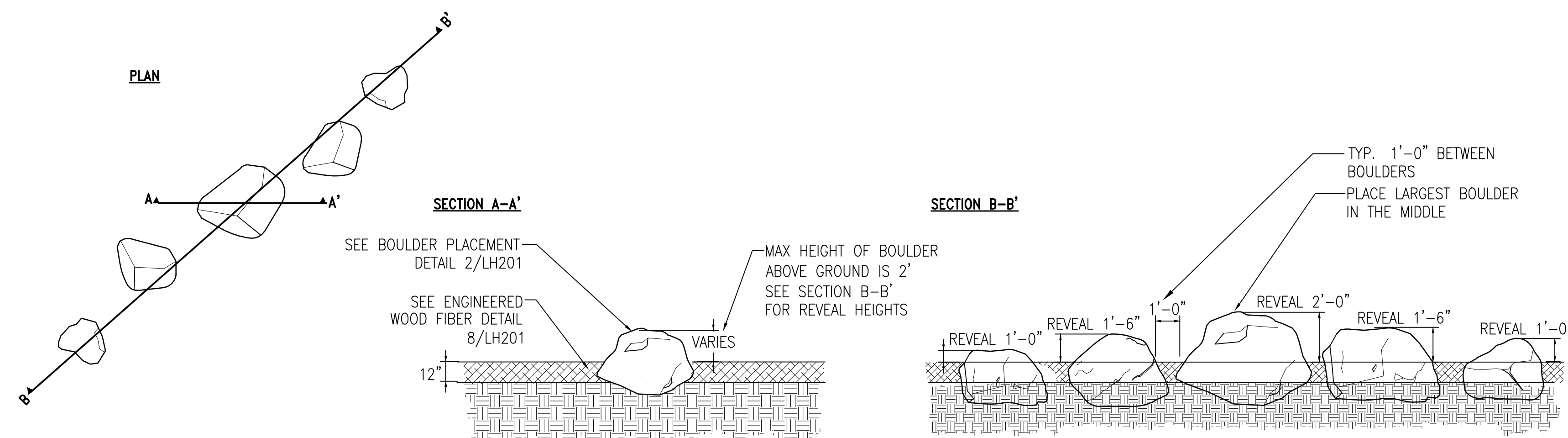
8 PRESERVATION FENCING
N.T.S.



2 RECESSED PLANTING AREA WITH MULCH
N.T.S.



5 GAME TIME PLAY STRUCTURE- METAMORPHOSIS



6 BOULDER PLAY AREA

METRO VERDE ARCADIA PARK
LAS CRUCES, NEW MEXICO

Project NO.



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REVISIONS

REV. NO.	REV. DATE	DESCRIPTION
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DATE: 02.23.2024

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DRAWN BY: JM

CHECKED BY: LM

SHEET TITLE

LH-202 Hardscape Details

SHEET NUMBER

3
01
12

METRO VERDE ARCADIA PARK
LAS CRUCES, NEW MEXICO

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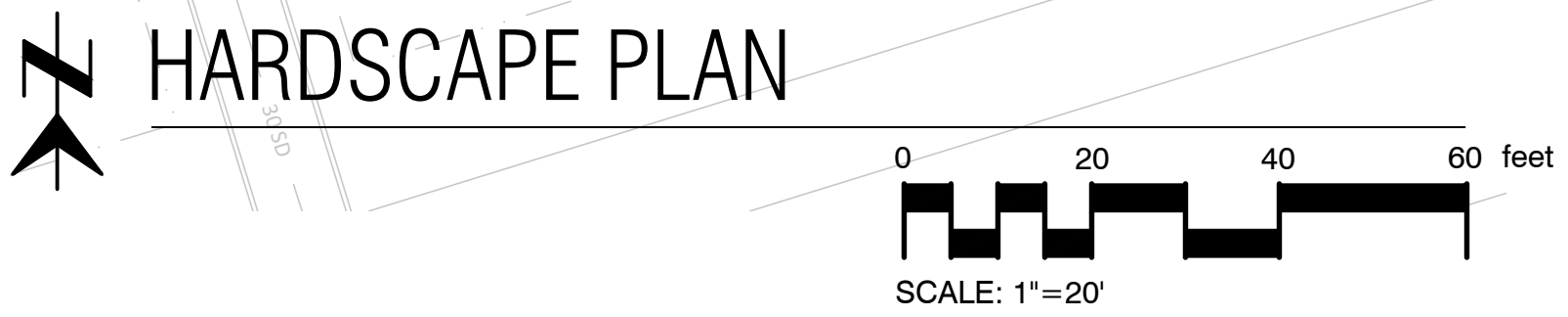
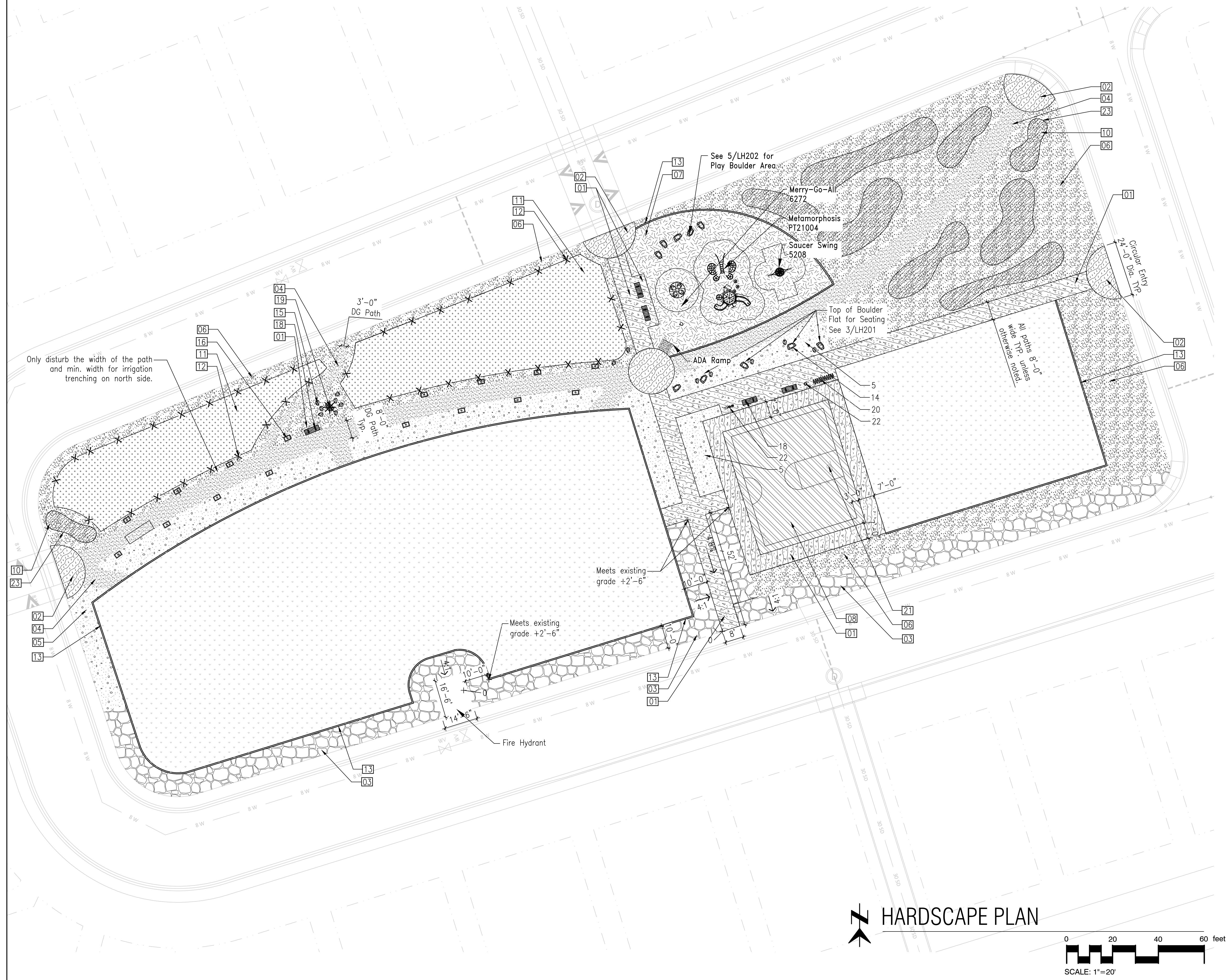
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REV. NO.	REV. DATE	DESCRIPTION

DATE: 02.23.2024
SCALE: 1"=20'
DRAWN BY: JM
CHECKED BY: LM
SHEET TITLE

LH-301 Hardscape Plan

SHEET NUMBER
4
OF
12

HARDSCAPE SCHEDULE		
	SYMBOL	DESCRIPTION
	1	Concrete
	2	Integral Colored Concrete Davis Colors
	3	4"-8" Rip Rap Slope Toro Rock
	4	Stabilized Decomposed Granite Pathway 3/16" fines Toro Rock
	5	3/8" Granite Mulch (Screened) Toro Rock
	6	Desert Cobble Mix, 50% Cover Tan, Toro Rock
	7	Engineered Wood Fiber
	8	Concrete Sport Court
	10	Woody Mulch (for recessed planting area)
	11	Preserve in Place Vegetation
	12	Preservation Fencing
	13	6" Wide Curb
	14	2' X 2' Boulder- All 2' seating boulders are called out in this plan
	15	1' X 1' Boulder
	16	Storybook Signs. Install according to manufacturer's details.
	17	Global Industrial Outdoor Bottle Filler w/Bi-Level Drinking Fountain & Pet Station. Install according to manufacturer's details.
	18	Series 1800 6' Bench, GameTime. All benches surface mount on concrete pad. Install according to manufacturer's details.
	19	Wildlife Bubbler
	20	GameTime Loop Bike Rack, 9 position. Model #7700. Install according to manufacturer's details.
	21	GameTime Basketball Hoop Model #436SS. Install according to manufacturer's details.
	22	GameTime Trash Receptacle-32 Gal S1800 Bamboo w/AU. Model #S1802A. Install according to manufacturer's details.
	23	Recessed Planting Area (10" Max. depth)



WHEAT

DESIGN GROUP

LANDSCAPE ARCHITECTS

500 N TUCSON BLVD SUITE 150

TUCSON AZ 85716

PHONE 520 884 7911

METRO VERDE ARCADIA PARK

LAS CRUCES, NEW MEXICO

Project NO.



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REVISIONS		
REV. NO.	REV. DATE	DESCRIPTION

DATE: 02.23.2024

SCALE: NA

DRAWN BY: JM

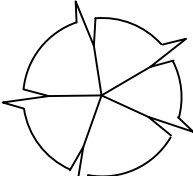
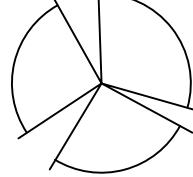
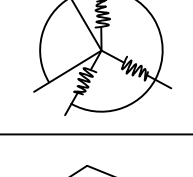
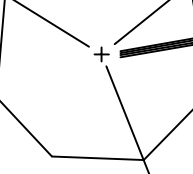
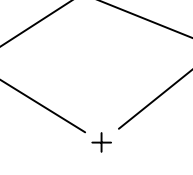
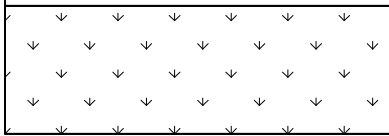
CHECKED BY: LM

SHEET TITLE

LP-101 Planting Summary

SHEET NUMBER

5
OF
12

PLANTING SCHEDULE			
TREES	BOTANICAL / COMMON NAME	SIZE	QTY
	Chilopsis linearis Desert Willow	25 gal.	20
	Prosopis glandulosa Honey Mesquite	25 gal.	23
	Prosopis pubescens Screwbean Mesquite	25 gal.	14
	Quercus gravesii Chisos Red Oak	25 gal.	10
	Quercus muehlenbergii Chinkapin Oak	25 gal.	7
SHRUBS	BOTANICAL / COMMON NAME	SIZE	QTY
	Anisacanthus thurberi Thurber's Desert Honeysuckle	5 gal.	33
	Ephedra antisyphilitica Mormon Tea	5 gal.	28
	Ericameria laricifolia Turpentine Bush	1 gal.	82
	Ericameria nauseosa nauseosa Blue Rabbitbrush	5 gal.	30
	Fallugia paradoxa Apache Plume	5 gal.	24
	Larrea tridentata Creosote Bush	15 gal.	48
	Sphaeralcea ambigua Desert Globemallow	1 gal.	48
CACTI/SUCCULENTS	BOTANICAL / COMMON NAME	SIZE	QTY
	Agave neomexicana New Mexico Agave	5 gal.	5
	Agave schottii Schott's Century Plant	5 gal.	21
	Cylindropuntia versicolor Staghorn Cholla	5 gal.	3
	Dasylirion wheeleri Grey Desert Spoon	5 gal.	24
	Echinocereus fasciculatus Bundle Hedgehog Cactus	5 gal.	10
	Opuntia engelmannii Engelmann's Prickly Pear	5 gal.	8
	Opuntia macrocentra Purple Prickly Pear	5 gal.	15
	Transplanted cactus	---	2
GROUND COVER			
	Evergreen Turf Siempre Verde Tall Fescue	31,923 SF	

PLANTING NOTES:

- All trees shall have a natural form with multi trunks and/or low branch standard. Provide 0.5” minimum caliper of main leaders for multiple trunk trees.
- The Landscape Architect reserves the right to refuse any plant material deemed unacceptable upon delivery to the site. Plants with rootballs with circling roots and root–bound roots will be rejected. Contact Landscape Architect prior to installation.
- All quantities listed are approximate. They are shown for the contractor’s convenience. It is the contractor’s responsibility to generate a bid estimate based upon the project plans and the actual quantity of plants shown on the plans. In case of discrepancy, quantities shown on plan will prevail.
- Provide plant stock true to botanical name and legibly tagged. Trademarked plants shall bear grower’s tag.
- Test planting pit drainage and provide drainage chimneys as required by Specifications, taking extra precaution to ensure that drainage is adequate through caliche, if present. Notify City of Las Cruces Representative if planting pits do not drain within the required time period.
- The root crown shall be 1” above finish soil grade. Remove excess surface soil from container, exposing crown & root hairs. Trees that settle to below the 1” above finish soil grade level will be deemed too deep. Do not place inert groundcover on plant crown.
- All trees planted too deep or that have sunken 2” or more during the maintenance/warranty period will be replaced by landscape contractor at landscape contractor’s expense.
- If the tree or plant pit is excavated beyond the optimal placement depth, the contractor is to replace soil under the rootball and mechanically tamp soil to 85% compaction. Replace soil in pit until the optimal plant placement depth is achieved.
- Ideal planting window is during monsoon season when ambient humidity is high. If planting can not be done during monsoon season, plant during winter dormancy.
- No plants shall be pruned except at the direction of the Owner’s Representative.
- Contractor shall make no plant substitutions, of type or quantity, that deviate from the plantings plans, without prior approval from the Owner’s Representative and Landscape Architect.
- All plant material shall comply with the latest amended edition of the "Arizona Nursery Association Grower’s Committee Recommended Average Tree Specifications" sizes for caliper, height and width unless otherwise indicated on these plans.

RESTORATION AND PRESERVATION OF EXISTING LANDSCAPE:

- The intent of this project is to preserve the ecological function of the existing landscape and protect native plants in landscape areas whenever possible.
- The Planting Plan can be adjusted and plants moved to meet on site conditions to best preserve and protect existing plants.

UTILITIES/SETBACKS:

- Trees to be planted a minimum of five feet (5') from sidewalks and six feet (6') from face of curb. Shrubs and groundcover to be planted a minimum of two feet (2') from sidewalks and face of curb. Cacti, agave, and yucca to be planted a minimum of three feet (3') from sidewalks and face of curb.
- Trees shall be located to avoid conflicts with overhead and underground utilities.
 - Sewer: Tree trunks shall be 16’ min. from manholes, and all parts of trees shall be 10’ min. from sewer lines.
 - Gas: Tree trunks shall be 8’ min. from all gas lines.
 - Electric: Tree trunks shall be 3–5’ min. from all electrical lines.
 - Water: Tree trunks shall be 10’ min. from all water lines.
 - Fire hydrants: Tree trunks shall be 3–5’ min. from fire hydrants.
 - Light poles: Tree trunks shall be 15’ min. from light poles.
 - Power and traffic poles: Tree trunks shall be 10’ min. from poles.

Project NO.



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REVISIONS		
REV. NO.	REV. DATE	DESCRIPTION

DATE: 02.23.2024

SCALE: N/A

DRAWN BY: JM

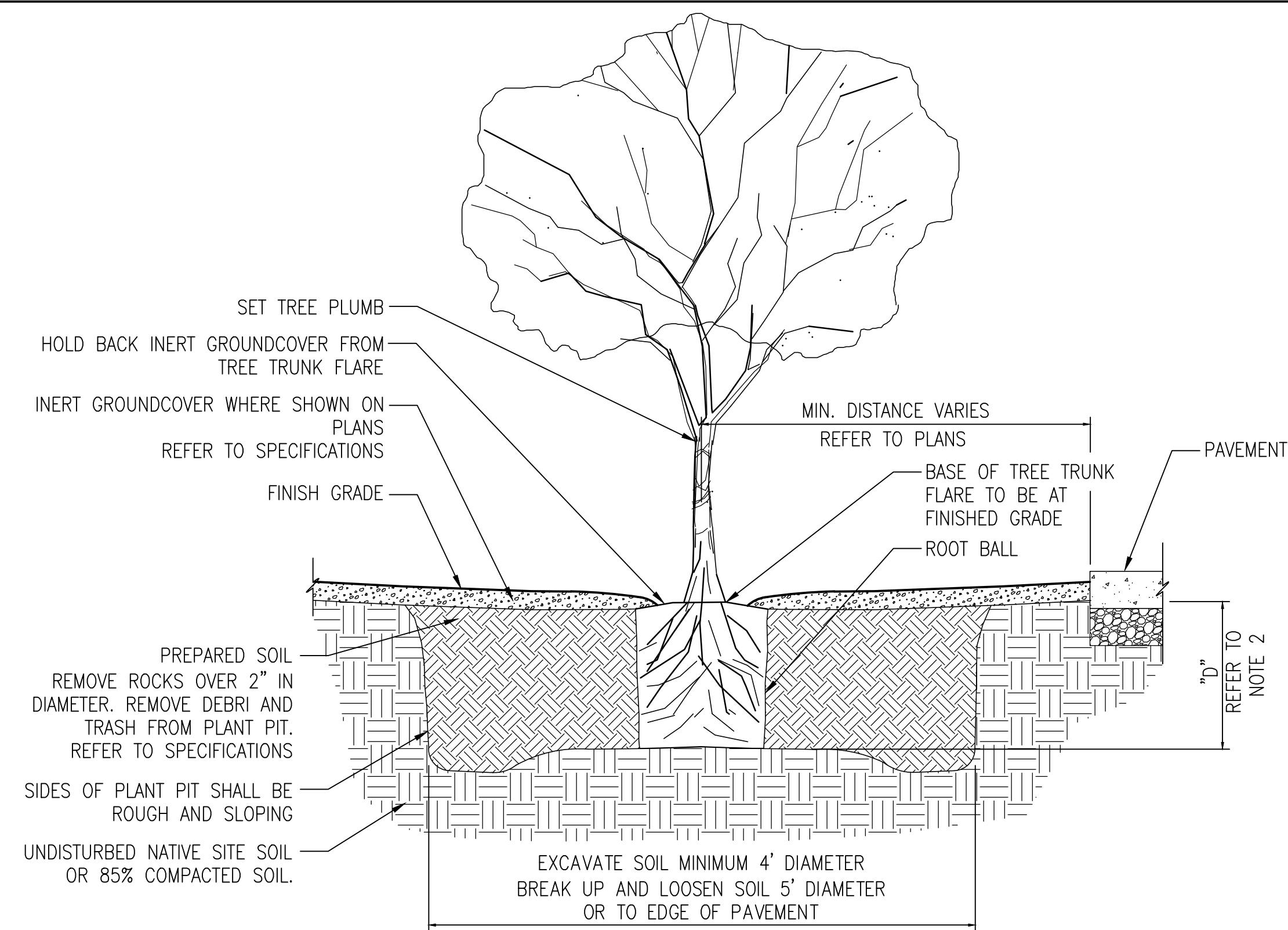
CHECKED BY: LM

SHEET TITLE

LP-201 Planting Details

SHEET NUMBER

6
OF
12



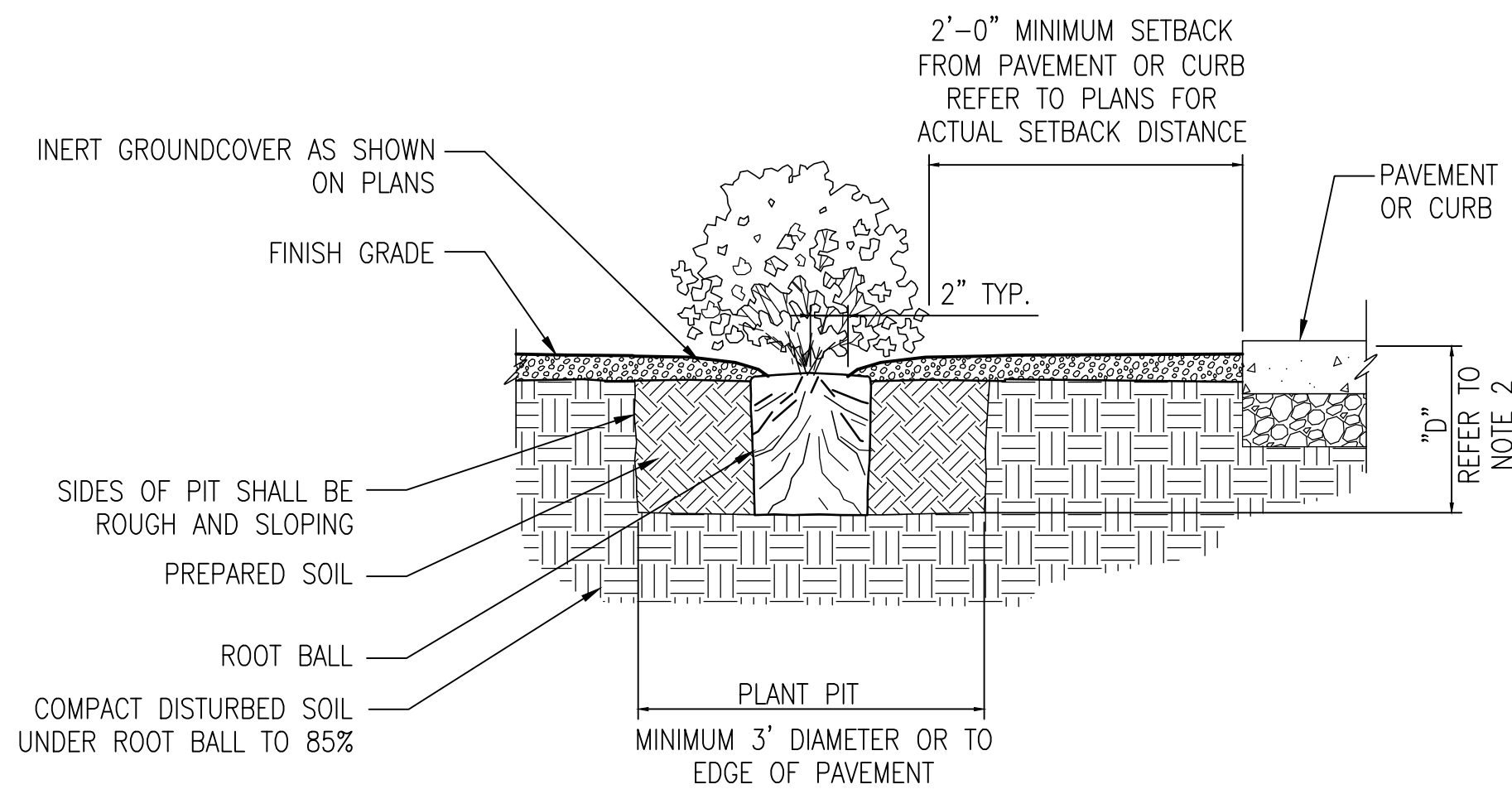
NOTES:

1. No plants shall be pruned except at the direction of the Owner's representative.
2. Depth ("D") of plant pit to be equal to depth of rootball.
3. Test planting pit drainage and provide drainage chimneys as required by specifications. Water to settle and remove air pockets.
4. Finish grade of root ball shall match finish grade of surrounding soil. Root ball may be placed up to 1" above surrounding soil to allow for settling. Do not place inert groundcover at base of trunk.

1 TREE PLANTING DETAIL

N.T.S.

P-PA-ARC-28



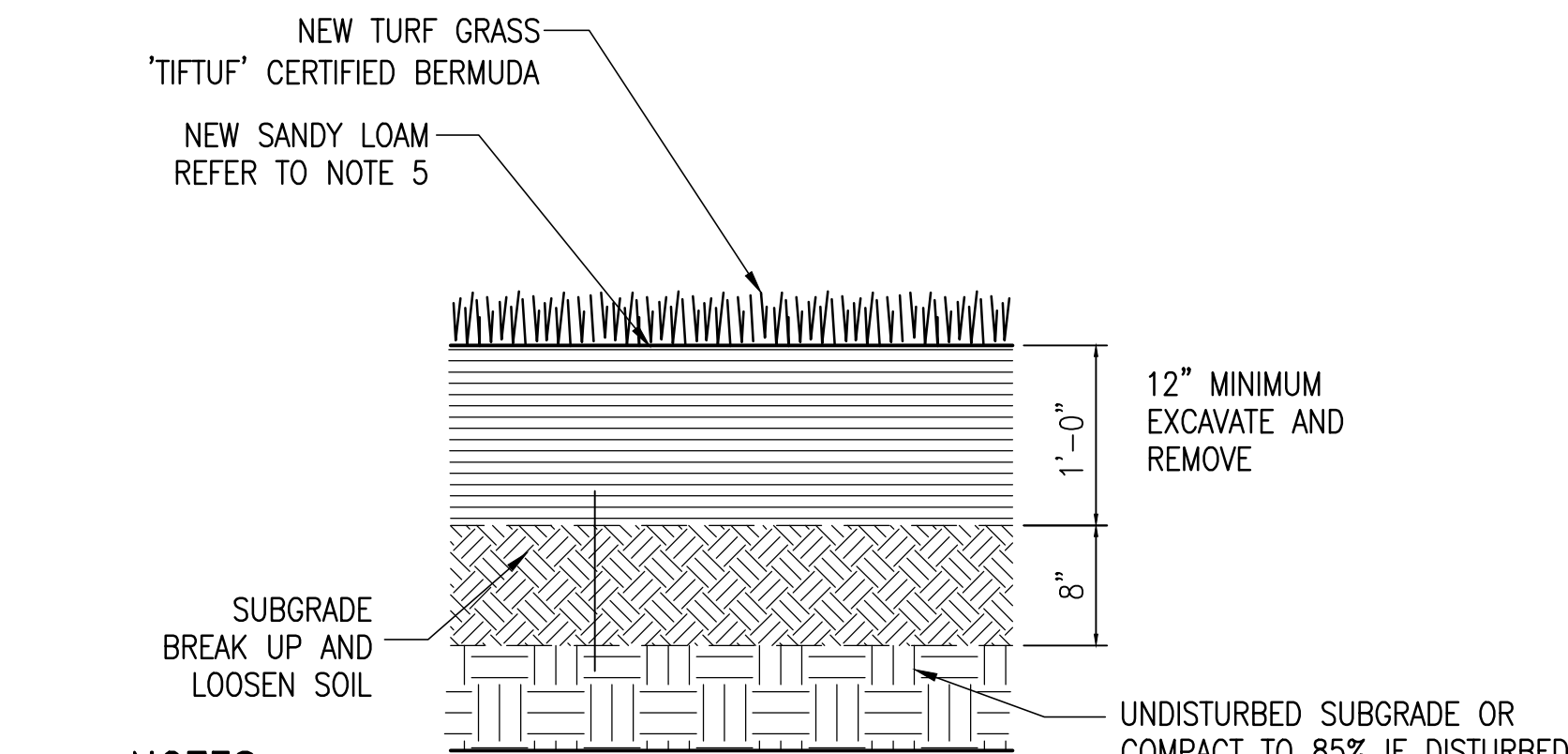
NOTES:

1. No plants shall be pruned except at the direction of the Owner's Representative.
2. Depth ("D") of plant pit to be equal to depth of rootball.
3. Finish grade of root ball shall match finish grade of surrounding soil. Root ball may be placed up to 1" above surrounding soil to allow for settling.
4. Do not place inert groundcover at base of plant.

2 SHRUB PLANTING DETAIL

N.T.S.

P-PA-19803-LP-02



NOTES:

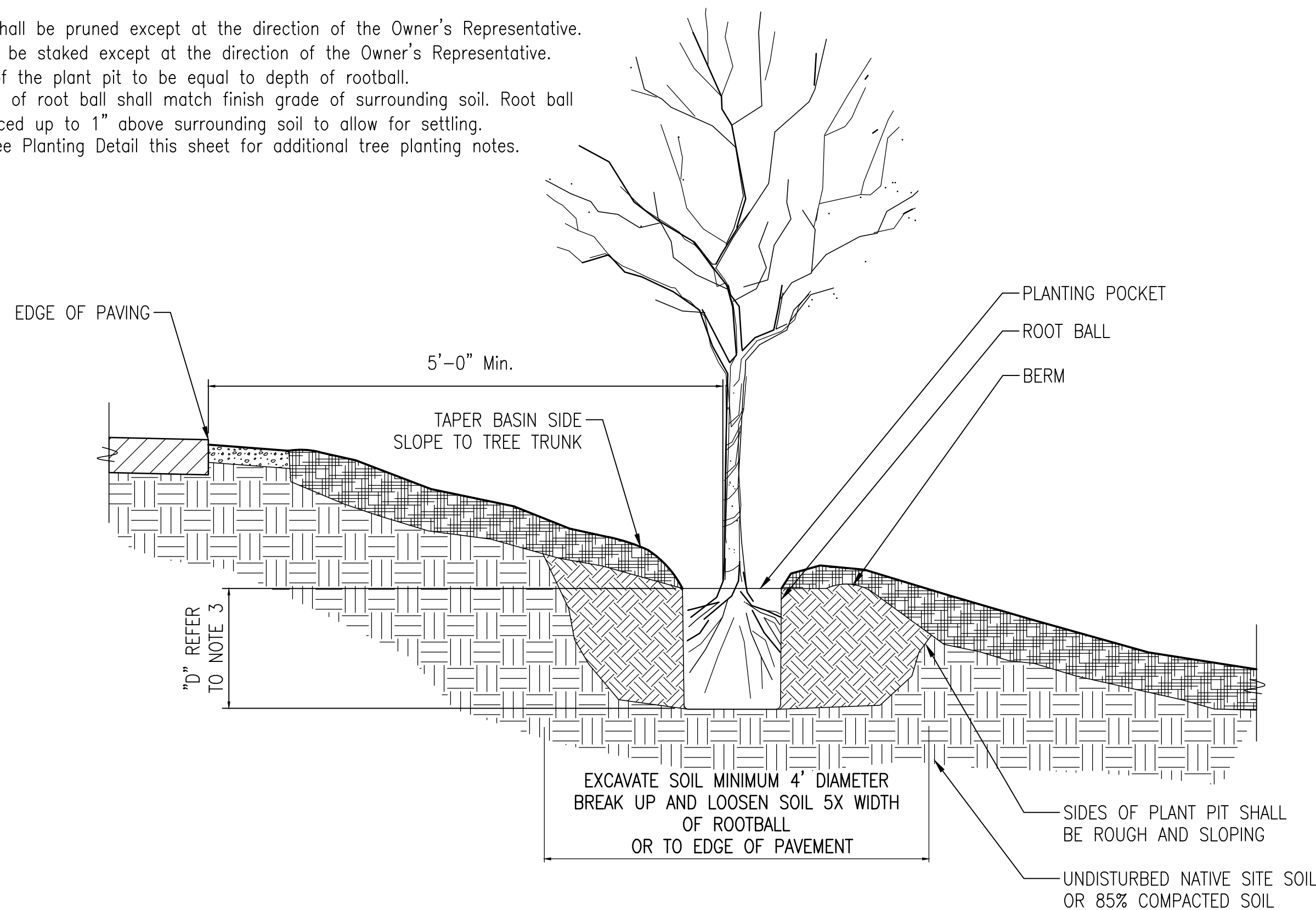
1. Excavate and remove field soil and caliche to a minimum depth of 12".
2. Deep till the entire area with a Blecavator or Rotadarian to decompact and homogenize the root zone.
3. Install 12" of sandy loam fill to return field to required grade.
4. Install new turf grass, "Tiftuf" Certified Bermuda Grass.

3 TURF GRASS

NTS

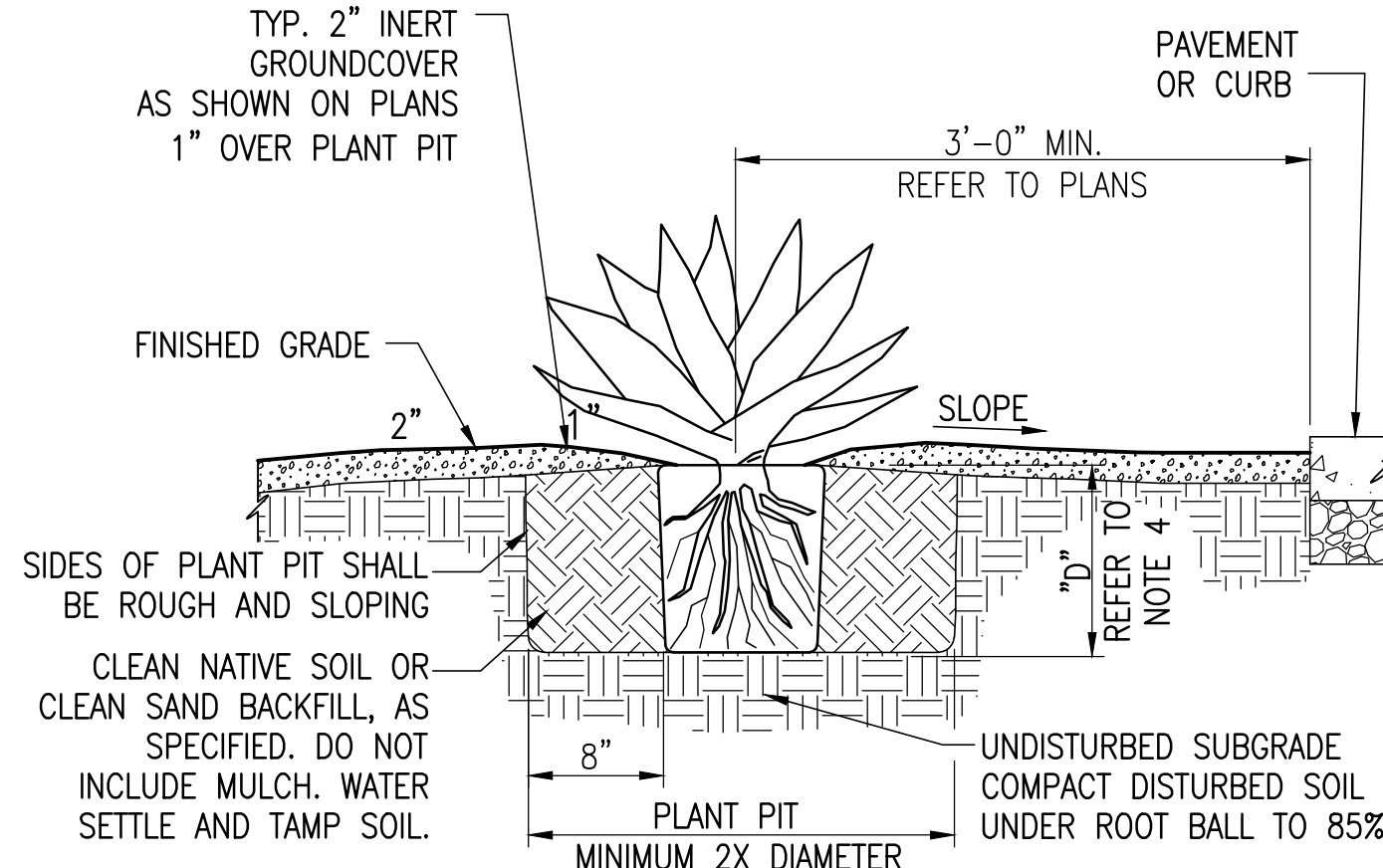
NOTES:

1. No plants shall be pruned except at the direction of the Owner's Representative.
2. No trees to be staked except at the direction of the Owner's Representative.
3. Depth "D" of the plant pit to be equal to depth of rootball.
4. Finish garde of root ball shall match finish grade of surrounding soil. Root ball may be placed up to 1" above surrounding soil to allow for settling.
5. Refer to Tree Planting Detail this sheet for additional tree planting notes.



4 TREE PLANTING ON SLOPE

N.T.S.

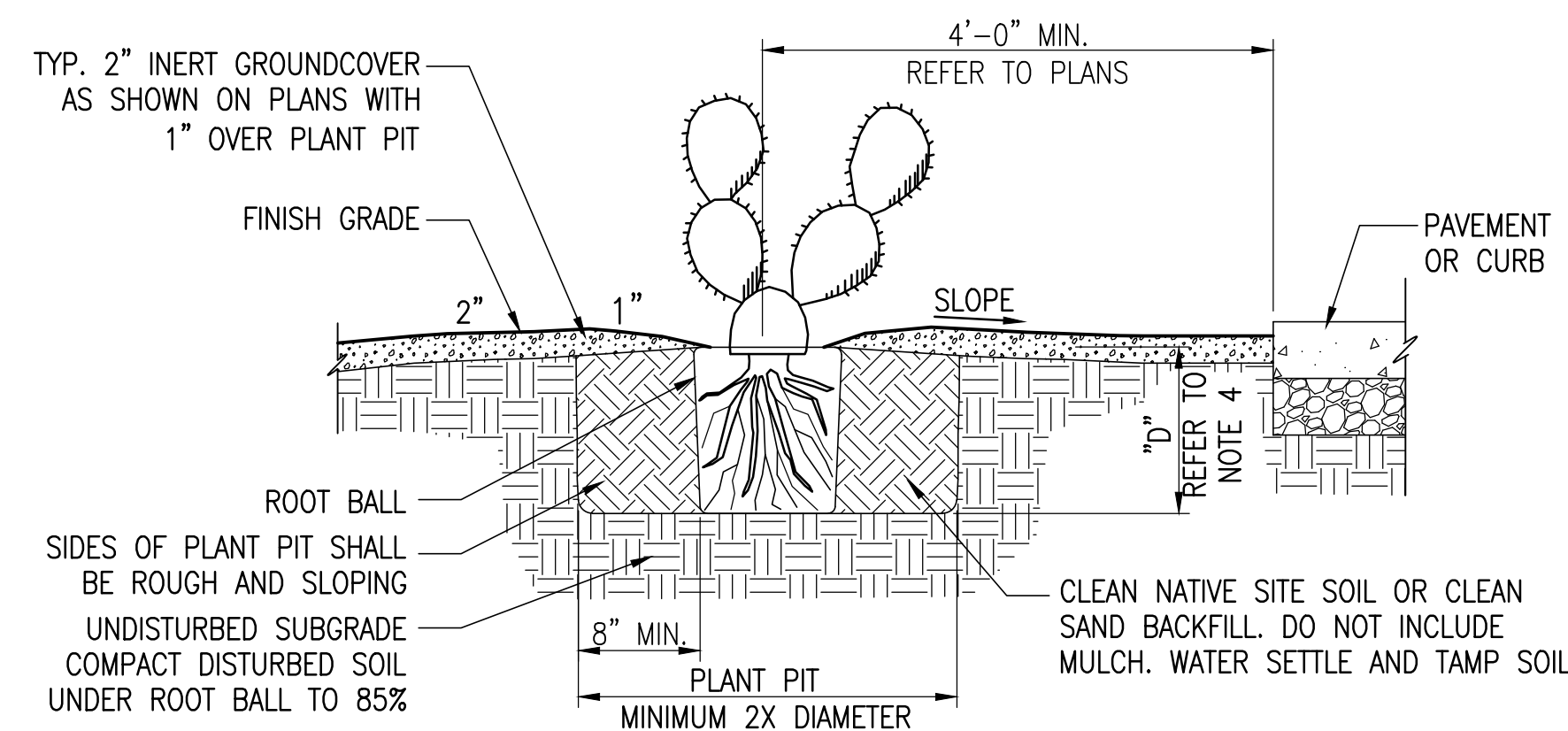


NOTES:

1. This detail applies to nursery grown stock of the Genera Agave, Aloe, Dasyliiron, Hesperaloe, Nolina and Yucca.
2. Do not create a basin at base of plant. Slope backfill away from stem.
3. Set stem succulent so that top of root ball matches adjacent grade.
4. Depth ("D") of plant pit to be equal to depth of rootball.

5 AGAVE, SUCCULENT PLANTING

N.T.S.



NOTES:

1. This detail applies to nursery grown stock of Genus Opuntia.
2. Do not create a basin at base of plant. Slope backfill away from stem.
3. Set stem succulent so that top of root ball matches adjacent grade.
4. Depth ("D") of plant pit to be equal to depth of rootball.

6 PRICKLY PEAR PLANTING (CONTAINER GROWN)

N.T.S.

WHEAT

DESIGN GROUP

LANDSCAPE ARCHITECTS

500 N TUCSON BLVD SUITE 150
TUCSON AZ 85716
PHONE 520 884 7911

METRO VERDE ARCADIA PARK

LAS CRUCES, NEW MEXICO

Project NO.



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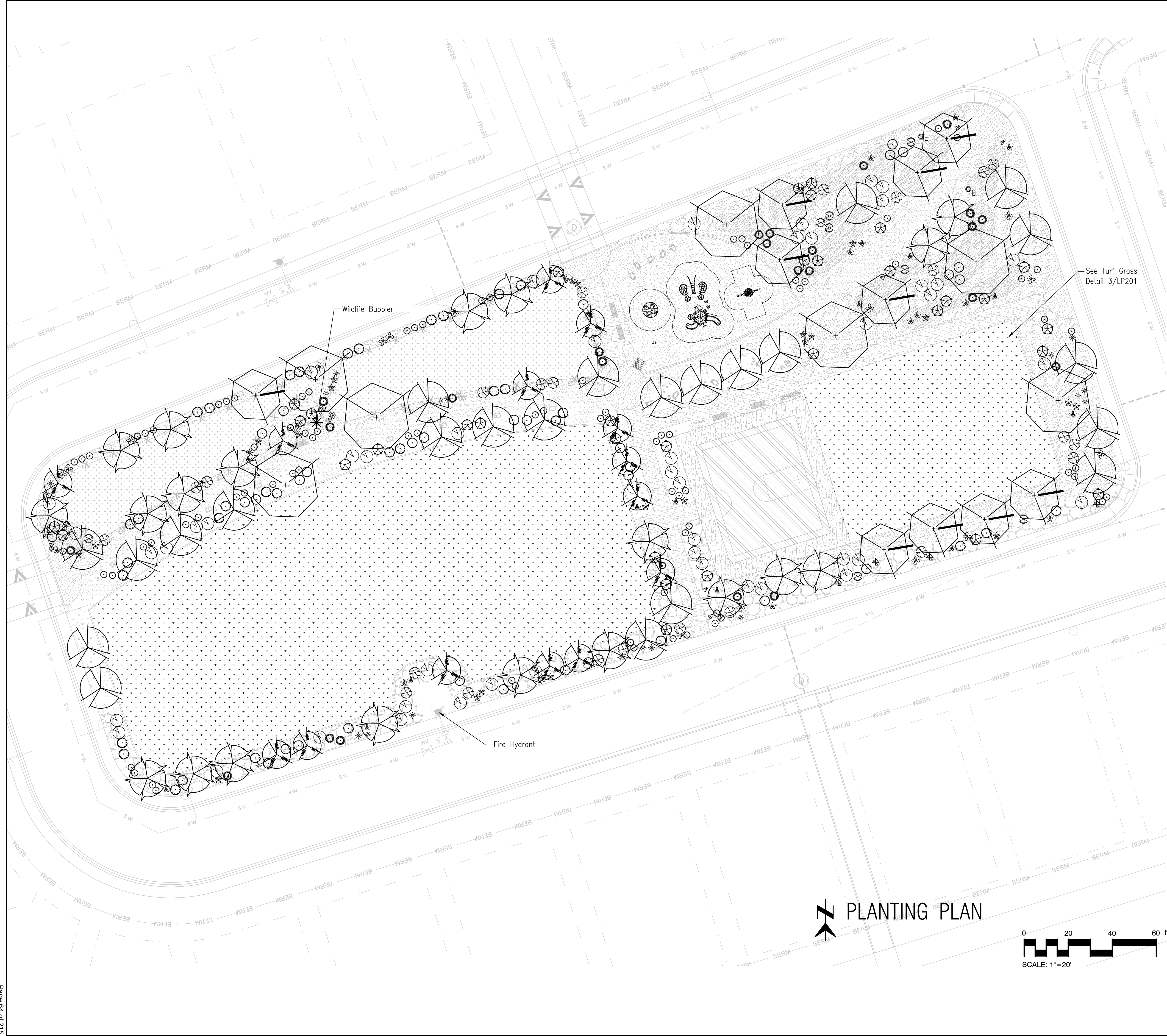
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DRAWN BY: JM
CHECKED BY: LM
SHEET TITLE

LP-301 Planting Plan

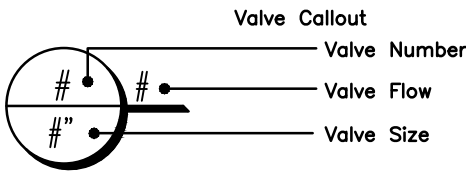
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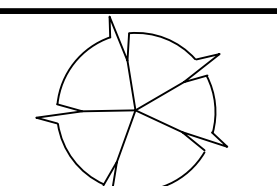
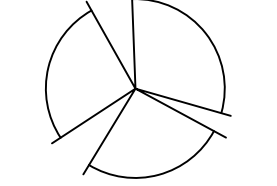
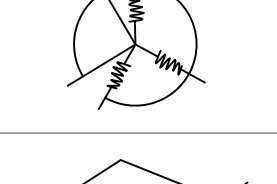
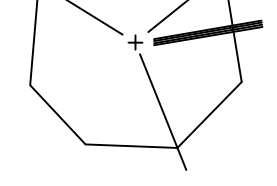
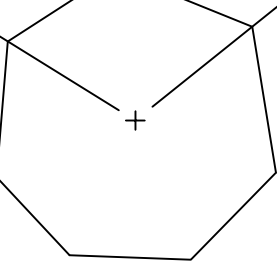
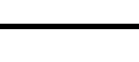
7
OF
12

PLANTING SCHEDULE			
TREES	BOTANICAL / COMMON NAME	SIZE	QTY
	Chilopsis linearis Desert Willow	25 gal.	20
	Prosopis glandulosa Honey Mesquite	25 gal.	23
	Prosopis pubescens Screwbean Mesquite	25 gal.	14
	Quercus gravesii Chisos Red Oak	25 gal.	10
	Quercus muehlenbergii Chinkapin Oak	25 gal.	7
SHRUBS	BOTANICAL / COMMON NAME	SIZE	QTY
	Anisacanthus thurberi Thurber's Desert Honeysuckle	5 gal.	33
	Ephedra antisiphilitica Mormon Tea	5 gal.	28
	Ericameria laricifolia Turpentine Bush	1 gal.	82
	Ericameria nauseosa nauseosa Blue Rabbitbrush	5 gal.	30
	Fallugia paradoxa Apache Plume	5 gal.	24
	Larrea tridentata Creosote Bush	15 gal.	48
	Sphaeralcea ambigua Desert Globemallow	1 gal.	48
CACTI/SUCCULENTS	BOTANICAL / COMMON NAME	SIZE	QTY
	Agave neomexicana New Mexico Agave	5 gal.	5
	Agave schottii Schott's Century Plant	5 gal.	21
	Cylindropuntia versicolor Staghorn Cholla	5 gal.	3
	Dasyliion wheeleri Grey Desert Spoon	5 gal.	24
	Echinocereus fasciculatus Bundle Hedgehog Cactus	5 gal.	10
	Opuntia engelmannii Engelmann's Prickly Pear	5 gal.	8
	Opuntia macrocentra Purple Prickly Pear	5 gal.	15
	Transplanted cactus	---	2
GROUND COVER			
	Evergreen Turf		
	Siempre Verde Tall Fescue	31,923 SF	



IRRIGATION SCHEDULE					
SYMBOL	MANUFACTURER/MODEL/DESCRIPTION	QTY	PSI	GPM	RADIUS
	Rain Bird 1800–1400 Flood Fixed flow rate 0.25 GPM – 2.0 GPM, full circle bubbler, 1/2in. FIPT.	1			
	Hunter 1–20–04–SS 3.0 Turf Rotor, 4in. Pop-Up, Adjustable and Full Circle. Stainless Steel Riser. Drain Check Valve. Standard Nozzle.	10	35	2.7	36’
	Hunter 1–20–04–SS 6.0 Turf Rotor, 4in. Pop-Up, Adjustable and Full Circle. Stainless Steel Riser. Drain Check Valve. Standard Nozzle.	25	35	5.6	40’
SYMBOL	MANUFACTURER/MODEL/DESCRIPTION	QTY			
	Rain Bird PESB – 1” RCV W/XCZ 100–PRBR Pressure Regulator/Filter. 40psi Pressure Regulator. 3 GPM–15 GPM.	4			
	Flush Valve	25			
	Rain Bird XB–PC Single Outlet, Pressure Compensating Drip Emitters. Flow rates of 0.5 GPH=blue, 1.0 GPH=black, and 2.0 GPH=red. Comes with a self-piercing barb inlet x barb outlet.				
SYMBOL	MANUFACTURER/MODEL/DESCRIPTION	QTY			
	Rain Bird PESB 1–1/2” 1in., 1–1/2in., 2in. Plastic Industrial Valves. Low Flow Operating Capability, Globe Configuration.	3			
	Rain Bird PESB 1” (For Wildlife Bubbler) 1in., 1–1/2in., 2in. Plastic Industrial Valves. Low Flow Operating Capability, Globe Configuration.	1			
	Rain Bird 44–LRC 1” 1in. Brass Quick–Coupling Valve, with Corrosion–Resistant Stainless Steel Spring, Locking Thermoplastic Rubber Cover, and 2–Piece Body.	1			
	Febc 825YA 1–1/2” Reduced Pressure Backflow Preventer	1			
	Febc 825YA 1” Lead Free Reduced Pressure Backflow Preventer	1			
	Rain Bird ESPLXME–LXMSS 12 Station Traditionally–Wired, Commercial Controller. Indoor/Outdoor, Plastic Wall–Mount Enclosure. Install in LXMSS Stainless Steel Cabinet.	1			
	Munro CP075B Complete pump package: • 3/4hp, single–phase turf irrig pump, 2in. intake, 1–1/2in. discharge • Pump start + pump protection –SS 220v SmartBox works w/ low–amp (<.35) controllers • Pressure gauge • Pressure & temp sensors • Intake & discharge fittings • Enclosure –lockable, powdercoated, SS, vented to keep pump cool, flexible design for right/left facing & side/bottom discharge.	1			
	Water Meter 1–1/2”	1			
	Irrigation Shrub Mainline: ½” Poly				
	Irrigation Tree Lateral: ¾” Poly				
	Irrigation Turf Mainline: PVC Schedule 40				
	Irrigation Mainline: PVC Schedule 40 1 ½ ”				
	Pipe Sleeve: PVC Class 200 SDR 21				



PLANTING EMITTER SCHEDULE				
TREES	BOTANICAL / COMMON NAME	GPH/ OUTLET	# OUTLETS	TOTAL GPH
	Chilopsis linearis Desert Willow	2	6	12
	Prosopis glandulosa Honey Mesquite	2	6	12
	Prosopis pubescens Screwbean Mesquite	2	6	12
	Quercus gravesii Chisos Red Oak	2	8	16
	Quercus muehlenbergii Chinkapin Oak	2	8	16
SHRUBS	BOTANICAL / COMMON NAME			
	Anisacanthus thurberi Thurber’s Desert Honeysuckle	1	1	1
	Ephedra antisiphilitica Mormon Tea	0.5	1	0.5
	Ericameria laricifolia Turpentine Bush	1	1	1
	Ericameria nauseosa nauseosa Blue Rabbitbrush	1	1	1
	Fallugia paradoxa Apache Plume	1	1	1
	Larrea tridentata Creosote Bush	1	1	1
	Sphaeralcea ambigua Desert Globemallow	1	1	1
CACTI/SUCCULENTS	BOTANICAL / COMMON NAME			
	Agave neomexicana New Mexico Agave	0.5	1	0.5
	Agave schottii Schott’s Century Plant	0.5	1	0.5
	Cylindropuntia versicolor Staghorn Cholla	0.5	1	0.5
	Dasylirion wheeleri Grey Desert Spoon	1	1	1
	Echinocereus fasciculatus Bundle Hedgehog Cactus	0.5	1	0.5
	Opuntia engelmannii Engelmann’s Prickly Pear	0.5	1	0.5
	Opuntia macrocentra Purple Prickly Pear	0.5	1	0.5
	Transplanted cactus	0.5	1	0.5

IRRIGATION NOTES:

- Drawing is schematic. Locate lines in non–paved areas where possible.
- The Contractor shall submit to the Owner’s Representative two copies of shop drawings or manufacturer’s "cut sheet" for each type of pipe, drip emitter, controller, valves, valve boxes, emitters, filters, pressure regulators, enclosures, wire, conduit, fittings and all other types of fixtures and equipment which he proposes to install on the job. The submittal shall include the manufacturer’s name, model number, equipment capacity and manufacturer’s installation recommendation, if applicable, for each proposed item. Substitution of materials shall not be permitted without the prior approval of the Landscape Architect.
- The Contractor shall include in the work any labor, materials, services, apparatus or drawings in order to comply with all applicable laws, ordinances, rules and regulations whether or not shown on the drawings and/or specified.
- The Contractor shall examine the site and verify to his own satisfaction the locations and elevations of all utilities and availability of utilities and services required. Contractor to employ the services of a professional utility locator service to locate all existing on site utilities in the construction area prior to beginning work and as needed to maintain clear indications of utility locations.
- Record dimensioned locations and depths for each of the following:
 - Mainline pressure line routing (provide dimensions for each 100 lineal feet (maximum) along each routing, and for each change in directions).
 - Controllers, pressure regulators and other items identified by the Owner’s Representative.
 - Irrigation control valves.
 - Control wire routing.
 - Sleeves under paving.
- Fittings for pressure mainline piping up to and including 2–1/2 inches shall be PVC solvent–weld fittings Schedule 80, Type I NSF approved conforming to ASTM test procedure D 2466 and shall be as manufactured by Spears, Lasco or Dura.
- CONTROL WIRING:
 - Connections between the automatic controllers and the electric control valves shall be made with direct burial copper wire AWG–UF 600 volt. Circuit wires shall be red with white common wires. Install in accordance with valve manufacturer’s specifications.
 - Remote Control Valve circuit wire shall be No. 14 and common wire shall be No. 12.
 - Wiring shall occupy the same trench and shall be installed along the same route as pressure supply or lateral lines whenever possible.
 - Where more than one wire is placed in a trench, the wiring shall be taped together at intervals of 10 feet.
 - An expansion curl shall be provided within 3 feet of each wire connection. Expansion curl shall be of sufficient length at each splice connection at each electric control, so that in case of repair the valve bonnet may be brought to the surface without disconnection of the control wires. Control wires shall be laid loosely in trench without stress or stretching of control wire conductors.
 - Field splices between the automatic controller and electrical control valves will not be allowed without prior approval of the Owner’s Representative.
 - All control wiring installed under paving shall be installed in a dedicated UL listed Schedule 40 electrical conduit. Conduit shall terminate at least 2 feet inside of a planting area. Conduit joints and fittings shall be solvent weld. Size shall be 2 inches minimum and larger as required and/or shown on the plans.
 - Two "spare" wires shall be run from the controller to the furthest valve location in each direction. Wires shall be white with color stripes or otherwise marked in an approved manner.
 - All wire connectors shall have a two–piece PVC housing which, when filled with resin epoxy and pressed together, forms a permanent, one–piece, moisture–proof wire splice. All connectors shall be UL listed, rated 600 volt, for PVC insulated wire. No wire splices shall be buried. All wire connectors shall be 3M models DBR, DBY or approved equal.
 - A No. 14 green tracer wire shall be installed along the path of all main lines. Tracer wire shall be looped in all valve boxes.
- SLEEVES:
 - All main lines, lateral line piping, emitter headers and lateral piping and all control wire shall be installed in a sleeve under all paving walls and concrete surfaces.
 - All sleeving shall be Schedule 40 PVC solvent weld pipe.
- Trenching: Dig trenches straight and support pipe continuously on bottom of trench. Lay pipe to an even grade. Trenching excavation shall follow layout indicated on drawings and as noted. If the bottom of a pipe trench excavation is found to consist of rock, caliche, or any other material that, by reason of its hardness, cannot be excavated to give a uniform bearing surface, said rock or other material shall be removed for at least 3 inches below the specified trench depth, and be refilled to specified trench depth with sand or similar material thoroughly tamped into place.
- The emitter system is shown schematically. Individual emitters and locations are not shown.
- The controller and booster pump shall be grounded using a 8 foot copper clad ground rod and #10 AWG bare copper conductor.
- Swing joints for sprinkler heads shall be 3/4” Lasco T 722–212 or approved equal.
- TESTING:
 - Test all pressurized main lines under hydrostatic pressure of 120 PSI for a period of 2 hours and prove water tight.
 - Lateral lines and poly emitter lateral shall be tested at line pressure with fittings exposed prior to installation of emitters or sprinkler heads.
 - All hydrostatic tests shall be made only in the presence of Owner’s Representative. No pipe shall be backfilled until it has been inspected, tested and approved in writing.
- Polyethylene emitter laterals shall be as follows:
 - ½" Polyethylene tubing shall be manufactured using 100% virgin resins and shall be manufactured by Landscape Products, Inc. or approved equal. Inside diameter shall be 0.605" and outside diameter shall be 0.710".
 - 3/4" Polyethylene tubing shall be manufactured using 100% virgin resins and shall be manufactured by Landscape Products, Inc. or approved equal. Inside diameter shall be 0.82" and outside diameter shall be 0.94".
 - Fittings for polyethylene tubing shall be EZ–LOK by Landscape Products, Inc., Rainbird TLF or approved equal.

WHEAT

DESIGN GROUP

LANDSCAPE ARCHITECTS

500 N TUCSON BLVD SUITE 150
TUCSON AZ 85716
PHONE 520 884 7911

METRO VERDE ARCADIA PARK

LAS CRUCES, NEW MEXICO

Project NO.

PROFESSIONAL LANDSCAPE ARCHITECT

CERTIFICATE NO. 46501

LAURA MELCAREK

Expires 02-23-2024

ARIZONA U.S.A.



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REV. NO.	REV. DATE	DESCRIPTION

DATE: 02.23.2024
SCALE: N/A
DRAWN BY: JM
CHECKED BY: LM

SHEET TITLE

LI-101 Irrigation Summary

SHEET NUMBER

8
OF
12

WHEAT
DESIGN GROUP
LANDSCAPE ARCHITECTS

500 N TUCSON BLVD SUITE 150
TUCSON AZ 85716
PHONE 520 884 7911

METRO VERDE ARCADIA PARK
LAS CRUCES, NEW MEXICO

Project NO.



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DATE: 02.23.2024

SCALE: N/A

DRAWN BY: JM

CHECKED BY: LM

SHEET TITLE

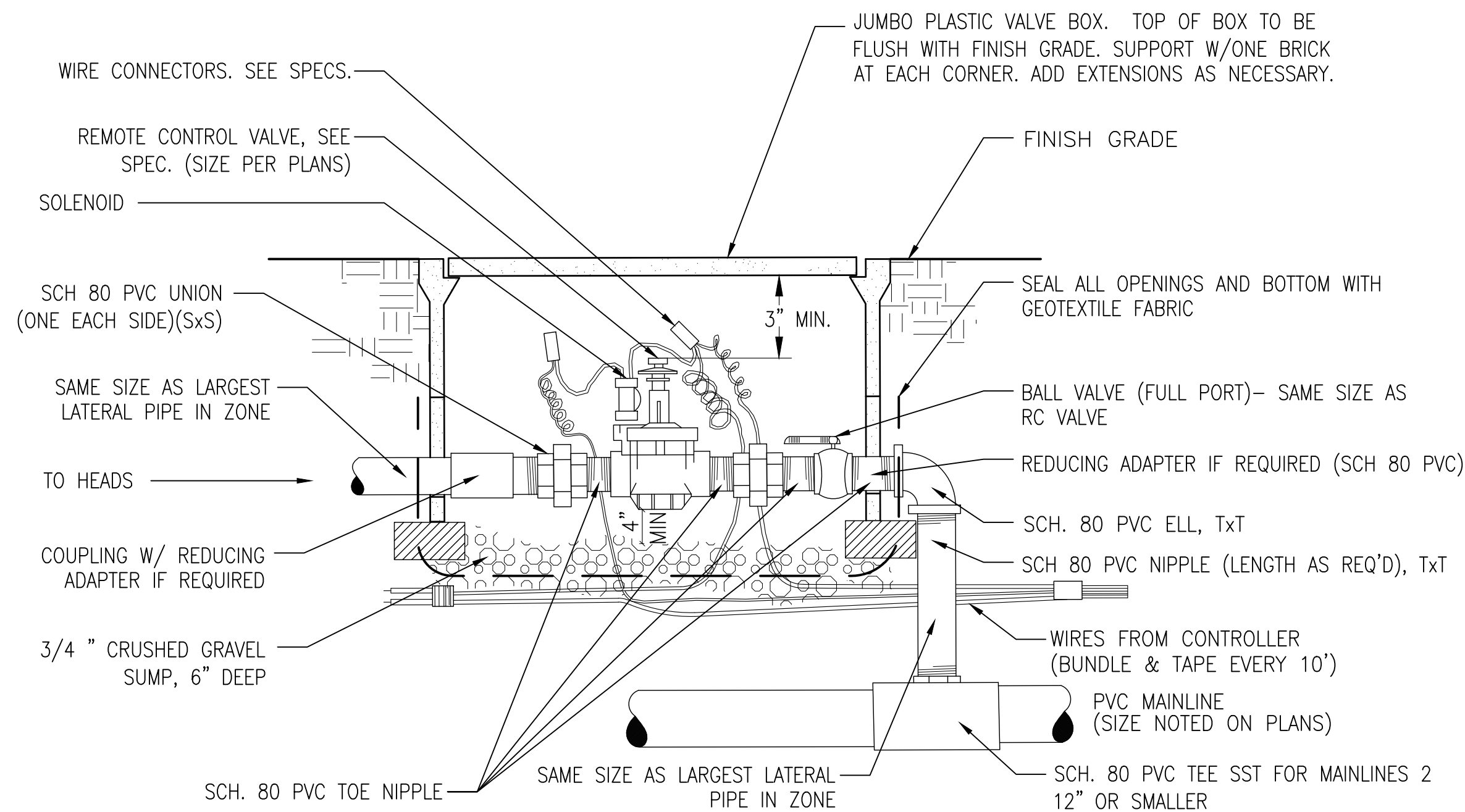
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SHEET NUMBER

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OF

12



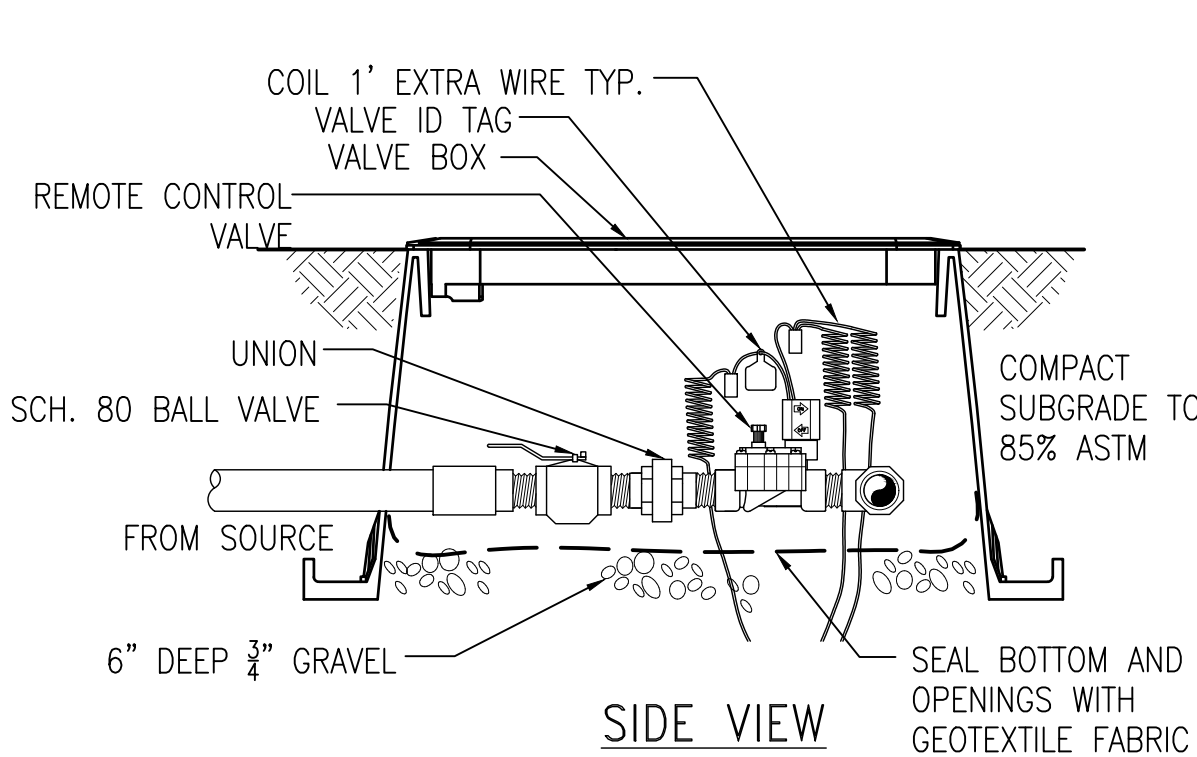
NOTES:

1. All wire to be installed & supplied per local code.
2. Provide expansion coil at each connection in valve box (coil wire around 1/2" pipe 10 times).
3. Each valve shall have its own tee off mainline.

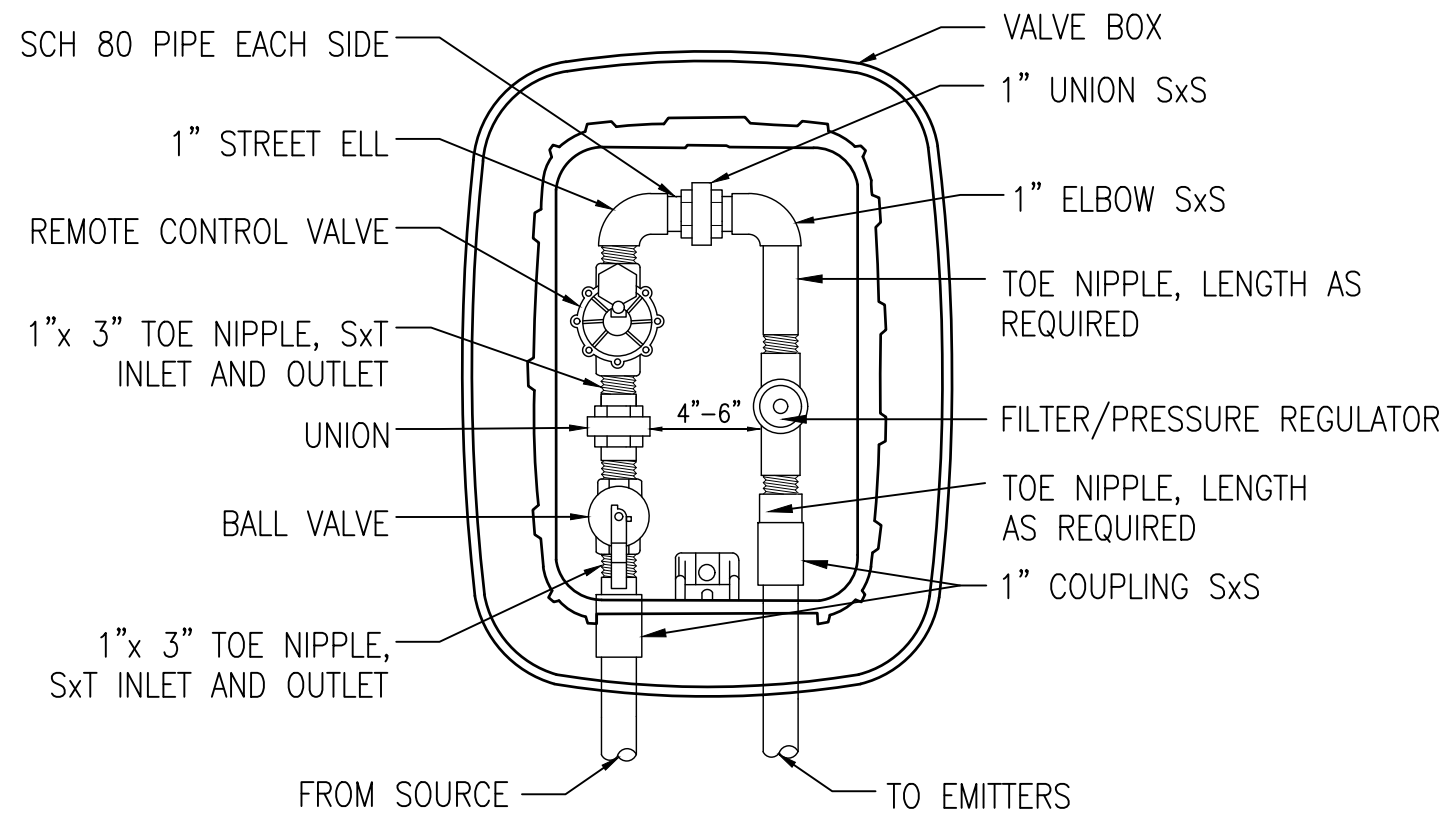
1 REMOTE CONTROL TURF VALVE ASSEMBLY

N.T.S.

P-PA-19803-LI-08



SIDE VIEW



TOP VIEW

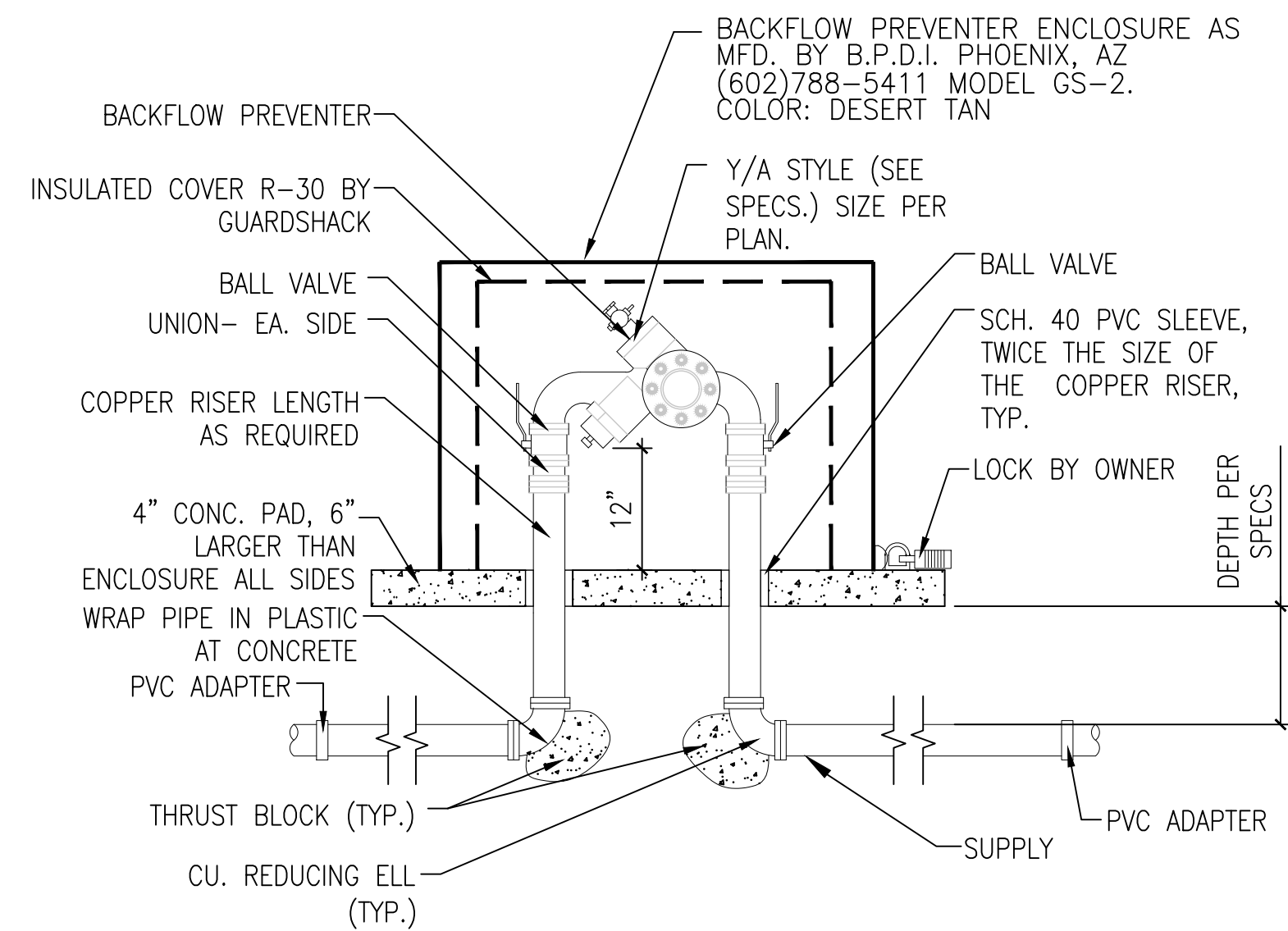
NOTES:

1. All wire to be installed as per local code. Tape and bundle wire every 20'. Provide expansion coils at each wire connection in valve box (wrap around 1/2" pipe 15 times).
2. Compact soil around valve box to same density as undisturbed adjacent soil.
3. All threaded PVC joints to be wrapped with Teflon tape or approved equal PVC tape.
4. Seal bottom and all openings with geotextile fabric.
5. All piping, unions and fittings to be Sch. 80 PVC.

2 REMOTE CONTROL DRIP VALVE WITH INTEGRAL FILTER AND REGULATOR

N.T.S.

WDG-LP-11



3 REDUCED PRESSURE BACKFLOW PREVENTER

N.T.S.

P-PA-ARC-03

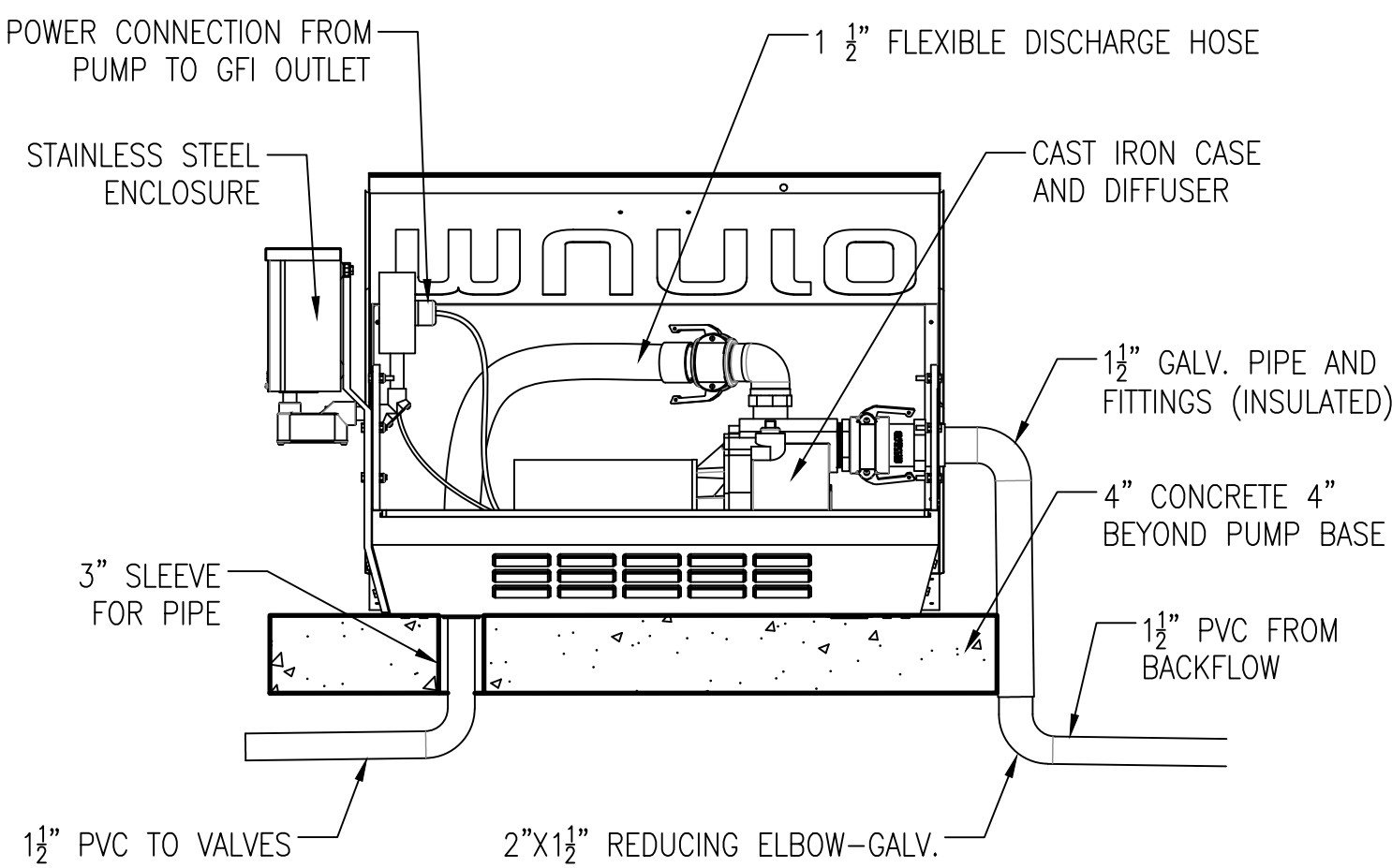
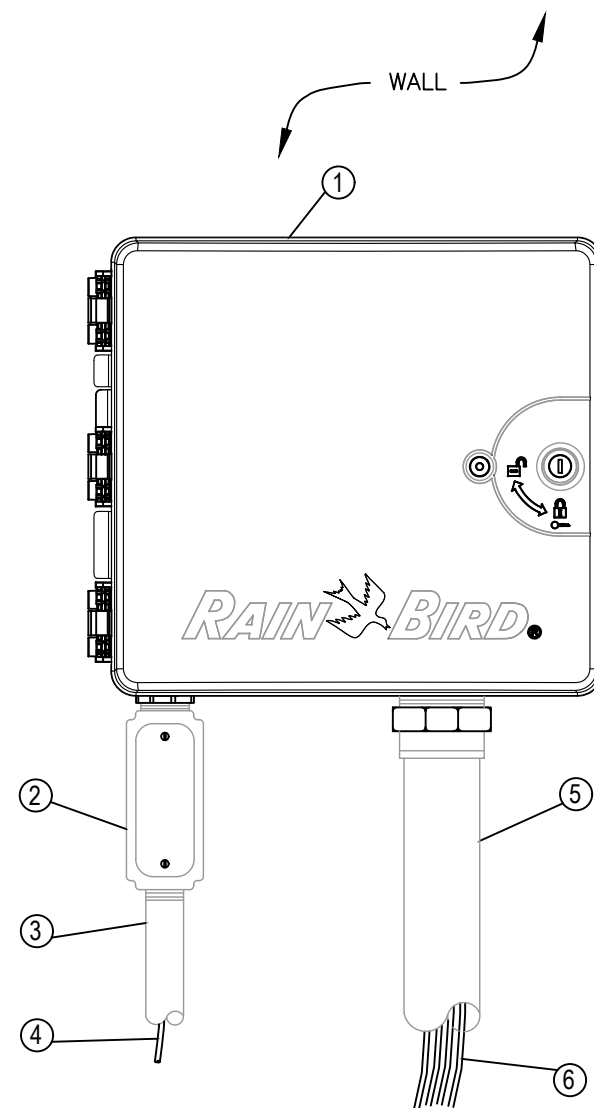
1. IRRIGATION CONTROLLER: RAINBIRD ESP-LXME CONTROLLER IN LXMM METAL CABINET WITH OUTSIDE WALL MOUNT. INSTALL CONTROLLER AND CABINET ON WALL PER MANUFACTURER'S RECOMMENDATIONS.
2. JUNCTION BOX
3. 1-INCH CONDUIT AND FITTINGS TO POWER SUPPLY
4. POWER SUPPLY WIRE
5. 2-INCH CONDUIT AND FITTINGS FOR STATION WIRES
6. WIRES TO REMOTE CONTROL VALVES

NOTES:

1. USE STEEL CONDUIT FOR ABOVE GRADE CONDITIONS AND SCH 40 PVC CONDUIT FOR BELOW GRADE CONDITIONS.
2. PROVIDE PROPER GROUNDING COMPONENTS TO ACHIEVE GROUND RESISTANCE OF 10 OHMS OR LESS.

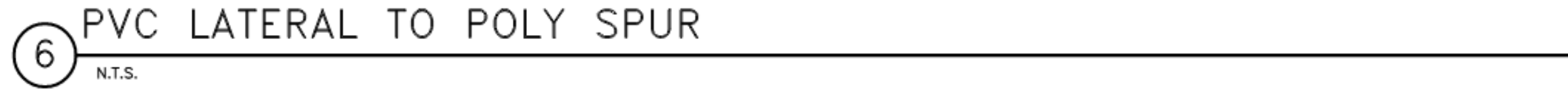
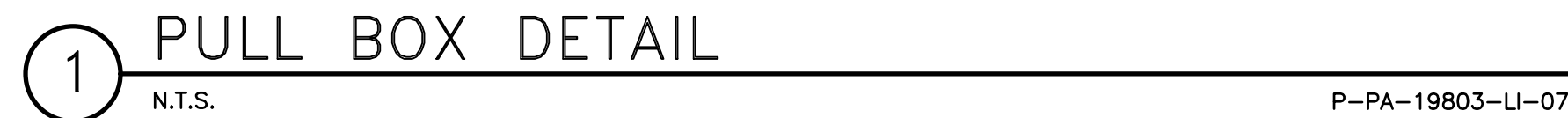
4 RAINBIRD ESP-LXME CONTROLLER IN METAL CABINET

N.T.S.



5 BOOSTER PUMP-MUNRO COMPLETE PRO II 3/4 3HP

N.T.S.





THIS DRAWING IS NOT TO BE USED FOR CONSTRUCTION PURPOSES UNTIL SEALED AND SIGNED BY LANDSCAPE ARCHITECTS OF WHEAT DESIGN GROUP, OR DESIGNATED CONSULTANTS.
DRAWINGS ARE COPY WRITTEN BY WHEAT DESIGN GROUP. ANY REPRODUCTION OR REUSE WITHOUT WRITTEN PERMISSION IS STRICTLY FORBIDDEN. ©

REVISIONS		
REV. NO.	REV. DATE	DESCRIPTION

DATE: 02.23.2024

SCALE: N/A

DRAWN BY: JM

CHECKED BY: LM

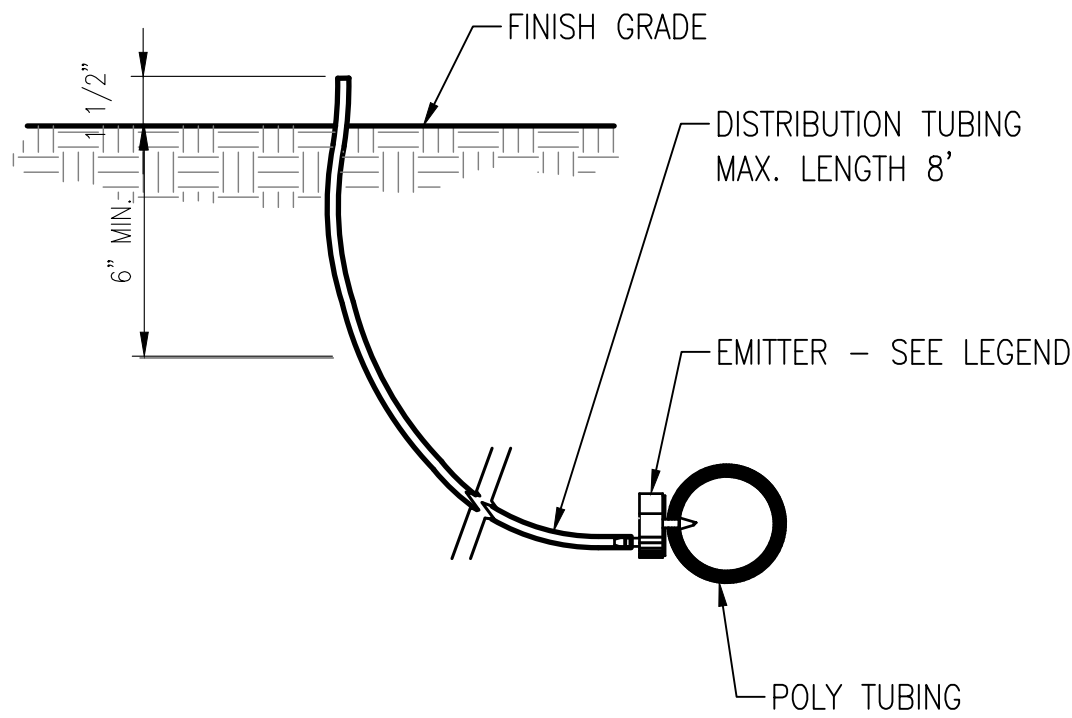
SHEET TITLE

LI-203 Irrigation Details

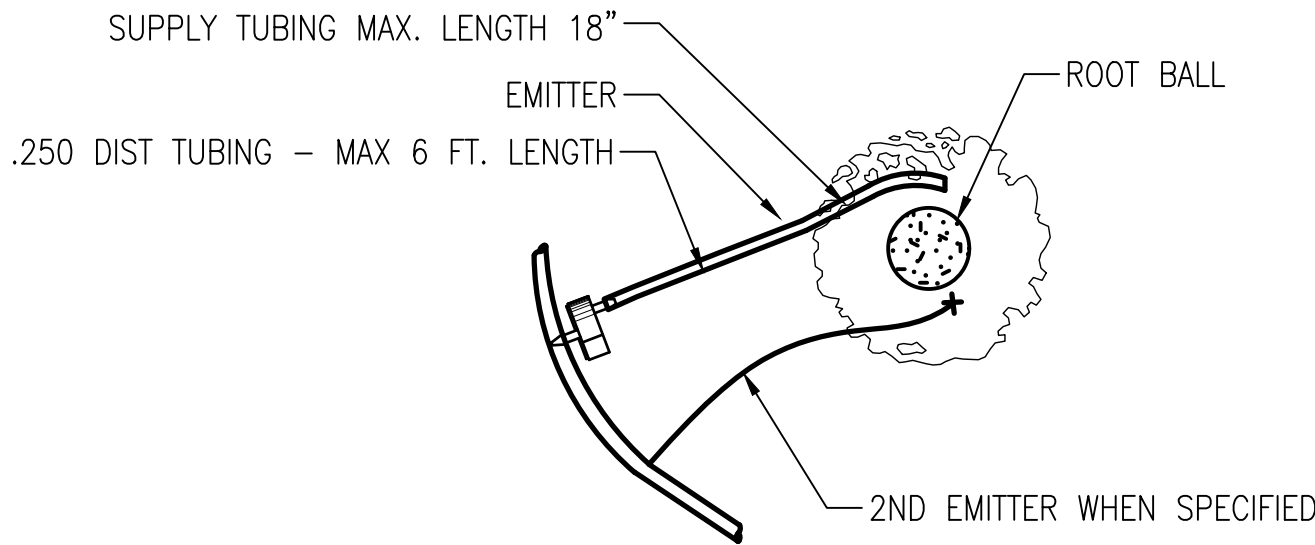
SHEET NUMBER

11
OF
12

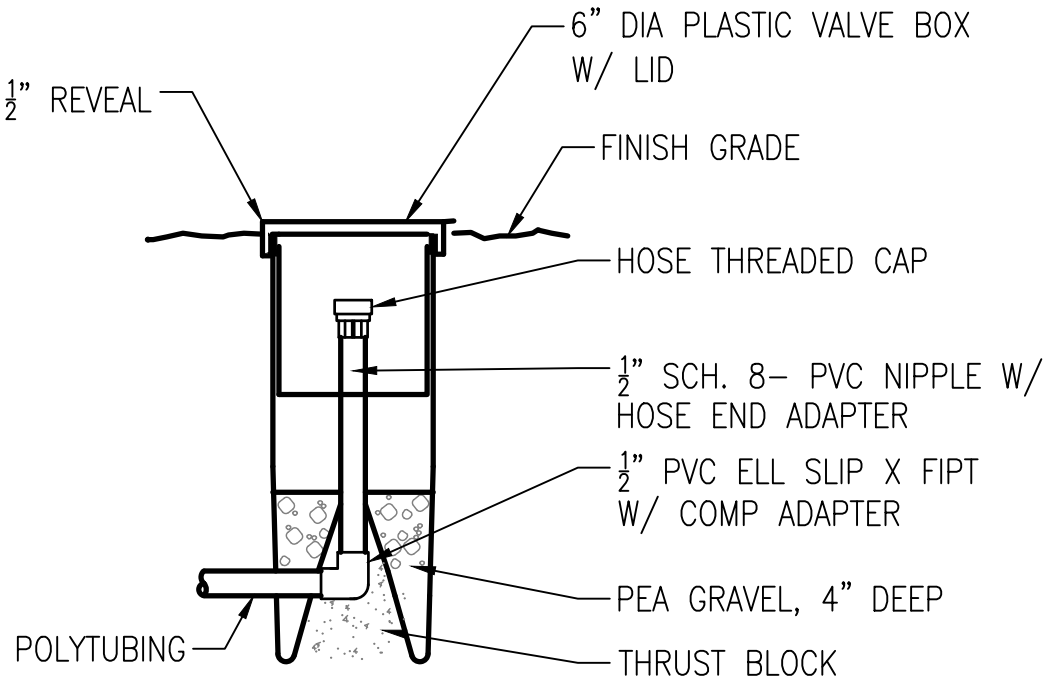
EMITTER TO DELIVER WATER DIRECTLY TO ROOTBALL



1 SINGLE EMITTER OUTLET
1" = 1'-0"

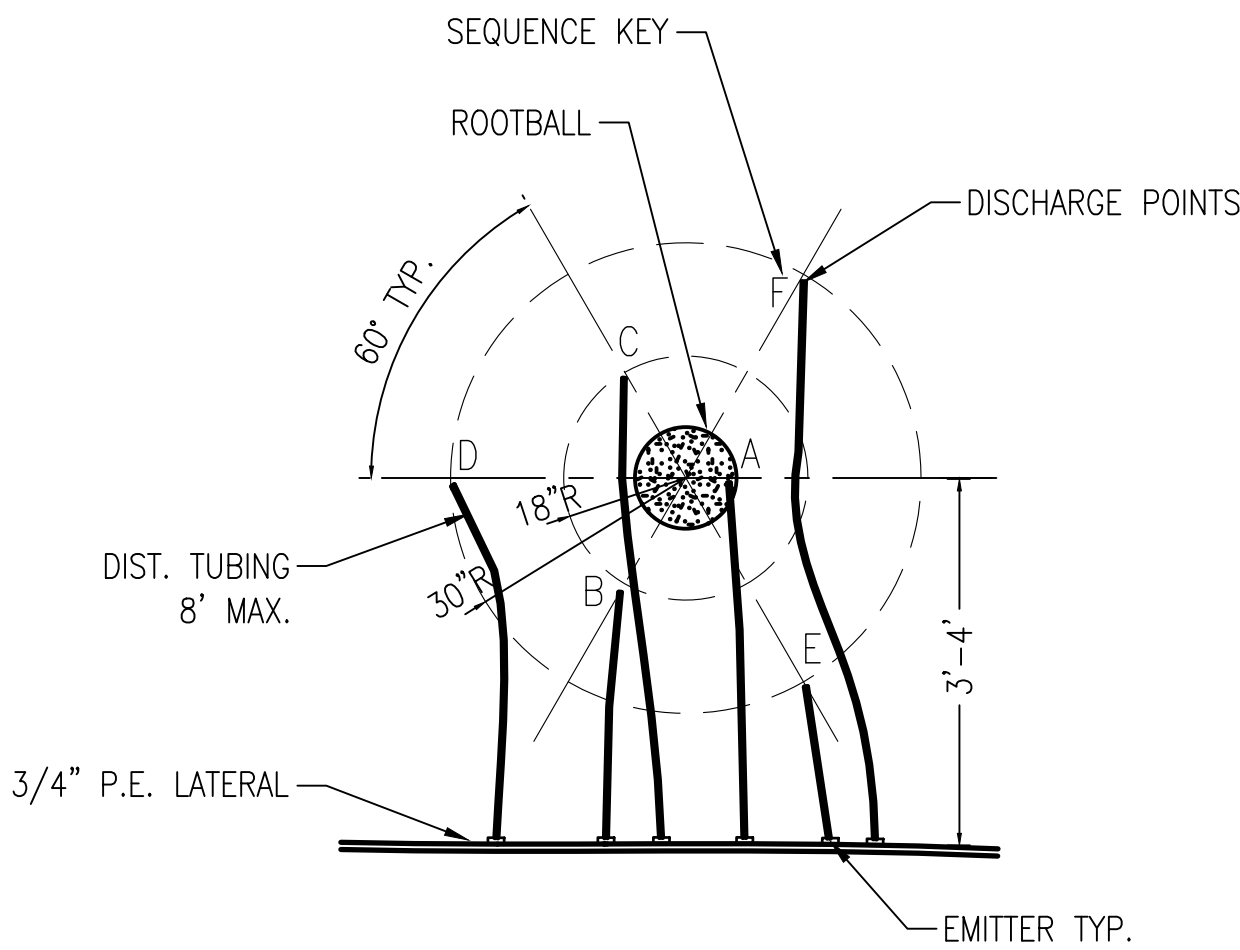


2 GROUNDCOVER AND SHRUB
EMITTER PLACEMENT
1" = 1'-0"

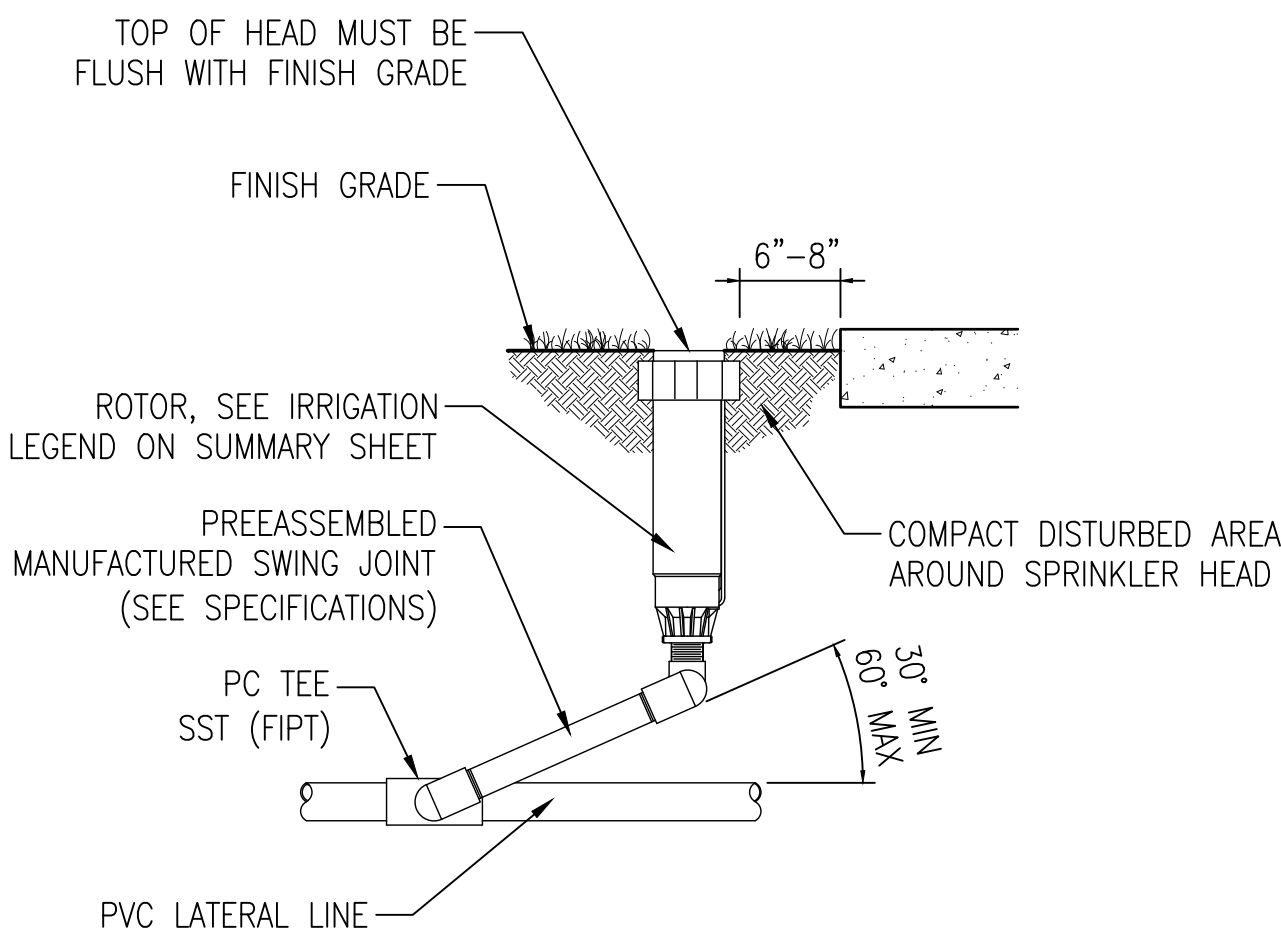


TO BE USED ON ENDS OF ALL
EMITTER LINES - LOCATE
WHERE SHOWN ON PLAN

3 FLUSH CAP ASSEMBLY
1" = 1'-0"

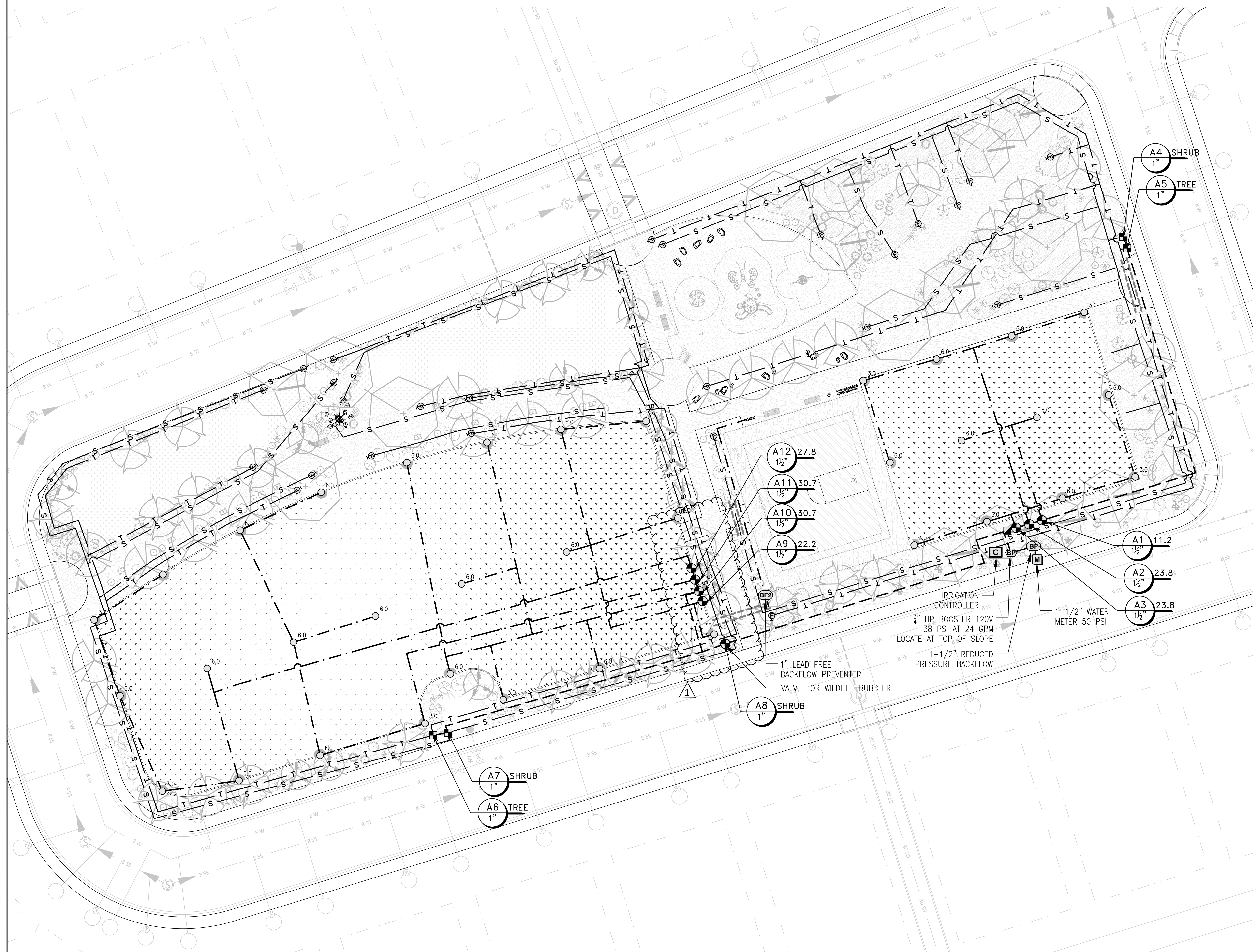
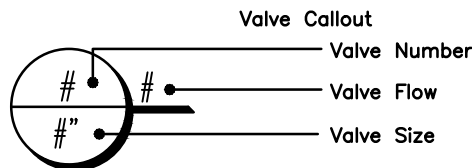


4 TREE EMITTER PLACEMENT
N.T.S (FOR TREES NOT IN TURF)

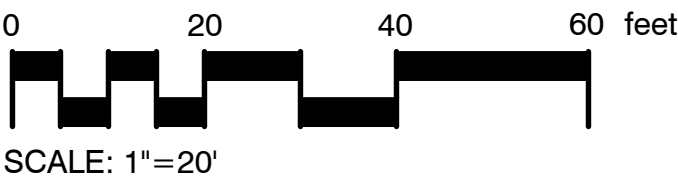


5 ROTOR SPRINKLER HEAD
1/2" = 1'-0"

IRRIGATION SCHEDULE	
SYMBOL	MANUFACTURER/MODEL/DESCRIPTION
1401 1402 1404 1408	Rain Bird 1800-1400 Flood Fixed flow rate 0.25 GPM - 2.0 GPM, full circle bubbler, 1/2in. FIPT.
3.0	Hunter I-20-04-SS 3.0 Turf Rotor, 4in. Pop-Up. Adjustable and Full Circle. Stainless Steel Riser. Drain Check Valve. Standard Nozzle.
6.0	Hunter I-20-04-SS 6.0 Turf Rotor, 4in. Pop-Up. Adjustable and Full Circle. Stainless Steel Riser. Drain Check Valve. Standard Nozzle.
SYMBOL	MANUFACTURER/MODEL/DESCRIPTION
■	Rain Bird PESB - 1" RCV W/XCZ 100-PRBR Pressure Regulator/Filter. 40psi Pressure Regulator. 3 GPM-15 GPM.
Ⓟ	Flush Valve
0.5 1.0 2.0	Rain Bird XB-PC Single Outlet, Pressure Compensating Drip Emitters. Flow rates of 0.5 GPH=blue, 1.0 GPH=black, and 2.0 GPH=red. Comes with a self-piercing barb inlet x barb outlet.
SYMBOL	MANUFACTURER/MODEL/DESCRIPTION
⊕	Rain Bird PESB 1-1/2" 1in., 1-1/2in., 2in. Plastic Industrial Valves. Low Flow Operating Capability, Globe Configuration.
⊕	Rain Bird PESB 1" (For Wildlife Bubbler) 1in., 1-1/2in., 2in. Plastic Industrial Valves. Low Flow Operating Capability, Globe Configuration.
■	Rain Bird 44-LRC 1" 1in. Brass Quick-Coupling Valve, with Corrosion-Resistant Stainless Steel Spring, Locking Thermoplastic Rubber Cover, and 2-Piece Body.
Ⓟ	Febco 825YA 1-1/2" Reduced Pressure Backflow Preventer
Ⓟ	Febco 825YA 1" Lead Free Reduced Pressure Backflow Preventer
Ⓢ	Rain Bird ESPLXME-LXMMSS 12 Station Traditionally-Wired, Commercial Controller. Indoor/Outdoor, Plastic Wall-Mount Enclosure. Install in LXMMSS Stainless Steel Cabinet.
Ⓟ	Munro CP075B Complete pump package: • 3/4hp, single-phase turf irrig pump, 2in. intake, 1-1/2in. discharge • Pump start + pump protection -SS 220v • SmartBox works w/ low-amp (<.35) controllers • Pressure gauge • Pressure & temp sensors • Intake & discharge fittings • Enclosure -lockable, powdercoated, SS, vented to keep pump cool, flexible design for right/left facing & side/bottom discharge.
Ⓢ	Water Meter 1-1/2"
S	Irrigation Shrub Mainline: 1/2" Poly
T	Irrigation Tree Lateral: 3/4" Poly
---	Irrigation Turf Mainline: PVC Schedule 40
---	Irrigation Mainline: PVC Schedule 40 1 1/2"
---	Pipe Sleeve: PVC Class 200 SDR 21



IRRIGATION PLAN



1 Turf valves inside grass area
8/1/2024



25-037

City Council Action and Executive Summary

Type of Action:
☒ Resolution
☐ Ordinance
☐ TIDD Resolution

District:	☐ 1 ☐ 2 ☐ 3 ☐ 4 ☐ 5 ☐ 6 ☒ N/A		
1st Reading:	Adopted: September 16, 2024		
Drafter:	Katherine Harrison-Rogers	Department:	Parks & Rec
Program:	Special Projects	Line of Business:	Office of the Director & Special Projects
Title:	A RESOLUTION MAINTAINING THE EXISTING PARK LAND USE ASSUMPTIONS AND PARK DEVELOPMENT IMPACT FEES AND CONTINUING THE COLLECTION AND EXPENDITURE OF PARK IMPACT FEES UNDER THE CURRENT STRUCTURE NOT TO EXCEED A DATE OF JUNE 30, 2025, FOR THE PURPOSES OF COORDINATING WITH THE ADOPTION OF REALIZE LAS CRUCES.		

TYPE OF ACTION: ☒ Administrative ☐ Legislative ☐ Quasi-Judicial

PURPOSE(S) OF ACTION:

To re-adopt the existing Land Use Assumptions and Park Impact Fees for a specified period

BACKGROUND / KEY ISSUES / CONTRIBUTING FACTORS:

The Las Cruces Municipal Code (LCMC) Chapter 33 outlines the establishment of and process by which to collect and spend development impact fees. The City has established development impact fees for Parks, Public Safety, and Utilities. Section 33-24 requires the periodic update of land use assumptions (LUA) and the capital improvement plan (CIP) every five years. Section 33-32 also requires that the City update development impact fees or determine that no update is needed at least every five years. While the CIP is updated, reviewed, and adopted on annual basis as part of the City's budget cycle, the City typically analyzes the LUA and Development Impact Fees as a separate initiative for each development impact fee type every five years.

The last analysis of the City's Park Impact Fees (PIF) and the LUA coincided with the Parks and Recreation Master Plan adopted July 1, 2019. City Council Resolution 20-002 determined no updates to the LUA or PIF were needed, retaining the \$2600 per unit PIF which was originally established with the adoption of Resolution 13-161. Parks and Recreation hired a consultant, Tischler-Bise, to review and make recommendations on the City's LUA and PIF to attempt to meet the five-year deadline which passed on July 1, 2024. Unfortunately, this analysis (the PIF in particular) is ongoing and cannot be completed unless it is determined if neighborhood parks will be included or excluded from the overall calculations. The reason behind this delay is due to a parallel update to the City's land use codes, known as Realize Las Cruces. This update contemplates the inclusion of neighborhood parks as part of required infrastructure during the development of subdivisions. If adopted as a requirement, this facility type can be removed from the PIF calculations. If not, neighborhood parks will remain in the calculation.

Based on this issue and resulting discrepancy in calculations, we are requesting that the City continue to utilize our current LUA and PIF. As part of this request, we are asking for a not to exceed a date of June 30, 2025, which coincides with the end of the current fiscal year. This date will allow for flexibility in the timing of

Agenda Item #7.3.

adopting any new PIF or LUA separately or together throughout the remainder of the year and will allow for the opportunity to coincide with the adoption of the new land use code, anticipated to be in February of 2025. Staff does anticipate that the LUA will be ready for consideration by City Council this Fall since that analysis is primary complete and is not affected by the outcome of Realize Las Cruces.

If approved by City Council, this extension will keep the City in compliance with the five-year review of the LUA and PIF as outlined in Chapter 33 of the LCMC. The \$2600 per unit PIF will remain until such time as new fees are adopted or a determination to retain existing fees is made.

Per Section 2-518 of the City of Las Cruces Municipal Code, the Capital Improvement Advisory Committee (CIAC) is authorized to "serve in an advisory capacity" to City Council. This includes:

advising and assisting the city in adopting land use assumptions, which include a description of the service area and projection of changes and land uses, densities, intensities and population in the service area over at least a five-year period; and advising the city of the need to update or revise the land use assumptions, capital improvements plan and impact fees. On July 22, 2024, the CIAC reviewed this extension and recommended unanimous approval to City Council to continue implementing the current impact fees and land use assumptions not to exceed a date of June 30, 2025. Please see the draft minutes in Attachment "A".

This extension will allow staff the ability to finalize the ongoing analysis and proposal of new land use assumptions and park impact fees that may be influenced by the inclusion or exclusion of certain elements within the calculations, specifically neighborhood parks.

SUPPORT INFORMATION:

[Attachment "A", Draft August 22, 2024, CIAC Summary Minutes](#)

PLAN(S):

Other, Elevate Las Cruces

COMMITTEE/BOARD REVIEW:

CIAC

DOES THIS AMEND THE BUDGET?:

☐ Yes

☒ No

Does this action amend the Capital Improvement Plan (CIP)?

☐ Yes

☒ No

Does this action align with Elevate Las Cruces?

☒ Yes

☐ No

OPTIONS / ALTERNATIVES:

1. Vote "Yes"; this will approve the Resolution and re-adopt the existing land use assumptions and park impact fees until new fees and land use assumptions are proposed and adopted no later than June 30, 2025.
2. Vote "No"; this will not approve the Resolution which will result in non-compliance with LCMC Sec 33-24.
3. Vote to "Amend"; this would allow City Council to modify the Resolution as presented and direct staff accordingly.
4. Vote to "Table"; this would delay the Resolution and would require further direction from Council.

Agenda Item #7.3.

REFERENCE INFORMATION:

Resolution 20-002

Resolution 13-161

RESOLUTION 25-037

A RESOLUTION MAINTAINING THE EXISTING PARK LAND USE ASSUMPTIONS AND PARK DEVELOPMENT IMPACT FEES AND CONTINUING THE COLLECTION AND EXPENDITURE OF PARK IMPACT FEES UNDER THE CURRENT STRUCTURE NOT TO EXCEED A DATE OF JUNE 30, 2025, FOR THE PURPOSES OF COORDINATING WITH THE ADOPTION OF REALIZE LAS CRUCES.

The City Council is informed that:

WHEREAS, the Las Cruces Municipal Code (LCMC) Chapter 33 outlines the establishment of and process by which to collect and spend development impact fees; and

WHEREAS, the City initially enacted Park Impact Fees (PIF) via Resolution 95-368 on July 1, 1995; and

WHEREAS, LCMC Sections 33-24 and 33-32 requires the periodic update or determination of no update of land use assumptions (LUA), the capital improvement plan (CIP), and development impact fees at least every five years; and

WHEREAS, the last review of LUA and PIF occurred July 1, 2019, when City Council adopted Resolution 20-002 determining no updates to the LUA or PIF were needed, retaining the \$2600 per residential unit PIF; and

WHEREAS, the City is undergoing a parallel update to the City's land use codes, known as Realize Las Cruces, that contemplates the inclusion of neighborhood parks as part of required infrastructure during the development of subdivisions which, if adopted, will influence the resulting PIF calculations; and

WHEREAS, the Capital Improvement Advisory Board recommended an extension of the LUA and PIF not to exceed a date of June 30, 2025.

NOW, THEREFORE, Be it Resolved by the Governing Body of the City of Las Cruces:

(I)

THAT the current PIF of \$2,600 per residential unit will continue to be utilized and no update is required until a new analysis, review, and adoption occurs no later than June 30, 2025.

(II)

THAT no updates to the LUA are needed until a new analysis, review, and adoption occurs no later than June 30, 2025.

(III)

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

DONE AND APPROVED this day of

APPROVED

ATTEST:

Moved by:

Seconded by:

AYES

NAYS



CITY OF LAS CRUCES

Capital Improvement Advisory Committee

Minutes of the Regular Meeting on
Thursday, August 22, 2024
1:30 pm
Utilities Center, 680 N. Motel Blvd.
Board Room 218

[Meeting audio found here.](#)

PRESENT: Chairman Doug Butler, Vice-Chairman Steve Newby, Don Curnutt

ABSENT: Troy Mitchell

Chair Butler called the regular meeting to order at approximately 1:42 p.m.

1. Conflict of Interest:

There was none.

2. Public Participation:

There was none.

3. Acceptance of Minutes & Agenda:

Chair Butler asked for a Motion to reject July’s minutes pending further review.

RESULTS:	Carried
MOVER:	NEWBY
SECONDER:	CURNUTT
AYES:	UNANIMOUS

4. City Staff and/or Consultant Follow-Up:

4.1 Verbatim vs Summary Minutes

Utilities Senior Office Manager Melissa Westbrook presented.

Westbrook stated that the final draft of the July minutes is not ready yet. A new process is being developed to make this process easier and smoother. She reviewed the CIAC monthly task process including the new process of sending reports to members a week prior to the CIAC meeting.

Curnutt stated that all of the things that we agree to one month, the next month are different. The process seems more and more confusing.

Westbrook stated that she will send a timeline document with the formalized process to the committee members.

Westbrook stated that Mr. Haworth has resigned from the committee and that she will begin the vacancy process. If the committee would like more applications than what remains from the last pool, she will work with the City Clerk to make that happen. She will send the formal vacancy process document to the Committee for review.

Chair Butler asked for new applications to be collected since this is an at-large seat, and not one with special requirements.

Westbrook stated that she will confirm with the City Clerk and then advise the Committee on how they will move forward.

4.2 Utilities Capital Improvements Advisory Report End of Fiscal Year 2024 *Capital Improvements Advisory Report (end of FY24)*

Assistant Utilities Director Domonique Rodriguez reviewed the report with the Committee.

Chair Butler asked if there was a timeline for the recommendation to review the policy for affordable housing.

Rodriguez stated that she did not have a timeline. She needs to find out if this will be a Work Session with City council and seek direction from them. In the past the CIAC has helped with public meetings and receiving public input. But at this time, she does not have a timeline besides getting a Work Session with City Council in the next month or two.

Vice-Chair Newby asked what the review process looks like for the Utilities dept.

Rodriguez stated that she envisions the process starting with City Council and then coming back to CIAC for review, discussion and public input, and then getting the CIACs recommendation.

Vice-Chair Newby asked if there are other cities in New Mexico that do this titration of fees.

Rodriguez stated she does not believe so.

Curnett asked if there was a timeline.

Rodriguez stated she does not have a definitive timeline, but she is looking at doing a work session with City Council in the next month or two.

Curnutt asked if we can expect it to be after the first of the calendar year?

Rodriguez stated yes that is a reasonable expectation.

Chair Butler asked to review the expenses portion of the report.

Rodriguez stated that for calendar year 2024 all expenses are for debt service.

Curnutt asked if the debt service expenses are annual fees that you are paying? Is there a fixed amount of debt service?

Rodriguez stated yes however the debt service schedules fluctuate over time but are usually around the same value.

5. Action Items:

5.1 A Recommendation to City Council for an Extension of the Current Land Use Assumptions and Park Impact Fees for a period not to exceed the current fiscal year ending June 30, 2025.

[Recommendation of 1yr Extension](#)

Parks Planning and Construction Administrator Katherine Harrison Rogers from Parks and Recreation presented.

Chair Butler stated that he is concerned about the timeline, that there are many moving pieces, and we will get to the end of this fiscal year and not have time to approve. He asked if they were expecting a February adoption of Realize Las Cruces.

Rogers stated yes, that is what they are aiming for. She plans to bring the Land Use Assumptions to CIAC in the fall, prior to the holiday break in November and December. It would not include the Park Impact Fees, just the Land Use Assumptions in terms of projected growth rates and densities of the city.

Chair Butler asked if we have the authority to charge impact fees between July 1 and the extension approval date.

Rogers stated yes, they have had discussions with legal and we can continue to assess those fees. Ultimately the code states that if there is a member of the public who's impacted by that, they can request that we perform our duty i.e., look at the park impact fees within 60 days of their request.

Curnutt asked if they were going to include a date in the resolution since one was not included in the resolution done in 2019.

Rogers stated that staff is recommending is that there will be a date specific in the resolution that goes to City Council, specifically June 30, 2025, for the extension. As it's written in the code, it assumes it will be at least every five years, therefore you don't have to specify a date when those resolutions are adopted, normally only when you're requesting an extension.

Director of Parks and Recreations Steven Bingham stated that the fee is set and set indefinitely, there is not a sunset to the fee. What's required is that it's looked at. So, the fee would just continue, but we're recommending that the fee remain the same at this time until the completion of the assessment.

Chair Butler stated that the code provides language to allow people to challenge the impact fee and missing the five-year deadline creates an opportunity for them to challenge it. Indirectly we are putting the City at risk by not doing this ahead of the deadline.

Bingham stated that he would disagree based on our legal review of it. The only thing that is required is that the study occurs and that you go to City Council. City Council accepting and saying that we're going to extend that time frame is within their legal right. It will not impact our ability and legality to collect the impact fee. So, the impact fee stays the same.

Vice-Chair Newby asked if we have TischlerBise review land use assumptions for each department during every review cycle.

Rogers stated yes, they do new calculations for individual departments. Individual departments, if they're done within close sequence and there aren't changes to those land use assumptions then the department can choose to adopt what was previously in place from another department. But the cycles tend to separate but oftentimes we do elect to hire the same consultant. It's not always Tischler bikes, but frequently it is.

Chair Butler stated that he believes Public safety used a previous land use assumption, so I think it's a matter of looking at it in the current time frame and asking if the last one is accurate enough for us to continue with or do we need a new one.

RESULTS: MOVER: SECONDER: AYES:	Carried CURNUTT NEWBY UNANIMOUS
--	---

5.2 Schedule Work Session-Reporting

Chair Butler stated that the work session can be scheduled independent of the September meeting or included as part of the September meeting day.

Discussion occurred as to preference.

Chair Butler stated that there is a preference to hold the work session immediately following the September CIAC meeting occurring September 26, 2024.

RESULTS: MOVER: SECONDER: AYES:	Carried BUTLER NEWBY UNANIMOUS
--	--

6. **Board Comments:**

6.1 **Schedule Work Session-Reporting**

Standardized Reporting and Meeting Format
[CIAC Draft Checklists](#)
[CIAC Master Calendar](#)
[CIAC Process Flow](#)

Chair Butler stated that the Work Session will discuss the documents that were provided at the meeting.

Curnutt asked that if anyone comes up with something significant that it be brought to Chair’s attention prior to the Work Session to prevent everyone getting bogged down with it.

7. **Next Meeting Date:**

7.1 **September 26, 2024** with Work Session to immediately follow meeting.

8. **Adjournment:**

RESULTS: MOVER: SECONDER: AYES:	Carried NEWBY CURNUTT UNANIMOUS
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Doug Butler
CIAC Chairman

Date



25-038

City Council Action and Executive Summary

Type of Action:
☒ Resolution
☐ Ordinance
☐ TIDD Resolution

District:	☐ 1 ☐ 2 ☒ 3 ☐ 4 ☐ 5 ☐ 6 ☐ N/A		
1st Reading:	Adopted: September 16, 2024		
Drafter:	Vince Banegas	Department:	Community Development
Program:	Community Planning	Line of Business:	Community Planning
Title:	A RESOLUTION REVERSING AN APPROVAL RECOMMENDATION BY THE PLANNING AND ZONING COMMISSION REGARDING A ZONE CHANGE REQUEST SEEKING A CHANGE FROM R-1A (SINGLE-FAMILY MEDIUM DENSITY) TO R-2C (MULTI-DWELLING LOW DENSITY - CONDITIONAL) FOR PROPERTY LOCATED AT 2795 N. ROADRUNNER PARKWAY. SUBMITTED BY THE COMMUNITY OF MORNING STAR DRIVE.		

TYPE OF ACTION: ☐ Administrative ☐ Legislative ☒ Quasi-Judicial

PURPOSE(S) OF ACTION:
Appeal of Planning and Zoning Commission zone change decision.

BACKGROUND / KEY ISSUES / CONTRIBUTING FACTORS:
As per Section 38-10.B. of the 2001 Las Cruces Zoning Code, as amended, any decision of the Planning and Zoning Commission (P&Z) may be appealed to the City Council in accord with the subsequent Section 38-13 which specifies the grounds for appeal, appellant responsibility in any appeal action, and other related steps associated with the process.

In this instance, an appeal to the P&Z recommendation for a zone change request was submitted for City Council consideration. The case involves an applicant, Mr. Tafiq Hindash - AJ Construction, submitting on behalf of the property owner, Mr. Mohammed Aswad, M.D., a zone change request for property approximately 5.00 acres in size and located at 2795 N. Roadrunner Parkway. The request sought a change from R-1a (Single-Family Medium Density) to R-4 (Multi-Dwelling High Density and Limited Retail & Office) for property approximately 5.00 acres in size at the southwest corner of N. Roadrunner Parkway and Morning Star Drive. The purpose of the zone change request was to accommodate a proposed 96-unit apartment complex at a density of 19.2 dwelling units per acre (du/ac). A conceptual site plan and elevations although not required as part of the zone change request package, was submitted reflecting multiple apartment buildings ranging from one to three stories in height. Ingress/Egress is proposed along both N. Roadrunner Parkway and Morning Star Drive. Conceptual building elevations show two facade designs reflecting one southwest in nature and the other more contemporary in the design. Please note however that these conceptual documents are subject to change to allow development of the site in the manner it is ultimately zoned and for the property owner to proceed with a housing project. It would be at that time (permit submittal) that final design, engineering, and other development analysis be required/submitted for staff review and consideration.

The subject property is currently vacant and is adjacent to areas predominantly zoned R-1a and developed as single-family dwellings. Other uses and zones exist in the immediate area and consist of R-4C (Multi-Dwelling High Density and Limited Retail & Office - Conditional) - Church, O-2 (Office Professional - Limited Retail

Agenda Item #7.4.

Service) - Offices, A-2 (Rural Agricultural) - Middle School, and A-1 (Flood Control) - Arroyo. Further north of the subject lot are properties zoned PUD (Planned Unit Development) and developed as office and apartments.

The applicant carried out early notification procedures as per the 2001 Las Cruces Zoning Code, as amended, resulting in a neighborhood meeting hosted by Morning Star United Methodist Church. A significant number of attendees were opposed to the zone change request largely citing traffic/transportation related concerns including those associated with speeding, congestion, poor line of sight along Roadrunner Parkway, accidents, lack of proper signalization, on-street parking along Morning Star Drive related to school release, and pedestrian safety. Other concerns involving potential increased noise, decrease in property values, privacy, and development compatibility to the surrounding area were also noted.

Several emails, phone calls, and a petition in opposition of the proposal were received from area residents and said correspondence was included in the Planning and Zoning Commission (P&Z) case packet identified herein as Attachment "B". In large part, said correspondence echoes the concerns voiced at the neighborhood meeting.

During review of the proposal, staff did not find any health, safety, or welfare related issues that would prohibit further consideration of the proposed zone change. Community Development staff ultimately recommend conditional approval. Said conditions speak to mitigation measures to allow development opportunities of the subject property with an increased level of compatibility with the surrounding neighborhood. These conditions can be found in the P&Z staff report (Attachment "B"). Key conditions cited include lowering the requested zone change designation from the requested R-4 to R-3C (Multi-Dwelling Medium Density - Conditional), decreasing the density allowed for the property from 20 du/ac to 16 du/ac (max. 80 units), limiting the number of units per apartment building to eight as a means of addressing building bulk, and requiring landscape buffering for parking areas adjacent to the existing roadways. In total, staff provided seven (7) conditions for consideration by P&Z.

The recommendation was made in light of substantial overall support from Elevate Las Cruces Comprehensive Plan and the various goals, policies, and actions contained therein which target the Suburban Neighborhood place type; the place type that encompasses the subject property and surrounding area. The Suburban Neighborhood place type is characterized by low-to-moderate density residential land uses intermixed with areas of commercial development. Predominant land uses include single-family and multi-family development, retail and office uses, and other ancillary institutional and public uses such as schools, parks, and places of worship. The place type states that multi-family development can be supported at a density range between 15-30 du/ac and 4-12 du/ac for single-family development. The proposal as presented by the applicant appears to be in alignment with this place type from a multi-dwelling land use perspective.

Regarding neighborhood compatibility and consistency, the comprehensive plan encourages proposed development when proximate to existing land uses to achieve a reasonable degree of development compatibility through the application of mitigation/design measures that address scale, form, aesthetics, site design, trip generation, and environmental/operational impacts. The conditions staff proposed were/are intended to address these issues. Ultimately, Elevate stipulates that both P&Z and City Council makes the determination as to whether a proposal reaches the compatibility threshold.

The zone change request was heard at the May 28, 2024, P&Z regular meeting. The meeting was heavily attended by area property owners/residents opposing the proposal and voicing various concerns similar to those that came out of the neighborhood meeting described herein. Ultimately, P&Z, by a vote of 4-1-0 (two Commission seats vacant) conditionally approved the zone change with conditions as outlined in Exhibit "B". In essence, the conditions outlined by staff were retained (two modified) as part of the vote with one new condition added. The condition added speaks to automobile parking for any multi-family development that takes place. As recommended, 1.5 auto parking stalls (APS) will be required for one-bedroom units and 2 APS for any unit larger than one bedroom. The zoning district recommended for approval was reduced from the R-3C district staff proposed to R-2C (Multi-Dwelling Low Density - Conditional) with the maximum density being

Agenda Item #7.4.

decreased from 16 du/ac (staff recommendation) to 12 du/ac. The decrease in density if approved, would allow a maximum of 60 units; a drop from the applicant's original request of 96 units.

On June 11, 2024, the appeal of the P&Z's conditional approval decision was submitted. This appeal is from the "community of Morning Star Drive" and cites numerous (9) arguments supporting a reversal of the P&Z decision and can be found in Exhibit "A". Several of these arguments stem from land use cases that have been adjudicated over the past several years. In addressing those particular arguments, it is important to remember that the City of Las Cruces adopted a new comprehensive plan (Elevate Las Cruces), adopted on February 18, 2020, that strongly encourages mixed-use development. It achieves this by establishing a Vision Framework that sets the community vision, a Physical Framework that maps and informs on development strategies speaking on how the community wishes to grow, and finally a Policy Framework that establishes the goals, policies and actions necessary to achieve the first two. The adoption of this comprehensive plan and the stronger development vision established therein should be considered when considering the arguments that speak to 1) the lack of public interest served, 2) that no conditions have changed, 3) that uniformity and comprehensive planning are not being considered/followed, 4) spot zoning, and 5) use of conditional zoning that may not be reasonable or relatable. The remaining arguments may have some validity, but at least a couple (quality of life and population/traffic density), seemingly speak to elements that may be considered subjective in nature.

In terms of development ordinances in effect, please be advised that the two that impact the proposal the greatest are the 2001 Las Cruces Zoning Code, as amended and the City of Las Cruces Design Standards, as amended. The latter ordinance will have greater impact during any development/permit stage and building construction on the property. Admittedly, an amendment to all development ordinances is forthcoming, but this fact should not be interpreted to mean that application of applicable current code cannot achieve what Elevate seeks to establish through policy. As such, at Council's discretion, the proposal as conditioned may be considered to be in alignment with the development vision established via the Elevate Las Cruces Comprehensive Plan and the purpose and intent of the 2001 Las Cruces Zoning Code, as amended.

SUPPORT INFORMATION:

[EXHIBIT "A" - APPEAL LETTER](#)

[EXHIBIT "B" - VICINITY MAP](#)

[EXHIBIT "C" - FINDINGS](#)

[ATTACHMENT "A" - DRAFT 4-28-24 P&Z Minutes](#)

[ATTACHMENT "B" - 2795 RR PKWY STAFF REPORT](#)

PLAN(S):

Elevate Las Cruces

COMMITTEE/BOARD REVIEW:

P&Z

DOES THIS AMEND THE BUDGET?:

☐ Yes

☒ No

Does this action amend the Capital Improvement Plan (CIP)?

☐ Yes

☒ No

Does this action align with Elevate Las Cruces?

☐ Yes

☒ No

OPTIONS / ALTERNATIVES:

1. Vote "Yes"; this will approve the appeal thereby reversing the decision made by P&Z. The subject property located at 2795 N. Roadrunner Parkway will not be rezoned from R-1a (Single-Family Medium Density) to R-2C (Multi-Dwelling Low Density - Conditional).
2. Vote "No"; this will deny the appeal and affirm the zone change decision made by P&Z. The property will be rezoned from R-1a to R-2C.
3. Vote to "Amend"; this could allow the City Council to modify the Resolution as deemed appropriate.
4. Vote to "Table"; this could allow the City Council to table/postpone the Resolution and direct staff accordingly.

RESOLUTION 25-038

A RESOLUTION REVERSING AN APPROVAL RECOMMENDATION BY THE PLANNING AND ZONING COMMISSION REGARDING A ZONE CHANGE REQUEST SEEKING A CHANGE FROM R-1A (SINGLE-FAMILY MEDIUM DENSITY) TO R-2C (MULTI-DWELLING LOW DENSITY - CONDITIONAL) FOR PROPERTY LOCATED AT 2795 N. ROADRUNNER PARKWAY. SUBMITTED BY THE COMMUNITY OF MORNING STAR DRIVE.

The City Council is informed that:

WHEREAS, Tafiq Hindash - AJ Construction, LLC on behalf of Mohamed Aswad, M.D., has submitted a request for a zone change from R-1a (Single-Family Medium Density) to R-4 (Multi-Dwelling High Density and Limited Retail & Office); and

WHEREAS, the subject property is approximately 5.00 acres in size, vacant, and was proposed to be developed as a 96-unit apartment complex; and

WHEREAS, per Elevate Las Cruces Comprehensive Plan, the subject property and the surrounding area falls within the Suburban Neighborhood place type characterized by low-to-moderate density residential land uses intermixed with areas of commercial development and further, cites predominant land uses to include single-family and multi-family development, retail, and office uses, and other ancillary institutional and public uses such as schools, parks, and places of worship; and

WHEREAS, during consideration of the request at the May 28, 2024, Planning and Zoning Commission meeting, the proposed R-4 zone was deemed to be excessive resulting in a P&Z recommendation to City Council for a zone change to R-2C (Multi-Dwelling Low Density - Conditional) by a vote of 4-1-0 (two Commission seats vacant); and

WHEREAS, on June 11, 2024, an appeal to the P&Z recommendation was submitted citing nine (9) arguments against the decision; and

WHEREAS, the appeal also states that the proposal is not consistent with the surrounding area, that it will alter the neighborhood's character, that it does not promote the most appropriate use of the land to preserve the health, safety, and welfare of the community which increases every citizen's quality of life.

NOW, THEREFORE, Be it Resolved by the Governing Body of the City of Las Cruces:

(I)

THAT the P&Z decision recommending approval of a zone change from R-1a (Single-Family Medium Density) to R-2C (Multi-Dwelling Low Density - Conditional) is hereby reversed pursuant to the appeal letter shown in Exhibit "A".

(II)

THAT the subject property as shown in Exhibit "B", attached hereto and made part of this Resolution, remain R-1a pursuant to the applicant's initial zone change request.

(III)

THAT said action is based on the findings as determined by City Council during consideration of the appeal pursuant to Exhibit "C".

(IV)

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

DONE AND APPROVED this day of

Agenda Item #7.4.

APPROVED

ATTEST:

Moved by:

Seconded by:

AYES

NAYS

REC'D 6/11/24
2:30 Pm.
UMB

APPEAL OF PLANNING AND ZONING DECISION

CASE NUMBER: 22ZO0500156, N. ROADRUNNER PARKWAY

The community of Morning Star Drive hereby appeals the decision in case number 22ZO0500156, following legal counsel's advice.

ARGUMENTS

No beneficial use deprivation: The property owner will not lose any value or beneficial use of his property if the zoning is not changed. (Miller vs City of Albuquerque)

No public interest served: Allowing apartments in a single-family dwelling neighborhood does not serve the public interest. (USCA Const Amends 5,14)

Alternative parcels available: Other parcels of land are available for mixed-use development, such as the land next to the CYFD building on Roadrunner Parkway.

No change in conditions: The parcel of land has had no change in conditions since its original zoning classification, which we presume to have been correct, and there is no reasonable excuse to change the zoning. (Miller vs Albuquerque)

Uniformity and comprehensive planning: The zoning authority must follow regulations and consider the character of the district, as stated in NMSA 1978, § 3-21-5. (Albuquerque Commons Partnership v. City of Albuquerque)

Spot zoning: The proposed zoning change benefits only the property owner, not the community, and is considered spot zoning. (Albuquerque v. Paradise Hills)

Conditional zoning: Any conditions for zoning changes must relate to the property's character and be reasonable. A condition based on person rights is inappropriate. (Mechem 96 n. m. 668)

Quality of life: Building apartments in a single-family housing neighborhood will decrease the quality of life for existing residents and change the neighborhood's ethos.

Population/Traffic Density: We are a neighborhood of 84 homes which rely on egress via two outlets, one of which has blind curves in both directions. We are fearful of the prospect of nearly double the number of dwellings and vehicles in this crowded situation.

RESPONSE TO PLANNING AND ZONING DOCUMENT

The proposed zoning change is not consistent with the surrounding development, and the apartment complex will significantly alter the neighborhood's character.

The request is not compatible with the place type character, and the development does not consider the appropriateness of future proposals with place type designations and surrounding land uses.

APPEAL SUMMARY

Per the Planning and Zoning Commission's own document, Section 38-2: The intent is to encourage the most appropriate use of the land to promote the health, safety, and general welfare of the community for the purpose of improving each citizen's quality of life. Building apartments in a single-family housing neighborhood does none of those things. It would only benefit one person – which goes against your own document.

Please see reverse side for signatures of neighborhood representatives.

Agenda Item #7.4.

Following are signatures of those concerned neighbors who feel strongly about the issue of changing the zoning:

Carolyn Truxal
2878 Morning Star Carolyn Truxal

Jose Miranda
2878 Morning Star Jose Miranda

Patricia Keever
2700 Nebula Way Patricia Keever

Sandra Bein
2888 Asteroid Ct Sandra Bein

Joyce Bishop
2895 Morning Star Joyce Bishop

Dan Bishop
2895 Morning Star Dan Bishop

Jackie Horton
2886 Morning Star Jackie Horton

Anita Morales
2901 Quasar Ct Anita Morales

Frances Kemp
2697 Stellar Way Frances R Kemp

Ray Aaltonen
2689 Stellar Way Ray Aaltonen

John Eitreim
2882 Morning Star John Eitreim

Anne Eitreim
2882 Morning Star Anne Eitreim

Charles Juarros
2859 Morning Star Charles Juarros

Christine Juarros
2859 Morning Star Christine Juarros

Judy Meade
2855 Morning Star Judy Meade

Crystal Rodriguez
2891 Morningstar Crystal Rodriguez

Vern Smith
2685 Stellar Way Vernon Smith

Margaret Smith
2685 Stellar Way Margaret Smith

Diana Jeremias
2883 Morning Star Diana Jeremias

Joanne Smith
2690 Stellar Way Jo Ann Smith

Jesus Torres
2693 Stellar Way Jesus Torres

Adrianna Torres
2693 Stellar Way Adrianna Torres

Alonso Zimmermann
2890 Morning Star Alonso Zimmermann

Claudia Reyes
2890 Morning Star Claudia Reyes

Angel Zimmermann
2890 Morning Star Angel Zimmermann

Dominick Zimmermann
2890 Morning Star Dominick Zimmermann

Richard Griffin
2903 Morning Star Richard Griffin

Adriana Griffin
2903 Morning Star Adriana Griffin

Vincent Ortega
2897 Quasar Vincent Ortega

Ernest Perez
2897 Quasar Ernest Perez

Melissa Apodaca
2886 Stellar Way Melissa Apodaca

Gilbert Apodaca
2886 Stellar Way Gilbert Apodaca

Lily Hernandez
2903 Morning Star Lily Hernandez

Agenda Item #7.4.

Signatures of more concerned neighbors who feel strongly about the issue of changing the zoning:

Megan Apodaca
2886 Stellar Way Megan Apodaca

Noah Apodaca
2886 Stellar Way Noah Apodaca

Ricardo Jacquez
2669 Stellar Way Ricardo Jacquez

Irene Jacquez
2669 Stellar Way Irene Jacquez

James Montoya
2878 Morning Star James Montoya

Linda Montoya
2878 Morning Star Linda Montoya

D'dre Brock
2875 Morning Star D'dre Brock

Clinton Wilde
2887 Morning Star Clinton Wilde

David Lukens
2676 Nebula Way David Lukens

Roberta Lukens
2676 Nebula Way Roberta R. Lukens

Pete Tierney
5057 Ventana Way Pete Tierney

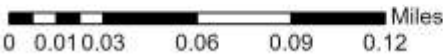
Daphne Romero
2681 Stellar Way Daphne Romero

RECEIVED
JUN 11 2014
COMMUNITY
DEVELOPMENT

EXHIBIT “B” – VICINITY MAP



Note: Subject property is outlined in red.



Legend

- | | |
|------------------|-----------------|
| RoadCenterline | — Collector |
| Road Class | — Local Streets |
| — Minor Arterial | □ Owner Parcels |

EXHIBIT "C" – FINDINGS

This page will reflect the findings for either approval or denial of the appeal request as per City Council discussion and vote.



PLANNING AND ZONING COMMISSION
FOR THE
CITY OF LAS CRUCES
City Council Chambers
May 28, 2024 at 6:00 p.m.

BOARD MEMBERS PRESENT:

Scott Kaiser, Chair
Enrico Smith, Vice-Chair
Connor Murray, Member
Joaquin Acosta, Member (arrived 6:07)
Vanessa Porter, Member

STAFF PRESENT:

Larry Nichols, Director Community Development Department
David Weir, Deputy Director Community Planning
Adam Ochoa, Senior Planner/Building Inspection Supervisor
Vincent Banegas, Interim Planner
John Castillo, Planner
Brad Douglas, City Attorney
Becky Baum, Recording Secretary, RC Creations, LLC

1. CALL TO ORDER (6:00)

Kaiser: All right, good evening. It is 6:01, so we will go ahead and call this meeting to order. Welcome to the Planning and Zoning Commission for the City of Las Cruces. This is the May 28th meeting

2. APPROVAL OF MINUTES – April 23, 2024

Kaiser: First order of business this evening is an approval of the minutes from the April meeting. Before we do that were there any comments, edits, or suggestions. No. All right, looking for a motion to approve.

Smith: I move that we approve the minutes from the previous meeting.

Porter: I second.

Baum: Board Member Porter.

Porter: Abstain.

Baum: Board Member Smith.

1
2 Smith: Yes.

3
4 Baum: Board Member Murray.

5
6 Murray: Yes.

7
8 Baum: Chair Kaiser.

9
10 Kaiser: Yes.

11
12 Baum: Motion passes.

13
14 **3. CONFLICT OF INTEREST**

15
16 Kaiser: All right. Any conflicts of interest from the Commission this evening?
17 Seeing none.

18
19 **4. POSTPONEMENT**

20
21 Kaiser: Any postponements from staff?

22
23 Ochoa: None tonight, sir. No.

24
25 Kaiser: All right.

26
27 **5. ACCEPTANCE OF THE AGENDA**

28
29 Kaiser: And before we move to accept tonight's agenda, I would like to pull item 7.2
30 from the consent agenda. Just for a brief discussion. So with that change,
31 looking for a motion to approve tonight's agenda.

32
33 Smith: I move that we approve tonight's agenda.

34
35 Murray: I'll second.

36
37 Baum: Board Member Porter.

38
39 Porter: Yes.

40
41 Baum: Board Member Smith.

42
43 Smith: Yes.

44
45 Baum: Board Member Murray.

1 Murray: Yes.

2
3 Baum: Chair Kaiser.

4
5 Kaiser: Yes.

6
7 Baum: Motion passes.

8
9 **6. PUBLIC PARTICIPATION**

10
11 Kaiser: All right. Moving on to public participation. I know many of you are here to
12 speak this evening on several items. But this time will be reserved for those
13 that wish to speak on something that is not on tonight's agenda. Can I get
14 a raise of hands? I see one hand raised. A second hand. Okay, just one
15 hand raise. All right. The gentleman please come forward. I'll give you two
16 and a half minutes. And please state your name for the record.

17
18 Shervanick: Gregory Shervanick for the record. And Chair Kaiser I would like to give
19 you these photographs of ...

20
21 Kaiser: Bring them up. And then before you begin, do you swear or affirm that the
22 testimony you're about to give is the truth and nothing but the truth under
23 penalty of law?

24
25 Shervanick: I do.

26
27 Kaiser: Go ahead.

28
29 Shervanick: This evening, Commissioners, Mr. Chairman, City staff. I'd like to caution
30 you that as you get closer and closer to a work session with City Council
31 concerning Realize Las Cruces, the newest zoning change that the City of
32 Las Cruces will be doing. The first thing as I've observed, and I'm sure
33 you've observed in this chamber, that people come here and they say we
34 didn't know about it. And of course, we tell them that we post signs for
35 public participation. And we also send out letters. In front of you I've given
36 you two photographs. This case you've already heard. It's off of Mesquite
37 Street. You will notice that in the first photograph, the photograph was taken
38 from the curb, so you can see or not see what is on the sign. The second
39 photograph is at two times from that particular level, and you still can't really
40 read what's on that zoning change. So in order to stop individuals from
41 coming here and claiming that they didn't know or didn't have the right to
42 know, I'm suggesting that in the Realize Las Cruces document that this
43 statement as it now states 500 feet plus the size of the font on the signs be
44 changed. And included is a cue code so that anybody at any distance can
45 photograph it.

46

1 And then secondly, we've heard a lot about energy. We've also seen a lot
2 of car ports be brought into this chamber, and a decision made to them.
3 The more shade one has around an area increases or actually decreases
4 the urban heat. So I would consider you to not take down any more carports
5 as it helps our urban heat problem. And I want to thank you very much for
6 your time, as I have 30 seconds left.
7

8 Kaiser: Thank you. And I would like just to echo for those that are here this evening.
9 The Realize Las Cruces update to the development code is ongoing and
10 currently accepted and open for public comment. So if you would like to
11 you can go read the draft development code updates, these are what's been
12 proposed game, again draft form. And you can provide your input, your
13 perspective, your feedback on what you would like to see going forward.
14 This code dictates everything that we see in this room at these meetings.
15 So if there's things that you would like to see changed, for example, better
16 public noticing, this would be an opportunity to make those
17 recommendations in this process. And I believe the website to do that is
18 www.realizelascruces.com.
19

20 7. CONSENT AGENDA

21
22 **7.1 Case No. 24ZO5000050:** A request to approve an Infill Development Process
23 (IDP) proposal to allow an attached corner sign, wall mural, and wall sign for the
24 redevelopment of an existing commercial building. The subject property is located
25 at 340 N. Main Street, is zoned DDC-MS (Downtown Development Code-Main
26 Street) and located within the Downtown Development Code (DDC) Overlay
27 District. Submitted by Fluorescent Signs Inc., representative. Council District 1.
28

29 Kaiser: Okay, moving on to tonight's consent agenda. We've got one item
30 remaining, that's item 7.1. So looking for a motion to approve tonight's
31 consent agenda.
32

33 Smith: I move that we approve tonight's consent agenda.
34

35 Murray: Second.
36

37 Baum: Board Member Porter.
38

39 Porter: Yes.
40

41 Baum: Board Member Smith.
42

43 Smith: Yes.
44

45 Baum: Board Member Murray.
46

1 Murray: Yes.

2
3 Baum: Chair Kaiser.

4
5 Kaiser: Yes.

6
7 Baum: Motion passes.

8
9 **7.2 Case No. 24ZO0500052:** A request to approve a proposed zone change from A-
10 2 (Rural Agricultural, 1981 Zoning Code) to C-3 (Commercial High Intensity) on a
11 property encompassing 1.89 ± acres and located at 3098 E. University Avenue.
12 The zone change request seeks to bring the property into compliance with the
13 2001 Zoning Code as amended. Submitted by Maverik C-Store, representative.
14 City Council District 2.
15

16 Kaiser: Okay, moving on to item 7.2. I don't need a presentation from staff. I just
17 have a few questions/comments about it. For those in the audience this is
18 a request to approve a proposed zone change from A-2 to C-3 on University
19 Avenue. If you've been there recently, you'll notice there's a new gas
20 station. It's my understanding based on the staff report that this is to bring
21 the property into compliance. My first question is how did we allow a
22 structure and a business to be constructed prior to having the appropriate
23 land use in place.
24

25 Castillo: Good evening, Mr. Chair, Commission. To answer your question the
26 property is owned by the State of New Mexico. As part of our code, they do
27 exceed statutory regulation. So they don't have to follow our code. But in
28 order for them to have a business registration being inside our limits, as well
29 as other things that may not be regulated beyond our municipality, but at a
30 state level, for instance the sales of tobacco, they do need approval from
31 the municipality in order to do so.
32

33 Kaiser: And what would have been if this body decided we were not going to
34 approve the zone change.
35

36 Castillo: This body is a recommending body. So then it would go to City Council with
37 your recommendation of denial. Ultimately, City Council would make that
38 determination.
39

40 Kaiser: And if they denied it as well or upheld the denial.

41
42 Castillo: Mr. Chair, Commission. Then staff would have to seek how to get the land
43 use approved.
44

45 Weir: Mr. Chair. There's also an appeal process they could go through. They
46 could appeal that decision to District Court.

1
2 Kaiser: Okay. I guess the point I'm trying to make is what if they didn't win any of
3 those appeals. They didn't get the zone change approved, City Council
4 upheld the denial, and District Court upheld the denial. What happens
5 then? They've already constructed a nonconforming structure. So I'm just
6 trying to understand what happens. Everybody else in this room or in this
7 town has to come forward in the proper order. Just curious why this is
8 different.
9

10 Weir: Mr. Chairman, Commissioners. The issue is the issuance of a business
11 license or business registration. The construction of the building, the
12 property is owned by New Mexico State University, so they're an equal
13 subdivision of the state that the City is exempt from enforcing. They were
14 able to get a building permit from the State of New Mexico, the CID division.
15 And so then they've received a certificate of occupancy from the state. It's
16 not a permit that's even issued by the City of Las Cruces. So the issue
17 becomes again that business registration. It's really in the best interest of
18 the City to issue that so that we can receive the gross receipts from the
19 sales of items within that facility.
20

21 Kaiser: Thank you. That's helpful. To the point about it's in the City's best interest.
22 I guess there's a couple of statements that were presented in the staff report
23 that I find interesting. The first is that this location in town has been
24 identified as a town center place type in our Elevate Las Cruces
25 comprehensive plan. And we define that in the staff report as a place that
26 includes a mix of residential and nonresidential land uses that collectively
27 create a vibrant and walkable activity center. How does a gas station align
28 to that vision?
29

30 Castillo: Mr. Chair, Commission. The proposed town center that is there is also
31 known as Aggie Uptown, where a majority of that development will occur on
32 NMSU's property.
33

34 Kaiser: But how does the gas station align with the character of vibrant, walkable
35 activity center?
36

37 Castillo: Mr. Chair, Commission. The gas station is the first development to occur in
38 Aggie Uptown. I don't know if the NMSU representative is in council
39 chambers today to elude more to that as to how it would become a more
40 walkable, vibrant area.
41

42 Ochoa: Pardon me. I guess this is really their very initial phase of what is Aggie
43 Uptown. And with this phase they actually did build out their sidewalk into
44 the trail system that's existing sir. So they are going to be contributing
45 towards that connectivity with the rest of Aggie Uptown where that trail
46 system will be running through it as well. So that's why it could potentially

1 allow for a more pedestrian friendly area. Even though it is a gas station
2 which is auto centric, that's for sure, but it's also a convenience store that
3 people can walk to utilizing those trail systems, sire.
4

5 Kaiser: Very well. And then the, there's I guess, a couple of goals that were
6 identified as again further rationale for why this makes sense, this gas
7 station. Goal CP-2 says economic equity generate employment
8 opportunities that create economic security for all residents. And the sub
9 policy of that is CP-2.2, supports efforts to connect vulnerable populations
10 to job opportunities. I'm just wondering how we look at a gas station as
11 providing a genuine economic job security for residents of the City,
12 particularly vulnerable populations who are already disadvantaged and now
13 we're seeing here go stand at a gas station and breathe in the fumes all day
14 for your job. I don't need a response to that. Just an observation.
15

16 Then I'd like to point out goal CP-4, this is, diversification seek a balance of
17 business recruitment, retention, and expansion to diversify economic
18 opportunities. The sub policy CP-4.2 support efforts to be regionally and
19 nationally competitive in regard to retaining and growing businesses, jobs,
20 and students. I am struggling to see how a gas station really elevates this
21 area of town, particularly adjacent to a major university where I would think
22 student housing, the ability to walk to campus, to not require a car to get to
23 and from school on very tight budgets could be seen as really providing a
24 net positive in this particular location of the City. So those are just my
25 comments and questions this evening. Unfortunately, I will not be
26 supporting this recent application just because I don't think that the
27 evidence provided in the staff report really lives up to reality. I'll open it up
28 to other questions, comments from the Commission. But if there are none,
29 looking for a motion to approve.
30

31 Smith: I move that we approve, what's the number on this one, 7.2. Sorry.
32

33 Porter: I second.
34

35 Baum: Board Member Acosta.
36

37 Acosta: I vote yes based on staff recommendation.
38

39 Baum: Board Member Porter.
40

41 Porter: I vote yes on staff recommendation.
42

43 Baum: Board Member Smith.
44

45 Smith: Yes, based on staff recommendation.
46

1 Baum: Board Member Murray.

2
3 Murray: Yes, based off staff recommendation.

4
5 Baum: Chair Kaiser.

6
7 Kaiser: No, I do not believe that the evidence provided in the staff report holds up
8 to any scrutiny.

9
10 Baum: Motion passes.

11
12 **8. OLD BUSINESS**

13
14 **8.1 Case 22ZO0500156:** A request to approve a zone change from R-1a (Single-
15 Family Medium Density) to R-4 (Multi-Dwelling High Density & Limited Retail and
16 Office) for land ± 5.00 acres in size and located at 2795 N. Roadrunner Parkway.
17 Submitted by Tafiq Hindash – AJ Construction, LLC on behalf of Mohamed Aswad,
18 M.D., property owner. City Council District 3.

19
20 Kaiser: Okay, moving on to item 8.1. This is a request to approve a zone change
21 from R-1a to R-4 on, I believe it is Roadrunner Parkway.

22
23 Banegas: Good evening Commissioners. Vincent Banegas, interim planner for the
24 record, presenting tonight's case as it involves case number 22ZO0500156,
25 involving property at 2795 Roadrunner Parkway. The proposal that was
26 submitted for your consideration and recommendation up to City Council
27 involves a zone change from R-1a to R-4. The property is plus or minus
28 five acres in size. Is R-1a, which is our single-family medium density
29 residential district, much like several of the properties in that immediate
30 vicinity. The property is within the suburban place type which is one of
31 several place types identified in the Elevate Las Cruces comprehensive
32 plan. Characterized by low to moderate density residential land uses with
33 areas of commercial development. And it goes on to categorize the types
34 of land use that are predominant land uses in that place type as single-
35 family, multifamily, commercial, office, schools, parks, and places of
36 worship.

37
38 The property is currently vacant and was annexed back in 1979 with the
39 Western Development Annexation. It is not part of any master planned area
40 in the immediate vicinity. Staff thought at one point that it was part of the
41 High Range but High Range stops well short of that on the south. And it's
42 not part of any of the others adjacent to it. Utilities are readily available
43 adjacent to the site. And some significant terrain and grades exist on the
44 site which the developer or property owner and their engineer are well
45 aware of, and have already begun to take into consideration what they
46 would have to do to make things work should their proposal get approved.

1 It is a corner lot having frontage both along Roadrunner Parkway, and
2 Morningstar Drive. The surrounding land uses in that immediate vicinity
3 include single-family residential, quasi institutional with the church which is
4 northeast of the subject location. There's an office adjacent to that church.
5 And then a school. So you have an institutional use not too far away. You
6 also have further down of course some multifamily uses and flood control
7 property in the immediate vicinity. Further down below their vicinity you also
8 have the Doña Ana Community College further east of the location.

9
10 This is the zoning map that illustrates the location of the property outlined
11 in red, obviously showing the R-1a designation. In fact much of this area
12 that is shown in the light yellow is all R-1a. It is developed as you see here
13 through the creation of the properties. Roadrunner Parkway runs along the
14 east side and south, going south as it curves adjacent to the property.
15 Roadrunner Parkway is considered to be a minor arterial, pursuant to the
16 Mesilla Valley Metropolitan Planning Organizations thoroughfare map. And
17 Morningstar Drive, which is located here, crosses Roadrunner Parkway.
18 From the intersection with Roadrunner Parkway east, it is considered a
19 major collector, and from the intersection west it is considered a local road.
20

21 Others zoning districts in the immediate area is R-4C here, this covers the
22 church that I identified, some additional single-family homes, and
23 development up here in a planned unit development zone. And you see
24 just a little bit of the O-2 zone up in the corner for that office that I mentioned.
25

26 The aerial again showing the property outlined in red. You see a lot of the
27 development that has taken place in the surrounding area. Vast majority of
28 this portion obviously is the flood control for the arroyo.
29

30 So the original request regarding this proposal came in to staff as a zone
31 change from R-1 to R-4. R-4 is our multidwelling high density and limited
32 retail and office use or zone. It does allow for some commercial uses. It's
33 rather limited, as the name implies, and it does have limited office uses
34 beyond the residential scope. The development focus which isn't a specific
35 requirement of the zone change but nonetheless is often requested of
36 applicants, showed a conceptual site plan that proposed 96 apartment units.
37 It was an apartment complex that was illustrated on the site plan. Basing
38 that number of units in context to the acreage of the property put the
39 development proposal at 19.2 dwelling units per acre. That was the density
40 that they were targeting. There were some related accessory uses such as
41 the office building, some recreational courts, that kind of thing that were also
42 shown on the site plan. There were two points of ingress and egress for the
43 proposed development, one along each front edge. They did specify they
44 were dark targeting a primary frontage or ingress/egress along Morningstar
45 Drive and a secondary along Roadrunner. And one of the thoughts in
46 talking with the engineer was specifically to the point of the clear line of sight

1 that does not necessarily exist. As you stand adjacent to the property on
2 Roadrunner Parkway and looking north or as one travels north to south,
3 there is some obstruction in terms of the line of sight. Hence the need to
4 develop or consider primary ingress along Morningstar Drive.
5

6 The site plan also illustrated that there were going to be, it should read one,
7 two, and three story apartment buildings. There were groupings of eight
8 and 12 units together per building strewn about the site. The proposal when
9 it first came in was requested go through the early notification process
10 pursuant to code. The applicant had initiated that process. But staff was
11 visited by a resident in the area who received notice by the applicant and
12 presented the notice to me and it was evident that several points were not
13 addressed, which should have been addressed on the letter. As such, staff
14 requested the applicant go through that process again, and to hit certain
15 key points as identified per code.
16

17 The case came before this body or was to come before this body in April,
18 but due to a signposting error on the property, it was postponed till this
19 evening. And again, the applicant seeks a straight R-4 zone change. I think
20 in your packet I referred to a 40 dwelling unit per acre. The reality is it's a
21 minimum density of 10 dwelling units per acre with a maximum density
22 defined by the developer. Again, the concept plan they submitted was 19.2
23 dwelling units per acre. Staff would recommend that should the Planning
24 and Zoning Commission consider the straight R-4 request, that density be
25 nailed down, perhaps as a condition that should be considered. The use in
26 the R-4 does allow for single-family, multifamily, limited offers, quasi-public,
27 and institutional uses. There are some commercial uses that are also
28 authorized per the R-4 zoning district. And the single-family aspect would
29 have to come in the form of a subdivision type processes that would in most
30 likely terms come before this body for consideration and approval via
31 preliminary plan and final plat processes.
32

33 This was the conceptual site plan that was submitted to staff. You can see
34 there's a variety of different buildings that are clustered on the site. Again,
35 some of these have eight units, some have 12 units, some are one story,
36 two story, and some are three story units. They have office located here,
37 pools, etc., meeting areas on site. The parking, here's the primary ingress
38 for Morningstar Drive that was illustrated, again this is conceptual in nature
39 subject to change. And they had all their parking identified on the perimeter
40 or periphery of the site. They do show some landscaping to help buffer that
41 parking from the street or from adjacent views. They have a Morningstar
42 landscaping here as well. And they do show the parking abutting pretty
43 close to their property line. And they do recognize that due to the elevation
44 changes that are likely pursuant to any development taking place, they will
45 have to contend and engineer properly the grade changes as it abuts
46 adjoining property.

1
2 These were some conceptual elevations that were also submitted. They
3 had two options submitted and just kind of illustrating some of the ideas they
4 had in mind. One more modern than the other. And some floor plans that
5 just showed some of the groupings, the eightplex, twelve-plex and some of
6 the number of bedrooms that they could accommodate. Some of the photos
7 in the area that I took, this is just looking south along Roadrunner Parkway.
8 The property in question is here to your right. You could already see some
9 of the grade changes taking place from Morningstar Drive as it ramps up
10 here to flatter areas which go south. And this is at the intersection of
11 Morningstar Drive and Roadrunner Parkway. This is the line of sight issue
12 that I mentioned. That is certainly a concern with a lot of residents in the
13 area. It's very difficult to see oncoming traffic quickly enough in order to
14 make a determination as to whether to proceed with a straight thru drive or
15 turn left or right and that kind of thing. In fairness, this shot angle was taken
16 a little bit further back than what would normally happen as you approach
17 this intersection, but nonetheless, it is rather limited.

18
19 This is a shot just looking west on Morningstar Drive you can see some of
20 the adjoining properties and residential development adjacent to the
21 property at its western most side. Again, showing some of the topography
22 issues, grades that they're going to have to contend with and design around
23 or with. And some additional properties on the south side that are adjacent
24 to the subject property. And another.

25
26 So in terms of analysis, from the zone change perspective staff did not
27 identify any health, safety, or welfare issues identified or presented as part
28 of their development package. The requested R-4 zone would allow a
29 maximum density as defined by the applicant and at least pursuant to the
30 conceptual information presented came in at 19.2 dwelling units per acre.
31 This afforded them the 96 units they targeted. This and other development
32 requirements such as the R-4 maximum height allowance, which is 60 feet,
33 the unlimited number of apartment units that could be grouped per building,
34 those types of factors gave staff little cause for concern. And we deemed it
35 a little excessive for neighborhood compatibility considerations. As such,
36 conditions we felt were necessary to achieve a higher degree of consistency
37 and compatibility with the surrounding neighborhood and a little bit more for
38 development certainty. So the proposal is definitely consistent with the
39 suburban place type that's illustrated in the comprehensive plan. In that
40 place type it goes on to show or reflect the types of densities that either a
41 single-family development could propose or a multifamily development
42 could propose. And you can see if we're talking multifamily they're well
43 within range, 15 to 30 is what they list as a density range for the suburban
44 place type for multifamily uses.
45

1 Other supporting Elevate policy speaks to some of the many policy issues
2 that we've discussed in the past, development of vacant land, creation of
3 housing diversity, balance growth, integrating new development with
4 surrounding built environment, mixed use neighborhoods, things of that
5 sort. Those are common themes in terms of policy that are presented in
6 Elevate and those certainly play a role if you consider this proposal. Elevate
7 also speaks to consistency and compatibility, you're going to hear that word
8 a lot with this presentation. It speaks to the need for that when new
9 development is proximate to developed areas. Staff has recommended
10 conditions in an attempt to guide you if you deem higher development on
11 this property appropriate. The consistency and compatibility issue rest with
12 the Commission and rest with City Council, that is clearly identified in
13 Elevate and it is something that we don't have a cheat sheet if you will that
14 specifically says when something is or is not compatible, but you're going
15 to have to kind of go off of your heart, what you feel, what you see in terms
16 of site design, architecture, that kind of thing to help define what that means.
17 I know in terms of Realize Las Cruces, I know that's down the road, but
18 there will be a need in which to come up with a matrix if you will that will
19 help guide us a little bit further.
20

21 The case was noticed as per code. Staff received several phone calls, walk-
22 in inquiry, multiple e-mails, all opposed to the proposal. Two early
23 notification efforts resulted in one neighborhood meeting. It was hosted by
24 the Morningstar United Methodist Church, again just northeast, in the
25 northeast corner from this site. It was held on April 9th of this year and was
26 very well attended by the neighborhood. The concerns raised at that
27 meeting, it was broken up into two groupings if you will, two discussions and
28 concerns were traffic related to a large extent, speeding, congestion, poor
29 line of sight, accidents, signalization or lack thereof. The on street parking
30 issue and the safety issues that presents, property value decline, noise and
31 privacy were among several of the concerns identified. A petition to that
32 effect and it was submitted, that is part of your packet, that was included
33 and came in and I informed those submitting it that that would definitely be
34 included. So staff recommendation this evening is approval but with
35 conditions. And the condition speak to lowering the zoning district
36 designation from R-4 to R-3C. The C at the end of the R-3 speaks to
37 conditions that's, all that means. The conditions would be listed as follows.
38 If we go to the R-3C, that's automatically a drop down from the R-4. R-3
39 three allows height, buildable height that is consistent with the R-1a zone,
40 it lowers the number of units that can be grouped. And so it's that kind of
41 logic that tries to at least in staff's mind bring about more compatibility to the
42 surrounding area. Uses are also proposed to be limited to either multifamily
43 or single-family residential as a primary use and shall not include mobile
44 home parks. Mobile home parks are an allowed use, they have to go
45 through a process for approval, but not thinking mobile home park use
46 would be as compatible as site built. The proposal at least with this content

condition is to exclude those from consideration. Accessory uses and ancillary uses that are associated with residential uses would be allowed, sheds, for instance, home occupations, office buildings for the apartments if that happened, things of that nature would be okay. The density as proposed or recommended as a condition would be limited to 16 dwelling units, that would afford them 80 units down from the 96. Sixteen dwelling units as one dwelling unit more in terms of density than the R-2 zone which is even a lesser designated zoning district than R-3. This condition would allow one more dwelling unit per acre than the R-2. Any landscape buffers that are required, we have a matrix as it relates to differing land uses that don't go as far as what I was mentioning with Realize, but nonetheless it's part of our code. It is a requirement as part of the building permit. And it states that when you have differing land uses, in this case it would be multifamily if this got approved, adjacent to single-family uses then there would be landscaping needed. And it would take the form of either a 10 foot semi opaque buffer or a five foot opaque buffer. And those are defined from the ground level, at least on the opaque screen, from a ground level up to six feet, that would be opaque and then from six to 20 would be intermittent openings. And then on the semi opaque side, it's zero to three feet solid, and then from three to 20 intermittent openings. The five foot and the 10 foot speak to the width, so the landscaping that would go into those areas would be in addition to any site landscaping required for the development.

And then another condition which is condition number five is if multifamily development occurs because we are allowing two different types of residential development, the landscaping, hardscape, or combination thereof, that type of landscaping would be used to buffer any parking areas adjacent to Morningstar Drive and Roadrunner Parkway. And it goes on to speak about landscape berms and short walls and/or decorative walls, fencing to be used for that purpose. Condition six is no more than eight detached apartment dwellings per building cluster allowed. That follows specifically R-2 standards, but I felt it appropriate here since that was in line to an extent with what they had submitted. And then number seven is just speaking to aesthetics, construction materials used for the multifamily development shall consist of natural materials or manufacturing materials to look natural typically used in the construction of dwellings in the Las Cruces community.

The findings for this recommendation or staff's recommendation is as follows. The zone change request for five acres has been submitted for a 96 unit apartment complex. A lesser zoning designation can be considered by both the P&Z and City Council. If you deem R-4 is too excessive, change to R-3 or R-2 may be considered or you may consider conditions to restrict that use. The subject property is within the suburban place type. I've gone over that. The proposed zone change request is consistent with a lot of

1 policy that Elevate Las Cruces speaks to, it is also meeting the purpose and
2 intent of the 2001 Zoning Code as amended. The surrounding area consists
3 largely of single-family residential, quasi institutional, office, institutional,
4 open space, land uses and then broader vicinity of multifamily and other
5 institutional uses in that area. Zoning districts that are at play with those
6 uses are R-1a, A-1/A-2, O-2, PUD, and R-4C. So we do have instances
7 where R-4 is in the area. And finally per Elevate, speaking to the language
8 that reads as it relates to development of vacant property when proximate
9 to developed areas, that design consideration, aesthetic consideration
10 should be at play in determining compatibility and development.

11
12 So your options this evening Commissioners is to vote "yes" and approve,
13 in that sense it's the straight R-4 as presented by the applicant. You can
14 vote "no" to deny it. In that the packet that was presented speaks to
15 conditions, the denial would have to come with new findings that you would
16 have to provide or state for the record in your vote. If you vote "yes" with
17 conditions, you could certainly follow those recommended by staff, you
18 could add others that you feel are appropriate. And you can vote to table.
19 And that concludes staff's presentation on this matter. I stand for questions.
20 And I believe the applicant and representatives are in attendance, should
21 you wish for any questions to be directed to them.

22
23 Kaiser: Thank you. Does the applicant wish to make a presentation? All right,
24 seeing nothing. Sorry, do you wish to make presentation?

25
26 AUDIENCE MEMBER SPEAKING, NOT AT THE MICROPHONE.

27
28 Kaiser: Okay. Any questions or comments from the Commission? Commissioner
29 Smith.

30
31 Smith: I have one question for staff. In our packet, just for the benefit of the
32 Commission, you didn't really define the difference between R-3 and R-2.
33 It was noted in there but there was no definition, difference between the
34 two.

35
36 Banegas: So Mr. Chairman, Commissioner Smith. The definition of R-2, R-2 is our
37 multidwelling, low density residential zone. It allows up to 15 dwelling units
38 per acre. And when you start talking about groupings or the allowed number
39 of units per building - by now you would think I had all this memorized. In
40 the R-2 you are allowed eight, eight dwelling units to be grouped together
41 in a single building, as reflected here. So R-2 would allow eight here, eight
42 years, etc. In the R-3 that's our multidwelling, medium density residential
43 district. Both R-2 and R-3 allow 35 foot high buildings to be constructed.
44 The R-3 allows a total of 10 units to be grouped together in a building. And
45 what staff had recommended is eight as part of that. So you could always
46 restrict it even though you're going to a higher zone, you can restrict it. And

1 that's what we were recommending. R-4 takes it a notch higher. R-4 you
2 have a minimum of 10 dwelling units that have to be met, and a maximum
3 as defined by the developer. So they had requested, they were talking 96
4 units, they never really specifically requested a density, that's one of the
5 issues that if you go straight R-4 we need to nail that down. But there's no
6 limit as to the number of dwelling units that can be grouped in a building.
7 So it could be a massive building with you know 30, 40 units. That kind of
8 thing. Sixty feet is the height maximum for R-4.

9
10 Smith: Thank you.

11
12 Kaiser: Any other questions or comments? No. I do but I'm going to hold them till
13 after public comment because I think a lot of them are going to address
14 what we're going to hear this evening. But before we do, just as we're
15 listening to the conversation or participating in our own discussion, there's
16 a lot of conditions here, so I think when we do make the motion, we need to
17 be very clear that we're either approving with no conditions, just straight up
18 approving the request for the R-4. Or we're doing something different. If
19 we're accepting the conditions that staff has provided, we can state all of
20 them or if there's only certain ones that we want to take forward, I think we
21 just need to be as clear as possible with what we're approving tonight. So
22 just wanted to keep that in the forefront.

23
24 So with that, can I get a show of hands on who would like to speak on this
25 item this evening. All right. We're going to give everybody two and a half
26 minutes from this timer. We will be systematic here. Because I did not
27 remember exactly who just raised their hand, I'm just going to start here in
28 the front and we'll just work our way up the back and then we'll come onto
29 this side of the room and we'll come forward. So just wait your turn, we'll
30 get to you. And we'll go from there. Ma'am, please come forward. And
31 before everybody gets started, I will ask you to state your name so I can
32 swear you in.

33
34 Kemp: I didn't hear him. My name is Fran Kemp and I live on Stellar Way.

35
36 Kaiser: And do you swear or affirm that the testimony you're about to give is the
37 truth and nothing but the truth under penalty of law?

38
39 Kemp: I do.

40
41 Kaiser: Go ahead.

42
43 Kemp: There are 84 homes in our neighborhood, all of which rely on egress via
44 Stellar Way or Morningstar, therefore 96 apartments would more than
45 double the population density and vehicle traffic. We don't understand why
46 anyone could believe that adding an apartment complex wedged into the

1 neighborhood would not change things for the worse. The two exits from
2 this neighborhood have blind curves which you've seen in the pictures.
3 When I'm waiting at the intersection of Morningstar I frequently resort to
4 turning right, going south a block and doing a U-turn in order to go north.
5 We all built or bought our homes because it was zoned R-1. We don't
6 believe it's right to retroactively change the zoning in any neighborhood. We
7 feel this is a sort of bait and switch and will ruin the quality of the
8 neighborhood if it's allowed to be rezoned. And the bottom line is if you
9 must change the zoning in an existing neighborhood in order to build
10 something, it is by definition not compatible or consistent with existing
11 surrounding land use. Thank you.

12
13 Kaiser: Thank you. All right moving to the next row. We'll start over here to my left.

14
15 M. Brown: Good evening. My name is Myra Brown. I live at 2703 Scenic Circle. And
16 my house ... sorry.

17
18 Kaiser: Do you swear or ...

19
20 M. Brown: I swear.

21
22 Kaiser: The testimony you're about to give is the truth and nothing but the truth
23 under penalty of law?

24
25 M. Brown: I do sir.

26
27 Kaiser: Go ahead.

28
29 Brown: My first issue, Fran address, I want to address, I think what the gentleman
30 presented about offices and business was quite disingenuous. Directly
31 north, northeast there's the church, the Morningstar church, and there are
32 a couple of offices there. But that neighborhood is entirely residential. And
33 you have to go north to Northrise and pass that to come into any commercial
34 use. It is a residential, single-family neighborhood. And I believe it should
35 stay that way. Thank you.

36
37 Kaiser: Thank you.

38
39 Torrez: My name is Jesus Torrez.

40
41 Kaiser: And do you swear or affirm that the testimony you're about to give is the
42 truth and nothing but the truth under penalty of law?

43
44 Torrez: I hope to God.

45
46 Kaiser: Go ahead.

1
2 Torrez: First of all, I address, I'm going to address myself because you're the
3 Commissioners and planning and zoning, they're in charge of that. The first
4 thing that I would ask all of you to consider on the change on this zoning is
5 the safety of the school children. That some of them walk every day to and
6 from school and they cross this very hazardous intersection. And where
7 they cross on Roadrunner and Morningstar there's no crosswalk. So I see
8 them running around to get across because of the traffic coming and going
9 from you know either way. That's the first that I'm asking, the protection of
10 the children that have to do that every day, every day. And I've seen them
11 running across that intersection. The other thing that I would ask you to
12 consider is the safety, protection, and well-being of the parents that every
13 morning during the school days have to fight that really congested
14 intersection to drop off their school kids, and then come back and pick them
15 up in the afternoon. Now the Methodist church, their Morningstar Methodist
16 church is doing everything they can to keep the kids in their parking lot and
17 the parents come in there to pick them up. Some of them stay there till 4:30
18 or 5:00, the parents get out of work, which is great. And the other thing is,
19 think of the safety, protection, and well-being of all the residents that have
20 been there for many years. Think about their safety, protection, and well-
21 being. You're the ones that are going to have the final say on these thing.
22 It's up to you to keep those you know persons and give that to priority. The
23 people that want to build these complex, they're not thinking about the
24 safety, protection, and well-being of anybody there. We want you to do that.
25 Thank you. God bless you.

26
27 Kaiser: Thank you. Continuing down that row. Continuing over. All right, we're
28 going to go to the next row.

29
30 Bein: My name is Sandra Bein.

31
32 Kaiser: And do you swear or affirm that the testimony you're about to give is the
33 truth and nothing but the truth in our penalty of law?

34
35 Bein: Yes, I do.

36
37 Kaiser: Go ahead.

38
39 Bein: Thank you for this opportunity to speak. I live on Asteroid Court. And my
40 home and backyard are directly behind the property that we're speaking of.
41 My four foot rock wall separates my property from this piece of property. As
42 are many of my neighbors and even others living several miles away, I'm
43 firmly opposed to the rezone to accommodate the apartment complex. This
44 neighborhood is a single-family residential area and an apartment complex
45 does not fit into the neighborhood and it would create many issues. Some
46 we've heard, some we have not yet. But these include traffic and noise

1 would be substantially increased, parking is a huge concern. I'm concerned
2 about an increase in car accidents in the area. And as the gentleman before
3 me spoke of the proximity of Camino Real Middle School, and its effect on
4 the children and the traffic. Exiting and entering that road, it's already an
5 issue and as we know there's already a blocked view. What about the
6 stability of the homes that encircle the piece of property that the construction
7 would take place on. Other concerns include trash increase and dumpsters
8 and water runoff and flooding. The height of a multifamily story, multistory
9 buildings will look into existing home yards, as well as block the view of the
10 mountains for some. The property is zoned for a single-family home, not a
11 multifamily apartment building. It would not be compatible to the current
12 neighborhood. It would have a negative impact on those of us that live in
13 the neighborhood and whose expectations is that only single-family homes
14 would be built which is what it's currently zoned. For all of these reasons,
15 and in alliance with the purpose and intent of the zoning ordinance 38.2 in
16 which the consideration of the general welfare of the community and
17 purpose of improving citizens quality of life, and in particular 38.2 L which
18 states ensure the development proposals are sensitive to the character of
19 existing neighborhoods. Please consider the negative impacts upon the
20 community that already exists and did not grant a zoning change. And all
21 of these issues would still be of concern with the current staff's
22 recommendation. So I'm asking you to please reconsider even that
23 recommendation and let the zoning remain as it is for single-family homes.
24 Thank you very much.

25
26 Kaiser: All right, continuing down that row.

27
28 Truxal: My name is Carolyn Truxal.

29
30 Kaiser: And do you swear or affirm that the testimony you're about to give is the
31 truth and nothing but the truth under penalty of law?

32
33 Truxal: I do.

34
35 Kaiser: Go ahead.

36
37 Truxal: This my husband Jose. We live on Morningstar. You've already heard how
38 difficult it is getting in and out. Looking at your own regulations and even
39 the document put together for this meeting, everything says it should be
40 consistent, it should be compatible. There is nothing but single-family
41 housing in this neighborhood. Nothing. You have to cross the street or go
42 a quarter mile away to get out of single-family housing. There is nothing to
43 prevent the owner from building single-family housing. As Ms. Kemp
44 pointed out, baiting and switching. If he wanted to build apartments, why
45 didn't he buy something already zoned R-4. We have no objection to
46 houses being built. But this is unconscionable the amount of aggravation

1 that he is going to add to our daily lives with doubling, more than doubling
2 the number of people and vehicles in our neighborhood. Thank you.
3
4 Kaiser: Thank you.
5
6 Miranda: I'd like say something.
7
8 Kaiser: Before you do, please state your name for the record.
9
10 Miranda: Orlando Miranda.
11
12 Kaiser: And do you swear or affirm that the testimony you're about to give is the
13 truth and nothing but the truth under penalty of law?
14
15 Miranda: I do.
16
17 Kaiser: Go ahead.
18
19 Miranda: I just want to say a couple of things. I know it's kind of late in the year but
20 have if you guys ever had a chance to go by there when school is on. You
21 see that traffic. The traffic is backed up from the entrance to the school all
22 the way back to Morningstar for these people picking up their kids. And the
23 same thing on Roadrunner the other way. I mean it's backed up. You have
24 to wait to get out of there. It's hard. The blind spots are there. I mean
25 sometimes I had to pull out a little bit to see if anybody's coming. And then
26 there they are, you know you don't see them then you do see them. So
27 there's that. Plus I've had had experience, I live on Morningstar and I have
28 had experience. You know I woke up one morning, I was showering and I
29 was covered in soap and the water stopped. I said what the heck. I asked
30 my wife, go check it out. So she checked out, a neighbor of ours, the
31 waterline was broken and there was flooding there. And a neighbor of ours,
32 he turned off the water. I said well I'm turning it on. So that at least if it's
33 off. So I went to see what's going on. You could see, I don't know where
34 that traffic came from but you could see somebody pulled a U-turn and you
35 could see the tire tracks come over the water meter and into my yard. You
36 can see the tire tracks in the grass, just to make a U-turn there on
37 Morningstar to go back to Roadrunner. So that's really basically, I would
38 say I agree with all these people. I read, I'm there part of the neighborhood.
39 And yes, you know the traffic is really bad. It's just, I mean you could, if you
40 ever get a chance like you said, I know it's the end of the year, go by just
41 and check out when school is on and off, and you'll understand what we're
42 talking about. And that's all I have to say.
43
44 Kaiser: Thank you. Continuing down this row. Anybody else in his row? Okay,
45 we're going to head out to the next row. It's okay.
46

Agenda Item #7.4.

1 Morales: Hi.
2
3 Kaiser: Please state your name for the record.
4
5 Morales: Anita Morales.
6
7 Kaiser: And do you swear or affirm that the testimony you're about to give is the
8 truth and nothing but the truth under penalty of law?
9
10 Morales: Yes, I do.
11
12 Kaiser: Go ahead.
13
14 Morales: Okay, I just would like to reiterate what everybody else has been saying. I
15 don't think this zoom change should go through. I think it should remain R-
16 1a. And the reason I think it should remain R-1a is because first of all, I feel
17 that 80 to 96 apartments is going to create an overcrowding in that area.
18 And you're talking anywhere, if you have two adults per unit, let's say we
19 take 80 to 96 units, you're going to have 160 adults, and you're going to
20 have a 160 adults to 192 adults. Now, this doesn't even include children.
21 Who knows how many children will be in this complex. But once again,
22 overcrowding to me is just going to be a major concern in this area. Also,
23 when it comes to the parking spaces, let's just say we take the R-3C zoning.
24 Okay, you have 80 units, 1.5 required parking spaces per unit, that's 120
25 required parking spaces. But if you have two adults per 80 units, that's 160
26 adults. Well, where are those additional 40 adults going to park? Now I've
27 done some research on other existing apartment complexes around the
28 area. And they are almost to full capacity. So you can imagine our little
29 area over there would turn into a parking lot. And it would be very difficult
30 to get in and out onto Roadrunner from either Morningstar or Stellar Way.
31 So I would really hope that you deny this zone change because we are very
32 concerned about some of these changes. Also, since I have a few more
33 minutes, I've got a question because I don't understand this. On here it
34 says AJ Construction is the construction company but when I looked into it,
35 the address doesn't match AJ construction it matches the Taj, T-A-J
36 Construction. I don't understand that. Thank you.
37
38 Kaiser: Thank you.
39
40 Banegas: Mr. Chairman. He was on the far side. He was just asking me to pull up a
41 map here.
42
43 Kaiser: Understood. The aerial. That's all I can.
44
45 Apodaca: Good evening chambers. Good evening. My name is Gilbert Apodaca.
46

1 Kaiser: And do you swear or affirm that the testimony you're about to give is the
2 truth and nothing but the truth under penalty of law?
3
4 Apodaca: Yes, it is.
5
6 Kaiser: Go ahead.
7
8 Apodaca: I live at the corner of Roadrunner and Stellar Way. Where are we at here?
9 Right there. Okay. Okay, so right here where the arrow is correct. Okay, I
10 live on, there's my house. Okay. I welcome you to my house. I will go with
11 you personally. I'll meet you. You tell me a day and a time and I'll walk you
12 through the neighborhood. I've been there since 2002. I'm a retired police
13 detective from the Las Cruces Police Department. I recognize the traffic.
14 We're just going to add more fuel to the fire with this traffic. Has anybody
15 been on Roadrunner? Have you approached the school headed north?
16 Have you checked your speed limit? We're all probably doing over 45 guys.
17 It's easy to do. I do it. We already have blinking lights there to slow the
18 traffic down. That's my concern, for the safety of the kids. I walk through
19 there too. I've got to run across the street. The last meeting police
20 department said they didn't have a school crossing guard. So these kids
21 are crossing by themselves. So now we're going to add apartments. We're
22 going to add people there that are not going to be there forever. They're
23 there for six to, or one year. They're not going to take care of these places.
24 I don't know if you all have rentals, I have had rentals and they don't take
25 care of these places. More than likely we don't even know who's moving in.
26 Who were they bringing? We have our neighborhood. We all keep it safe.
27 We don't know who these people, who they're going to be. We haven't even
28 addressed the lighting pollution for the parking lot. Is it going to be gated?
29 I'd like to show you on the map there where the, right here is Roadrunner.
30 So what's going to happen is people fly down Roadrunner, right, so they're
31 going to say, I'm going to take a left on Stellar Way and head down. I don't
32 know if you all have been to Stellar Way, but it's a downhill roadway. It goes
33 straight down to this gentleman's house that just mentioned. It goes straight
34 down. What's going to happen, you're going to now make Roadrunner,
35 Roadrunner two there, because people are going to be flying down Stellar
36 Way. There's a lot of kids playing. And then they're going to go on
37 Morningstar to come in the back way. You understand what I'm saying?
38
39 Kaiser: I do. And unfortunately that's time. So I'm going to have to ...
40
41 Apodaca: Okay.
42
43 Kaiser: Have to cut you off.
44
45 Apodaca: One last thing. We're going to run into an issue with all the parking on the
46 street on Morningstar outside the complex.

1
2 Kaiser: Okay. Thank you.
3
4 D. Bishop: Okay. I'll raise my right hand. I swear to tell the truth.
5
6 Kaiser: Can you please state your name for the record?
7
8 D. Bishop: Pardon?
9
10 Kaiser: Can you please state your name for the record?
11
12 D. Bishop: Yes, Daniel Bishop.
13
14 Kaiser: All right. And you swear to affirm the testimony you're about to give is the
15 truth and nothing but the truth under penalty of law?
16
17 D. Bishop: I do.
18
19 Kaiser: Go ahead.
20
21 D. Bishop: Okay. Thanks for the time that we have here. My house is 2895 which is
22 about right in here. Okay, well, I'm living with you then. Okay, so anyways,
23 Morningstar, right across, right across there's a ramp that you go into right
24 there. I'd have that many people all the time coming back and forth right in
25 front of my house. Okay. What will happen is it'll drastically initiate the
26 decline of the peaceful habitation of our neighborhood having this much
27 traffic in there and population increase. How it'll do that it'll by several
28 methods, one would create increased vehicular traffic. Based on what
29 we've been told, could be anywhere between 200 to 300 additional
30 automobiles parked throughout that area, in the Morningstar and
31 accompanying side streets. Three of those streets are cul-de-sacs, just
32 what that's going to look like. Morningstar at where we are isn't a through
33 street. It ends right there. There's the other cul-de-sac. There's a third one.
34 So we got that. I gotta take and hurry up here. We're going to have
35 increased pedestrian traffic throughout that small neighborhood by at least
36 100 to 200 potential people coming and going day and night. My dogs are
37 going to go nuts. Anyways, I'm going to have to deal with trying to get in
38 and out of that place from my own driveway. And then on top of that, we're
39 going to have the potential for increased crime. I know nobody wants to
40 hear that. Burglaries, vandalisms, that's already been happening from time
41 to time, and the property values will sink. And then at that point, my
42 personal opinion is it's good old fashion greed all around if this thing goes
43 through. Thank you.
44
45 Kaiser: Thank you. Please state your name for the record.
46

1 J. Bishop: I'm Joyce Bishop.

2

3 Kaiser: And do you swear or affirm that the testimony you're about to give is the
4 truth and nothing but the truth under penalty of law?

5

6 J. Bishop: Yes.

7

8 Kaiser: Go ahead.

9

10 J. Bishop: Okay. I would like to read some, a letter from one of our neighbors that
11 couldn't make it here due to health reasons. He says my wife and I will be
12 unable to attend the hearing due to physical limitations. My wife and I chose
13 to move to Las Cruces in '97 where we purchased a newly constructed
14 house on Morningstar Drive in part of the area's residential zoning status.
15 Since '97 Roadrunner Parkway has become a very busy thoroughfare in the
16 vicinity of its intersection with Morningstar Drive. The area of the issue and
17 case, in the said case. It is at times extremely difficult, even dangerous for
18 current residents to enter the Roadrunner Parkway from Morningstar Drive
19 due to its location on a curve that severely limits visibility, both the left and
20 the right. Entering Roadrunner Parkway from Morningstar Drive in normal
21 circumstances rather difficult due to the volume of traffic on the former.
22 Much of it clearly moving at speeds dangerously in excess of the posted
23 limit. During the morning and afternoon rush hours, traffic on Roadrunner
24 Parkway becomes very heavy making access for Morningstar Drive slow,
25 difficult, and dangerous. Waits of three to five minutes per car are not
26 uncommon. An additional 100 or more vehicles attempting to enter
27 Roadrunner Parkway from the proposed development, for the proposed
28 development would create a near impossible situation and has the potential
29 to become extremely dangerous. The wait times increase when Camino
30 Real school is in session, the sheer increase in the number of cars bringing
31 students to the school with drivers frequently standing still on Roadrunner
32 Parkway and occasionally backed up past Morningstar Drive, creates a very
33 dangerous situation. Some drivers waiting for students in the afternoon also
34 park on Morningstar Drive, adding more congestion. The dangers
35 associated with increased school traffic and backed up cars are
36 exacerbated by the numbers of students on foot in the area, especially in
37 the afternoon classes and at the school. For the above reasons of
38 potentially dangerous traffic congestion, the upzoning requested in this
39 case, essentially a commercial enterprise with a total of 100 units in a zone
40 currently designed for single-family residences would clearly constitute an
41 excessive deviation from neighborhood conformity and necessitate a
42 departure from the almost three decades long established character and
43 aesthetics of the Morningstar Drive neighborhood. They vote no.

44

45 Kaiser: Thank you.

46

1 J. Bishop: Thank you.

2
3 Kaiser: Okay, I've lost track of what row we're in. I think we're going one, two, three,
4 four, fifth row back.

5
6 Kever: My name is Patricia Kever.

7
8 Kaiser: And do you swear or affirm that the testimony you're about to give is the
9 truth and nothing but the truth under penalty of law?

10
11 Kever: I certainly do. And I always tell the truth.

12
13 Kaiser: Go ahead.

14
15 Kever: My focus at this meeting is to get the City Planning and Zoning Commission
16 to make a decision in the best interest of the existing communities
17 surrounding the property under consideration. We've made it clear that we
18 are strongly opposed to having the property rezoned R-4. Its already zoned
19 R-1, and single-family homes can be built there with no objection.
20 According to the report of the City of Las Cruces and the planning and
21 zoning staff document that Mr. Banegas has shared with us, on page four it
22 says under neighborhood character and compatibility, it states the request
23 R-4 zoning standards could create increased impact to the surrounding
24 neighborhood. These are the very concerns that we've been trying to bring
25 to your attention that were mentioned in your own staff report. We have the
26 kind of neighborhood that you want to have in Las Cruces. We look out for
27 each other, we recognize each other, we recognize each other's cars, we
28 know who belongs in the neighborhood and who shouldn't be there. On
29 page seven of that report it states that under consistence and purpose with
30 the intent of the zoning ordinance that the intent of the zoning code is to
31 encourage the most appropriate use of the land and general welfare of the
32 community. The appropriate use would be R-1 because that's what it is and
33 should stay that way. Each citizen should be, I'm sorry, for the welfare and
34 community and the purpose of improving each citizens quality of life. That's
35 your words. Putting apartments at this property would not have this effect.
36 The subset cue on that paragraph says to mitigate conflicts among
37 neighbors. Just the proposal, just a consideration of this idea has created
38 more conflict and anxiety than that neighborhood has seen in 27 years. On
39 page nine it states R-4 allows substantially more residential density and
40 land uses than the surrounding R-1 district. Your words again. As a result
41 a decreased level of compatibility would exist. That's exactly our position.
42 And decreased level of compatibility would exist. By attempting to quote
43 back to you your own staff report, I'm trying to convince the Commission to
44 look at the community's greater good. The objections that we are making
45 are not just those of concerned neighborhood but legitimate issues
46 discovered by your own staff. Your job as Planning and Zoning Commission

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1 is to protect the existing neighborhood citizens from the encroachment of
2 rezoning and that's what we're hoping you will do. Thank you.

3
4 Kaiser: Thank you.

5
6 Tierney: I'm Pete Tierney.

7
8 Kaiser: And do you swear or affirm that the testimony you're about to give is the
9 truth and nothing but the truth under penalty of law?

10
11 Tierney: Yes, I do.

12
13 Kaiser: Go ahead.

14
15 Tierney: I do not live in the neighborhood. But I attend Morningstar United Methodist
16 Church. At our church, we've decided to go ahead and be good community
17 members. Approximately a year ago, we went out to the community asking
18 how we could be better community members and what actions we could
19 take to support the community. One of the questions was, do you have any
20 concerns? Out of the seven individuals that I surveyed, five of them
21 mentioned the concern about safety, traffic safety. I went back to our
22 committee and thought, is this unusual? Everyone agreed that this was
23 unusual to have such a significant number of people bring up traffic
24 concerns. So it's decided to go back to the community and find out if those
25 five individuals represented the community at large. On two occasions, I
26 went to the homes of the 82 to 90 residents there. What I found was 60
27 some responded to my request for information. Five individuals out of that
28 60-some said they had no issues with traffic. Everyone else indicated they
29 have had or currently had issues with traffic. Now move forward to this
30 meeting today. You gentlemen and ladies are considering the possibility of
31 increasing the number of residents in that neighborhood. There's already
32 currently traffic concerns, severe traffic concerns. It's only going to
33 exasperate the situation if you change the zoning and allow the apartment
34 complex to be placed at that site. Thank you for your time.

35
36 Kaiser: Thank you. All right going up to the next row. I think we're on row six.
37 Starting over here. Coming across. All right we're going to row seven.
38 Gentlemen with the black shirt. Watch your step.

39
40 Williams: My name is Michael Williams.

41
42 Kaiser: And do you swear or affirm that the testimony you're about to give is the
43 truth and nothing but the truth under penalty of law?

44
45 Williams: Yes, I do.

46

1 Kaiser: Go ahead.

2

3 Williams: I'd like to address what some of the planners was talking about earlier. I
4 thought they was talking about this section was not in the master plan. But
5 when you talk about master Plan you got to look at the overall plan. So if
6 you look at the plan, and you see this little red block. What do you all see?
7 Las Cruces do not have enough green space. Did the planning commission
8 ever considered trying to land exchange? Take it away, build a park. Look
9 for the nearest park is about a mile and a half away, which is Veteran Park.
10 You see all these houses. We do not have any parks there. You got to
11 school. They talking about traffic. We need to really look at this before we
12 vote to try to recondition R-3 or R-4. We need to look at Las Cruces as a
13 whole. Green space. We don't need more apartment. If you look at
14 Roadrunner you got several other apartments complex being built. You're
15 going to have a thoroughfare going through Roadrunner. The main thing is
16 we got to look at Las Cruces as a whole. Look at your master plan. Your
17 master plan did not include this. He talked about it was four, it was Northrise
18 it was excluded. So before we vote tonight, let's look at it. Can we try to do
19 a land exchange? Can we put a park in this area? What can we do with
20 our master plan to make sure that we have the right suit? If you build
21 something that's 60 feet high, you're going to destroy everything in that view
22 in that area. Everything. So why destroy something that's beautiful. And
23 just look at trying to get this in our master plan. We know traffic. We know
24 the infrastructure. We know all that. Let's go green. Let's not try to build
25 something else. Let's go with the land. And that's all I have to say. Thank
26 you.

27

28 Kaiser: Thank you. All right, going to the next row. Or, yes, whoever's next, come
29 on down. Please state your name for the record.

30

31 Martinez: Good evening. My name is Gloria Martinez.

32

33 Kaiser: And do you swear or affirm that the testimony you're about to give is the
34 truth and nothing but the truth under penalty of law?

35

36 Martinez: I do.

37

38 Kaiser: Go ahead.

39

40 Martinez: Okay, I would like to express my strong opposition to the proposed zoning
41 changes from R-1a to R-4. As a resident of this area I have a vested interest
42 in ensuring that any developments in our vicinity align with the existing
43 character and needs of the community. The proposed change to R-4 zoning
44 which permits multidwelling high density along with retail, office space,
45 proposes concerns regarding the impact it would have on our
46 neighborhoods and the surrounding area. First and foremost, the proposed

high density housing would likely result in increased traffic congestion on an already strained roadway. Roadrunner and Morningstar are vital arteries for our community and any significant uptick in traffic volumes could not only impede residents daily commute, but also compromise pedestrians and cyclists safety. While we're transitioning from single-family medium density to multidwelling high density threatens the tranquility and character of our neighborhood. The R-1a zoning was established to maintain a sense of spaciousness, privacy among homes, fostering a peaceful residential atmosphere. Introducing high density housing along with potential commercial establishments could disrupt this balance, leading to noise pollution, decreased privacy, and a diminished quality of life for certain residents. Additionally, I'm concerned about the strain that such a development would place on existing infrastructure and resources, including water, sewage, and public services. Our community's infrastructure is designed to support a certain population density, and a sudden influx of residents due to high density housing could overwhelm these systems leading to service disruptions and increased costs for taxpayers. In light of these concerns, I urge the Planning and Zoning Commission to carefully consider the implications of the proposal changes and to prioritize interests and well-being of the existing community. I respectfully request that you deny the request to rezone the aforementioned property. Thank you.

Kaiser: Thank you.

Ortega: Hi. My name is Vincent Ortega.

Kaiser: And do you swear or affirm that the testimony you're about to give is the truth and nothing but the truth under penalty of law?

Ortega: I do.

Kaiser: Go ahead.

Ortega: My husband and I live on Quasar Drive adjacent to the property. And having anything taller than a one story home built there would really destroy the view that we have of the mountains. And asking you to deny the request for a zoning change. We're currently between low, on Roadrunner between Lohman and Northrise, if I counted correctly there were eight very large apartment complexes already. All of those are about a mile from the proposed site of this apartment complex. I think you have achieved diversity in housing on Roadrunner Parkway. I don't think you need another apartment complex. When we moved to this home about 14 years ago, we moved there because it was a quiet neighborhood. And it is a neighborhood. And like everyone else that has said there, you know we pretty much know everybody, we take care of each other. You know our

1 next door neighbor is an elderly woman and we take care of her and you
2 know turn on her air conditioner and put her trash out. But that, I don't think
3 that the lives of 84 households should be sacrificed for the financial windfall
4 of one person. That's not what America is about. To answer Anita's
5 question earlier about Taj Construction. The builder that was selected to
6 build his apartment complex has had four different business names since
7 he started apparently the construction business. In 2011 he was Taj
8 Construction, I'm sorry, 2005 he was Taj Construction, changed into Taj
9 Construction Incorporated up until 2011, then he changed it again to Taj
10 and Arc in 2011. That was cancelled in February of 2023. That same time
11 there was a, the company filed for bankruptcy with only one creditor. And
12 that was from a civil suit. That doesn't make sense.

13
14 Nichols: Mr. Chairman. If I may please, point of order. We're discussing the zone
15 change tonight. We're not discussing the contractor and his previous
16 names. Please stay on topic.

17
18 Ortega: I was trying to answer Anita's question about that. But I respectfully ask you
19 to deny the zone change.

20
21 Kaiser: Thank you. All right. I think that was the last row so anybody else on this
22 side who wishes to speak that hasn't done so already? I believe you've
23 already spoken, sir.

24
25 AUDIENCE MEMBER SPEAKING, NOT AT THE MICROPHONE.

26
27 Kaiser: Let me go around to the folks that haven't spoken yet. And if there's time
28 we'll come back. All right, we will start from the back on this side of the
29 room, last row.

30
31 Highsmith: My name is Joni Highsmith.

32
33 Kaiser: And do you swear or affirm that the testimony you're about to give is the
34 truth and nothing but the truth under penalty of law?

35
36 Highsmith: I do.

37
38 Kaiser: Go ahead.

39
40 Highsmith: And my first point is just a question to you guys. When I'm moved to Las
41 Cruces, and I live over by Rolling Hill, across the street, my brother ...

42
43 Kaiser: I don't mean to interrupt. Can you just get closed to the mic so we can
44 hear? Thank you.

1 Highsmith: Yes. Okay. And my daughter lives on Scenic Circle. Both times when we
2 bought houses, we looked at the zoning, because we wanted to know what
3 kind of neighborhood we are buying into. So it really makes me question
4 what is the advantage to changing it for anyone in Las Cruces? I went up
5 Northrise, I mean Morningstar there is plenty of commercial land that is
6 available there. So there's not a benefit to the town to build on to that,
7 there's only a benefit to the one individual. I walk a lot of times past the
8 church and across the street because my grandkids live there. And I will
9 tell you that I have to pick up my dachshund and I have to run across the
10 street. I know that there's a crosswalk down by the school, but people don't
11 stop. And it's very scary to walk there. We get caught in the traffic. It's just
12 not safe. This week, there was one accident already right coming down
13 Roadrunner. And there was, today I almost got hit coming back out after
14 dropping off, picking up my grandkids. So there's no, it's not safe, it isn't to
15 the betterment of Las Cruces. And there's plenty other commercial land
16 currently available. If we were out of that in that area, then maybe it would
17 make sense. Thank you.

18
19 Kaiser: Thank you. All right, last row, coming down the row, the front of that.

20
21 D. Davidson: Good evening. My name is Davis Davidson.

22
23 Kaiser: And do you swear or affirm that the testimony you're about to give is the
24 truth and nothing but the truth under penalty of law?

25
26 D. Davidson: Absolutely, sir.

27
28 Kaiser: Go ahead.

29
30 D. Davidson: I brought my daughter here tonight to talk to you guys about her experience
31 walking home from that school. The main point I'd like to make though,
32 before I let her speak to you, is that no one's brought up, there's a single
33 egress from that school. That middle school has one road in and one way
34 out. The line making left hand turns coming in is amazing at times. I mean
35 it just goes all the way back up the hill on Roadrunner. And I think until
36 that's addressed there's no way we can add more traffic into that funky
37 intersection area right there on a blind S turn. I'd like to thank Commissioner
38 Smith for clarifying on the R-2 point, because I think that opened a lot of our
39 eyes. R-4 is a ridiculous jump from what it is now. And just looking at what
40 R-2 would do is substantial to our neighborhood. And I think that that just
41 seeing the difference between what it is now and R-2 is extreme. And R-4
42 is just out of the question. There are already hundreds of units going in right
43 now right down the road. This residential area, our neighborhood is, already
44 has a lot of the multiuse aspects that our master plan includes. It has high
45 density multiunit, big, big, big apartment complexes. We're already dealing
46 with that traffic. So our community, our little community right in there has

1 already accepted these large developments. This is just not the place for
2 it. I've heard a couple of people say they don't want these people coming
3 in because of crime. I don't agree with that. Where are those people? We
4 were in Roadrunner for a long time in an apartment after some traumatic
5 experiences. Where are those people? And I'm not worried about the
6 crime. I'm not worried about any of that stuff. I'm worried about the safety
7 of our children, right. The biggest thing I want to point out to you is you've
8 heard not a single positive reason to do this tonight, not one. The only
9 reason to do this is to make a very wealthy individual from out of town
10 wealthier at the expense of our entire community. Do I grudge that man a
11 dime? Nope. I would love to think that I get there or we all get there,
12 whatever. But we don't do it sacrificing an entire neighborhood and the
13 safety of children and a church that's already overwhelmed trying to serve
14 its community. It's just not the appropriate place to do that. And so that's
15 all I had to say. I appreciate your guys' time. And this is my daughter.

16
17 Kaiser: Thank you. And before you tell your story, can see your name for the
18 record?

19
20 L. Davidson: My name is Lily Davidson.

21
22 Kaiser: And do you swear or affirm that the testimony you're about to give is the
23 truth and nothing but the truth under penalty of law?

24
25 L. Davidson: I do.

26
27 Kaiser: Go ahead.

28
29 L. Davidson: So I was at Camino Real Middle School last year and I can just tell you from
30 walking home it was very scary. Kids shouldn't have to go through this even
31 more with another apartment complex. We already have enough in our
32 neighborhood going on. And the fact that you guys are considering this and
33 stuff like that, it's a little overwhelming because it was terrifying walking
34 home. Like going from one place to another just to get home and worrying
35 about risking your life is a little concerning because there's that cross, like
36 that intersection right there and no one dares to even stop when there's kids
37 crossing they don't consider stopping and it's scary. Yes, thank you.

38
39 Kaiser: Thank you. Okay, coming down to the next row.

40
41 Bressette: Glenn Bressette. 2673 Stellar Way.

42
43 Kaiser: And do you swear or affirm that the testimony you're about to give is the
44 truth and nothing but the truth under penalty of law?

45
46 Bressette: I do, sir.

1
2 Kaiser: Okay. Go ahead.
3
4 Bressette: Like Anita said you know words can be spoken and everything else. I have
5 a picture I'd like to show you from May 16th. Morningstar, which you're
6 looking at up there, I have a beautiful picture as well. Approach.
7
8 Kaiser: Yes, please do.
9
10 Bressette: So everybody, so when they speak of traffic, and just like the children talking
11 about crossing the road, that's what we deal with on a weekly basis. And
12 now you're talking about adding over 100 vehicles to that intersection. We
13 oppose.
14
15 Kaiser: Thank you. If you'd like your phone back we'll give it back to you. All right
16 I think we're in one, two, three, four, five, the sixth row back. Anybody else
17 in that row? All right. Coming to the next row in front. All right, seeing none.
18 Next row, fourth row. Third row. Second row. Gentleman over there.
19 Depending on how you count half ways, one, two who knows?
20
21 Denman: My name's Richard Denman.
22
23 Kaiser: And do you swear or affirm that the testimony your about to give is the truth
24 and nothing but the truth under penalty of law?
25
26 Denman: I do.
27
28 Kaiser: Go ahead.
29
30 Denman: I live on the east side of Roadrunner. My house actually fronts up to that
31 thing. So this whole area. So my first concern is a personal one. When I
32 bought the house seven years ago, I looked at the zoning because I saw it
33 was vacant, saw that it was all zoned for additional housing. I thought I got
34 no problem; they'll be like my house; they'll be the same height. My problem
35 with putting a two story apartment complex back there is then all that area
36 is going to be looking into my backyard. But I have a swimming pool. That's
37 a personal issue. And I know that not everybody has that particular issue.
38 But I want to address this from the perspective now of what I see as the
39 objective of having a zoning plan. We have a zoning plan that is worked
40 out for years with all kinds of details and all kinds of things with the purpose
41 being that both the developers can see where they are going to work, and
42 the individuals can see what's going to happen in their area. The problem
43 becomes when we keep changing the zoning code or the definition or
44 something so that we can facilitate the development for an individual or
45 group. That's a problem. I actually served on the variance committee for
46 zones for a while. And I had a real estate agent at one point in time come

1 in asking for a variance. And they came in and said, hey, I put up this thing
2 and I've already got it in there and I want to keep that. And we voted it
3 down. Why? They were a real estate agent. They knew what the zoning
4 was. They knew that they shouldn't get it approved just because, oh well I
5 already put it up. But it was outside of the code. Is the City, is the
6 commissioner, is the council, are we going to follow our rules and laws and
7 apply them equally or are we going to decide based on what we want
8 something else to do? I think the traffic has already been talked about. But
9 I have been in my backyard and heard the two cars come together on
10 multiple occasions because they curve that you see when they're coming
11 down Roadrunner, that actually affects people more coming from the west
12 side crossing. So where this apartment complex comes, if they want to
13 come out and turn left to go up Roadrunner, they're going to go into what is
14 essentially an almost completely blind intersection. And what right now
15 applies mostly of people coming off Morningstar, from the apartment
16 complex on the east of Morningstar and turning south on Roadrunner, those
17 are the cars that have been involved so far. Now we're going to duplicate
18 that. Thank you.

19
20 Kaiser: Thank you. All right, gentlemen in the front. You're last.

21
22 Griffin: So, my name is Richard Griffin.

23
24 Kaiser: And do you swear or affirm that the testimony you're about to give is the
25 truth and nothing but the truth under penalty of law?

26
27 Griffin: Quote from Scarface. I tell the truth even when I lie.

28
29 Kaiser: Be honest, that's all I ask.

30
31 Griffin: Yes.

32
33 Kaiser: Go ahead.

34
35 Griffin: Look, there we go. My honest opinion is I've been there the longest.
36 Twenty-eight years going on 29 years. I bought my property. They told me
37 it was R-1. They weren't going to change. You got some pictures of some
38 flooding. I watched it all happen in that neighborhood. Watch every one of
39 these guys kids grow. I've got grandkids living with me now. I have two
40 autistic grandchildren. I'm disabled. I can't get my car out onto Roadrunner
41 without a five minute wait. The traffic is horrendous. I talk to you, right.
42 Asked you if you could put in a stop sign. It's an alternative roadway.
43 They're not going to put a stop sign. They're not going to put anything to
44 heed all the traffic and accident. You're not going to let them put an exit on
45 Roadrunner are you? Is the blind intersection. Come on, you can say it.
46 We all know it. You're not. All that traffic's coming on my street. Directly

1 across the street from my house. My house is not over here where Gill's is
2 at. That's my house, the second house. So I get an Organ view right now.
3 Beautiful view. It's going to turn into, what, dumpsters, according to the plan
4 from the developer. He came in and took dirt without a permit. Made a
5 mess of the street. He doesn't clean his property. He doesn't maintenance
6 the property. We do. We all pick up trash. So I just want to point that when
7 I bought my property, it was R-1. You want to put a church, fine. I can't
8 stop that. Somebody already tried. They wanted a daycare. Every one of
9 these neighbors here has signed a petition. You've got the petition. Tw
10 hundred signatures that people don't want this in that neighborhood. I don't
11 want it. I don't want to look at a three story building. That's a building that
12 tall. Would you want that across the street from your house where you had
13 peace and quiet and tranquility for 30 years, 28, 29. No. Not one of you
14 would want that. There's plenty of apartment buildings there. We don't
15 need it. We don't need the traffic. I can have my kids, grandkids go out in
16 my front yard right now. When they build something, houses that fine, we
17 don't, we're not opposing houses. But do we want 100 units? Now he's
18 downsized it to 80. So please consider, we don't need this. We bought, I
19 bought and built R-1. That's what this neighborhood is, is R-1.
20

21 Kaiser: Thank you.

22
23 Griffin: Thank you for your time.

24
25 Kaiser: Thank you. Okay, is there anybody else in the audience who has not yet
26 spoken and wishes to speak? Gentlemen in the far back.
27

28 J. Brown: My name is Jeffrey Brown.

29
30 Kaiser: And do you swear or affirm that the testimony you're about to give is the
31 truth and nothing but the truth under penalty of law?
32

33 J. Brown: I do.

34
35 Kaiser: Go ahead.

36
37 J. Brown: This overwhelmingly affects the people who live west of Roadrunner and
38 you've seen much testimony about that this evening. But the same traffic
39 hazards affect the neighborhood east of Roadrunner because two of the
40 three exists out of that neighborhood go onto the blind curve, which is like
41 the Indianapolis 500. And the third is Morningstar which is overwhelmingly
42 crowded, especially when the middle school is either starting, when people
43 are also going to work, or when the middle school is letting out. It's a really
44 tough situation for the people west, but it also affects this traffic and the
45 safety questions of people living east of Roadrunner. To add 80 or 96 units

1 it simply expand the problems for those people as well. So just a brief
2 reminder, this affects more than just one neighborhood. Thank you.
3
4 Kaiser: Thank you.
5
6 Griffin: Can I make one more point?
7
8 Kaiser: I'm sorry, we've got to move forward. I can't because if I let you go I've got
9 to let everybody else.
10
11 Griffin: I'll just say it. And I don't want to be out of order.
12
13 Kaiser: Sir, we need to close public comment so that we can make the decision.
14
15 Griffin: I know just one. There was a ...
16
17 Kaiser: I cannot, sir ...
18
19 Griffin: Eighty miles an hour on Roadrunner. Eighty miles an hour. Eighty.
20
21 Kaiser: Okay, is there anybody else in the audience who has not spoken
22 on this item and wishes to do so? This is the last call. All right, seeing none.
23 We'll close public comment. We'll come back to the Commission. Any
24 comments, thoughts, questions?
25
26 Porter: I have a thought. I'm sorry. I just wanted to say you know that I commend
27 all of you guys for coming together and standing up, bringing in the youth's
28 voice because it's not heard very often. So I appreciate that. And just
29 standing up for your community. Thank you.
30
31 Kaiser: Commissioner Acosta. Do you have any comments? Commissioner Smith
32 is willing to wait. We can come back to you. Commissioner Smith, go for
33 it.
34
35 Smith: All right. Thank you all for coming tonight. And I definitely appreciate and
36 understand your concerns. So I have a number of notes here. All right I
37 just want to say that I have a number of issues with this proposal also and
38 this project. I have lived in Las Cruces now for 26 years. Ms. Apodaca may
39 not remember me but 20 years ago I was a Las Cruces police officer. And
40 I bring that up because the gentleman presented the photo of the vehicle,
41 the yellow vehicle that had crashed, I'm assuming that was on Morningstar,
42 I mean correction, maybe it was on Roadrunner. And I had to, you know
43 had a flashback because of when I was a rookie cop I responded to a crash
44 on Northrise. And at the time Northrise was a newly built road. There were
45 not the businesses and residents that are there now. So it was basically a
46 nice area for people to speed, particularly if you had a high speed car that

1 could drive really fast. So I respond to a crash there, young man. And he
2 had critical injuries. And so that was 20 years ago. And so I'm very familiar
3 with this area. I have children and I have friends that lived in that area. It's
4 continued to live there. I have a friend who is a former pastor of Morningstar
5 United Methodist Church, so I'm very familiar with that area. I'm familiar
6 with the traffic issues. I have never been there when school lets out but you
7 know I can imagine with the volume of traffic that is there on a regular basis,
8 on a normal basis, I could imagine what it's like you know on the school day.
9 So saying all that, I have a number of issues with this project. And it does
10 apply to you know what you know, our charter is here, what our duties are
11 here as Commissioners. And it is to protect the compatibility, the livability
12 of the neighborhoods. And you know to go from R-1 to R-4 is an extreme
13 as one of the gentlemen stated, move to make. You know when you're
14 talking about putting 80, 96, 100 apartments in that particular area. There's
15 just, it's hard for me to fathom how that could be a positive fate. I'm very
16 sensitive and aware of the need for housing in this City, affordable housing.
17 But there's a part of me that feels like the developer is exploiting the livability
18 and compatibility, the just the establishment of that neighborhood to build
19 apartments, not for affordable housing, not for young families that are
20 struggling trying to find a decent place to live in town. But for people who
21 can afford to live in a, I won't say luxury but definitely higher end apartment
22 buildings, based on accessibility, proximity to Northrise and the commercial
23 buildings, the shopping, the entertainment that there and continue to come
24 in.

25
26 So as another of the you know concerned citizens stated, you know who is
27 it going to benefit. And you know it's hard to sit here as a resident and also
28 as a Commissioner and try to understand the side of the developer with the
29 impact, the negative impact that it's going to have on this neighborhood.
30 We want. We live in society now. We even live in a town now where it is
31 difficult for children to walk to school. I live downtown. I live near Cruces.
32 High. I drive through there often and during school. Parents line up on the
33 side of the road to drop their high school kids off. When I was in high school,
34 we walked. I mean you know we walked through snow with you know with
35 no shoes on. But I am really that old. But that, every time I see that I think
36 why are parents concerned about dropping the kids off, high school kids off.
37 They're concerned about the safety of walking. So I can imagine with a
38 middle school and a church that there is even more concern. Because one
39 is, I mean Roadrunner is, it's a highway. It's you know you go for Highway
40 70 over toward you know Lohman where shopping retail to Northrise,
41 people drive fast. I've seen it. I've experienced it. It happens. So all or
42 your concerns are more than valid. We want a City that's livable. That's
43 safe. A community where you can actually walk in your neighborhood. If
44 you bring in a project of this size it will affect everyone in that community.
45 And it is not going to allow for the continued livability and enjoyment of that
46 community. And that's not something that I think that I can support because

1 I want my neighborhood downtown to continue to be a viable, livable,
2 compatible City, I mean neighborhood with the people in my community.
3 And although I have traffic issue, we had traffic issues downtown, what this
4 project would do to your neighborhood would, it's a pales in comparison.
5

6 I have one more point. There are other areas where a need for apartment
7 complex of this size would serve the City. I don't, you know I haven't, we
8 haven't had a presentation from the developer. But I would like to
9 understand how and why this location was chosen, and what positive
10 attributes that he feels that having this many apartments could bring to that
11 area because it appears to me that there's a total disregard for the people.
12 Thank you.
13

14 Kaiser: Commissioner Murray. Did you have any comments?

15
16 Murray: No, I'm good. Can City staff kind of talk more into why this specific lot was
17 not designed or subdivided with the original master plan? Because looking
18 at what the City does and everything else in Metro Verde and some Sonoma
19 areas, it seems like we all delineate like, hey, this is going to be a
20 commercial lot, this is going to be reserved for R-4 multifamily. So I don't
21 know how that kind of evolved in this specific location.
22

23 Banegas: Mr. Chairman, Commissioner Murray. The lot in question was a standalone
24 lot for many years outside the development of what you see around it. My
25 understanding is, I haven't researched that far back, but my understanding
26 was at one point it may have even been under control by one of the federal
27 agencies, at least in part, and then released for development. But
28 regardless, it was a standalone even prior to annexation. And then when
29 the City came in and annexed this area, you know it remained separate and
30 apart. The areas around it, they went through the master plan stages,
31 preliminary plat, final plat. But this was never incorporated or absorbed,
32 because by then it was privately owned, and they didn't want to participate
33 for whatever reason. But it stands alone and it does share the zoning that
34 you see for many of the lots around it. But that's the most I could tell you
35 about that.
36

37 Murray: Okay. Thank you. I guess my other comments, I'll hold on to, kind of want
38 to get the Commission's thoughts. If you want to make a condition to this
39 or if you're more or less to decline it all together. I do think what City staff
40 has presented is well beyond what should exist. But it's kind of coming
41 down to a compromise whether it stay R-1a or it goes up slightly to add to
42 more housing.
43

44 Kaiser: Does the applicant wish to speak to any of what Commissioner Smith and
45 Commissioner Murray alluded to as far as the design choices that you all

1 are choosing to make? And before you begin, please state your name for
2 the record. Please state your name for the record.

3
4 Aswad: Muhammad Aswad.

5
6 Kaiser: And you swear or affirm that the testimony you're about to give is the truth
7 and nothing but the truth under penalty of law?

8
9 Aswad: Yes, I do.

10
11 Kaiser: Please go ahead, sir.

12
13 Aswad: Thank you. So I have been living in Las Cruces for the last nine years. I
14 live in the neighborhood. I drive on Roadrunner back and forth every day.
15 My children go to school in the area. So I'm very much familiar with the
16 area. I came to here from New York, and I lived in Chicago before and I
17 know what the traffic looks like. But we don't have like really heavy traffic on
18 Roadrunner. And even I drive in the morning during the school hours. I
19 know there's little traffic around the school, but there is nothing like New
20 York or Chicago traffic. So I am this ...

21
22 MANY AUDIENCE MEMBERS SHOUTING OUT.

23
24 Kaiser: Please refrain. Please let him speak.

25
26 Aswad: So I understand the concerns of the neighbors. And we had meeting in the
27 church like two months ago with Mr Banegas. And we addressed most of
28 these issues. I know they're concerned about like decrease in value of the
29 houses around the area when you build apartment complex. And you could
30 research that decrease in value of the apartments, in the houses is caused
31 by crime in the neighborhood or not maintaining the neighborhood well. But
32 not building apartment complexes in the neighborhood. And this is well
33 established in the research. And I think building nice apartment complex
34 with recreational areas and nice landscape would be a positive addition to
35 the community, and would improve the commercial motion in the
36 neighborhood, the shops and restaurants, and so forth. And we should not
37 forget this land is going to be developed one day whether houses or
38 apartments, even if you develop like R-1 houses, it's going to be like almost
39 30 houses. And the concern about traffic. And even sometimes in private
40 houses you might have four or five cars for each house. You might have
41 more cars, than if you have for apartments. I mean my neighbor next door
42 has five cars in his driveway. So I mean, even if you ...

43
44 MANY AUDIENCE MEMBERS SHOUTING OUT.

45
46 Kaiser: Excuse me. Excuse me.

1
2 MANY AUDIENCE MEMBERS SHOUTING OUT.

3
4 Kaiser: Please no yelling from the audience.

5
6 Aswad: So I mean ...

7
8 MANY AUDIENCE MEMBERS SHOUTING OUT.

9
10 Aswad: I mean even if you have like private house you might have three cars for
11 each house. Times 30 houses, that's like 120 cars, which is the same thing
12 that we estimated for apartment complex. So I think it would be a positive
13 addition to the community. And we recognize, I mean I have friends looking
14 for rent in Las Cruces. And it's been very difficult to rent. So I mean we
15 can, I mean we participate in solving the issue of housing in Las Cruces.
16 It's going to be mixed neighborhood. And I think it'll be positive for the
17 community and for the neighborhood.

18
19 Kaiser: Thank you. Before you go, can you talk a little bit more about the decision
20 to land on, I guess at this point about 100 units, let's just round up, 100
21 units? Can you talk a little bit about from your perspective why that's your
22 target for this particular lot?

23
24 Aswad: I mean me and the contractor we figured out like how we are going to
25 develop the land and buildings, each building how many house. And we
26 estimated that's going to be like almost 96 apartments. And with the
27 discussion with Mr. Banegas and we are okay like putting it down to 80
28 apartments, which would benefit 80 families in Las Cruces. And the height
29 of the building is going to be 35 feet, which is what's the code for the
30 neighbors. And it's not going to be higher than what the code permit in the
31 neighborhood.

32
33 Kaiser: And are these a mix of one bedroom, two bedroom, three bedroom?

34
35 Aswad: One bedroom, two bedroom, three bedrooms. So it would house a lot of
36 families in this area.

37
38 Kaiser: Certainly. Thank you. Don't go far, there might be additional questions, but
39 I think I'll give my thoughts and perspective here since I hadn't yet done so.
40 First, I want to thank everybody for participating tonight. Your feedback, it's
41 part of the process. We appreciate it. There's a couple of points I want to
42 hit on. So I'll try to be organized in my thoughts here. The first one, traffic
43 and the issues that were raised around safety. The State of New Mexico is
44 one of the deadliest in the country for pedestrians and cyclists. We've been
45 that way for quite some time. That is going to remain the same regardless
46 of whether or not this project goes through tonight. That being said, it

1 doesn't have to be like this. The concerns that you all raised tonight is
2 exactly how that road was engineered. That's how they built it. That's how
3 they designed it. They designed it for the efficiency and the expediency of
4 drivers and nobody else. The young woman who talked about her
5 experience walking home from middle school, awful, horrible. I think the
6 quote was something about risking your life to walk home. That nobody
7 should have to risk their life to walk home. That is the reality that we live in.
8 The statistics back it up. You all see it, live it every single day. That will not
9 change regardless of whether or not we approve or deny this project tonight.
10 That is the condition in which that roadway was designed. So I understand
11 the concern. I hear it. I experience it in my own day to day. I go out for
12 run, I get close calls on every single one, if not multiple in a single run. In
13 the middle of crosswalks, drivers don't care. Just today riding my bike to
14 this very meeting, I almost got run over from behind because somebody
15 was blocking the bike lane and I had to swerve into traffic. That reality
16 exists. And it angers me to the core that we live in a place that we do not
17 respect anybody outside of an automobile.

18
19 But again, the reality is this project, whether we deny it, it's not going to
20 solve the problem. These are issues we have to take up with the City
21 Council, with the design development code that's being updated. I mean
22 the reality is staff may hate me for saying this, but you all need to come to
23 City Council, explain it to the commission, to the City Councilors. There's a
24 way forward when it comes to traffic safety. There is. We see it in other
25 places across the country. We see it in other developed countries. We can
26 solve the problem. But this project isn't going to change a thing. In fact, it
27 actually gives people an opportunity to walk somewhere, to walk to school.
28 If we don't build apartments or housing in this location, they have to go
29 somewhere, they're going to go somewhere that's going to require them to
30 drive to drop their students off to this very middle school, increasing traffic.
31 Giving families an opportunity to allow their kids to walk to school, yes, we
32 have to address the safety concern. But if you don't even give them the
33 opportunity to walk, we don't make any progress. Traffic doesn't happen in
34 a vacuum. We are all traffic. Every time we get in our automobile we are
35 traffic. If we give people opportunities to get out of their automobile, there's
36 less traffic.

37
38 We need housing. We need it desperately. We need a variety of different
39 types of housing in this City. If it's not here, where then? Where does it
40 go?

41
42 MANY AUDIENCE MEMBERS SHOUTING OUT.

43
44 Kaiser: To the point about luxury housing. It's an interesting point, Commissioner
45 Smith. I certainly agree to some level that luxury apartments is not always
46 what we need built. But there's a lot of studies out there that show that

1 when you build luxury housing, those that are able to move up you know
2 into a luxury apartment opens up a space for more affordable apartment for
3 a family that can afford it. So there is evidence out there and research to
4 suggest that yes, well, this may not specifically meet the definition of you
5 know income, limited rents or moderate income rents, it still creates a
6 pathway for affordable housing options in this community. I myself have
7 experienced this very issue moving to Las Cruces just a few years ago. We
8 wanted to rent so we could get to know the neighborhoods and we can get
9 to know the community. We wanted to rent in a place that we would see
10 ourselves potentially buying a home where we could afford it. We could not
11 find apartments that we would want to live in if they were even available.
12 We need more of this housing desperately.

13
14 The idea that these are just going to be strangers moving into the
15 neighborhood. We don't know who they are. We haven't met them. We'll
16 never get to know them. It just couldn't be further from the truth to be
17 honest. We don't know who's going to buy the house next door. There's
18 no way to know that. I don't know who's going to buy my neighbor's
19 detached single-family home whenever they decide to sell it. We can't
20 control who buys and rents in the City. All that we can do is provide options
21 for them to experience the same neighborhoods that we all want to live in.
22 I lived in an apartment for almost nine years before I moved here to the City
23 of Las Cruces. And I had friends, I knew my neighbors that lived in
24 townhomes, rowhouses, detached single-family, in my own neighborhood.
25 So this idea that you're just never going to know these people, they're going
26 to be in and out, they're transients, just simply can't be further from the truth.

27
28 There wasn't really much discussion about property values, but I think there
29 was some it's certainly in the comments that we received as part of our
30 packet. The data doesn't back that up. Building apartments doesn't
31 devalue single-family detached homes. In fact, I was just poking around
32 Zillow before this meeting this evening and there's a home currently for sale
33 that abuts their backyard, abuts a development, an apartment complex
34 that's on the market right now for almost half a million dollars, in Sonoma
35 Ranch, off of Sonoma Ranch, in between Sonoma Ranch and Roadrunner
36 Parkway. That same house, I just looked briefly at the houses for sale
37 around where this project is, there's some that are a little bit more
38 expensive, there's some that a little cheaper. So the idea that building this
39 apartment complex is going to cause your property values to plummet just
40 isn't born by the data.

41
42 Finally, two final points I'll make. One, kind of thinking about change.
43 Communities change, they grow, they shrink. This community wasn't the
44 same community it was 50 years ago. It's not going to be the same
45 community it is now in 50 years. Things change. At one point where you
46 all are living was in the desert. Someone decided to come in, zone it R-1a

1 and subdivide it, make their money, you all are now products of that
2 decision. So why is it that that developer however many years ago was
3 allowed to do it and this developer is not?
4

5 MANY AUDIENCE MEMBERS SHOUTING OUT.
6

7 Kaiser: I'll also I guess add just my general perspective, and I know there's going
8 to be many people that disagree with me in this room. But Commissioner
9 Smith, you alluded to this idea of facilitating community, respecting
10 community. And that's all absolutely true. But I also don't subscribe to this
11 idea that the people here and now are the only ones that have input into
12 what happens in this community. That there's people who are not yet here
13 that we also have to consider. People will continue to move here. People
14 want to live here. I think Forbes just identified Las Cruces as a top City to
15 retire. Where are these people going to live? They have to live somewhere.
16 We need to provide options for people to live. And so ,...
17

18 MANY AUDIENCE MEMBERS SHOUTING OUT.
19

20 Kaiser: I will end my thoughts there. I'm certainly open to other compromises if
21 there's other alternatives to get to a decision tonight, I'm certainly open to
22 discussing that.
23

24 Smith: I have just two comments and one question for you, sir. First comment. I
25 lived in New York City for eight years. And just last year, last November, I
26 spent a week there. And I was staying in Chinatown. I walked everywhere,
27 other than riding the subway. And while I was there during the week you
28 know there were families taking their kids to school. And they were walking
29 them to school. And this is New York City in Chinatown. I don't know if
30 you've spent any time in Chinatown. It's pretty congested.
31

32 Aswad: I know.
33

34 Smith: And so that comment about living in Chicago, living in New York City is not
35 really germane to this project in this area. Because as much traffic as you
36 have in New York City, it's still a walkable City.
37

38 Aswad: In some areas. I mean ...
39

40 Smith: Yes, but yes if you live out, if you live out in another borough or if you live
41 outside you know in Long Island and you know Nassau County you're
42 driving. But as far as being in a community, there should still be the ability
43 for families and children to walk safely. And you know as my earlier
44 comments, you know I'm putting myself in a position of being a resident,
45 and even being a resident of that community.
46

1 Aswad: Sure.

2
3 Smith: And so you know I understand that as Commissioner Kaiser stated, you
4 know there is a need for housing, and there are people coming, and they
5 will continue to come. As my neighborhood has changed. You know I live
6 in a neighborhood that I mean houses have been there for a 100 years.
7 And it's still changing. And so that's the one comment I made about
8 *(inaudible)*.

9
10 And then as far as property values go, that was a very minor, very minor
11 issue with the people who came up and spoke. You know we can't really
12 determine exactly what property values are going to do, as Commissioner
13 Kaiser said, and he did a little research and he found that it has a very small
14 if any effect on property values. But the one thing that kept coming up and
15 I'm sure that there's a little concern about property values, but mostly
16 concern was about traffic and safety, about people, about children. And so
17 that seems to be the heart of this whole issue. And change does happen.
18 And this area will continue to grow all around. But I just, to have that type
19 of development, that type of density right in that area, it makes it difficult to
20 make that decision to go from R-1 to R-4. So I just wanted you to have an
21 understanding how I as one Commissioner sees this. You know it's like, it's
22 not an easy decision to be made. We're all going to sit here and make a
23 determination. But you know it's like I understand what you're trying to do.
24 But the negative impact is what's making this a difficult proposition at this
25 point.

26
27 Aswad: Can I respond to this? I mean we have to think is this for best public interest
28 or not. I mean this is what the, this is my point. I know I mean, the lot of
29 neighbors here, but there's a silent majority that they are still not here. So
30 I think I ...

31
32 MANY AUDIENCE MEMBERS SHOUTING OUT.

33
34 Kaiser: Excuse me. Excuse me. Excuse me. Please let him speak.

35
36 Aswad: I think for best public interest to have more affordable housing in the area.
37 So if you are like low income or middle income person, who should then get
38 out of the City in order to get housing, this is my point. So this is going to
39 be like mixed neighborhood. And you will have access to affordable
40 housing for low and middle income families.

41
42 Kaiser: So Commissioner Smith, just to address one point that you brought up. So
43 if we allow this to stay R-1a and Mr. Banegas please correct me if I'm wrong,
44 but it will be about eight dwelling units per acre maximum. So we're still
45 looking at what is that, 30 units. So is a real case saying that we're
46 comfortable putting 30 units at danger of our you know poor traffic situation

1 that we have, but we're not okay with 96? I'm just trying to understand.
2 We're fine with 30, but not 96. That's, it's really just the number. What is
3 the issue with that in particular?
4

5 Smith: It's not so much the you know the number. The number definitely has you
6 know an impact on how, as you stated you know it is unsafe. That road
7 was, Roadrunner was designed for car traffic. And it will continue to be that
8 way until, as you stated, the City makes some substantial changes in how
9 they design and develop roadways for both vehicular and also for
10 pedestrian and bicycle use. And I feel like we are taking a bad situation,
11 and we're about to make it better, I mean worse, excuse me worse. And it's
12 not about you know whether it goes from 30 to 96 or more. And that also
13 triggers a question that I have for Mr. Banegas, if this does go to, from R-1
14 to R-4 and the developer has said he only plans on building 96. Is he limited
15 to that? Can that change? Can he build more? If he decides to change his
16 plan, once he gets the approval, is there anything stopping him from building
17 more?
18

19 Banegas: Mr. Chairman, Commissioner Smith. In my presentation I had identified the
20 19.2 dwelling units per acre specified on the conceptual site plan. But in
21 the presentation also stated that we really need to nail that down. The R-4
22 district requires a minimum of 10 dwelling units per acre and a maximum as
23 defined by the applicant or developer. What I've stated is, is they have
24 suggested 19.2, but I think as part of the motion, as part of any condition,
25 that has to be identified and specified so that that can go forward as a
26 restriction.
27

28 Smith: All right. Thank you.
29

30 Murray: I'd just like to say that again this is a recommendation to the City Council
31 and they're going to make the final decision on whether this goes forward
32 or not. I'd just like to give my thoughts if we were to amend what City staff
33 has recommended to us. And this is not in order of how the presentation
34 has gone. And this is more in order of our packets so that the
35 Commissioners can follow through. Based on the proposed conditions, I
36 would consider reasonable an R-2C, receiving the conditional for number
37 one, of course follow number two which does not allow mobile home parks
38 or mobile home use as this is a single-family area. Skipping down to five, I
39 would think that 19.2 dwelling units per acre as excessive. Whereas 16 still
40 is excessive to me. And kind of looking at case studies of other areas in the
41 Sonoma East, Sonoma West area, if you look up 2035 El Praside Drive this
42 is a 2.64 acre site also zoned R-3 and they did 32 units more or less that is
43 divided into five different buildings. So kind of just comparing and
44 contrasting there how that in that specific area would be different here. It's
45 like if we move the site we're probably going to get all the pushback once
46 again. So I would recommend 12 units per acre, which comes out to a

1 maximum of 60 if you multiply it by five, doing simple math. Number eight,
2 I would like to add which I would think is reflective of R-1a zoning and much
3 of the other zoning too, where it's a maximum height of two stories which in
4 R-1a, and correct me if I'm wrong City staff, is 35 feet. And then I do think
5 apartment buildings, if you have roommates and you have two bedrooms,
6 those two people are going to have their own cars, because that's how we
7 have decided to get from point A to point B. So I think for the two to three
8 bedroom units, I think it needs to be two spots per unit for those. Whereas
9 a one bedroom unit give or take 1.5 as given in the recommendation and in
10 City zoning code. So those are my thoughts. I think what's presented here
11 originally is too excessive and what is presented from City staff is also too
12 excessive for this specific location.
13

14 Kaiser: Just to clarify, you're adding two conditions. So one would be max two
15 stories. And then number nine is one and a half spaces for one bedroom,
16 and two spaces for two to three bedroom. Okay.
17

18 So I would be in support of something like that. My only concern with the
19 max two stories is with site conditions do we sort of kneecap the developers
20 ability to meet that maximum dwelling unit per acre just because we don't,
21 we haven't done the exercise right here to say that they could get that
22 number of units with two stories, if that makes sense.
23

24 So I'm just saying I think we should scratch the max two stories and just
25 have the 35 foot because if we put that condition on them and the site design
26 standards constrain what they can do and they can't go up, we kind of
27 kneecap the developer unintentionally. Since we haven't really looked at
28 the site design standards.
29

30 Murray: I personally would just cap that too, because if you're looking at Sonoma,
31 West and Sonoma, East every single apartment building is going to be
32 capped at two. The only apartment buildings I see that are three stories are
33 going to be at the university or elsewhere. So I think for the neighborhood
34 characteristics, I think capping at two make sense.
35

36 Banegas: Mr. Chairman. Just a point of information. In terms of some of the
37 conditions that staff had presented. The reason why we didn't go to a story
38 cap is the R-1a neighborhood could build to 35 feet. Very similar fashion to
39 what you're proposing Commissioner Murray. The allowance in terms of
40 stories is whatever the 35 foot can bear in the current R-1a area. So even
41 if someone has a one story home, they could submit a permit tomorrow and
42 seek to maximize the number of stories for their unit. And if that's three or
43 two and a half, you know a loft or something like that, so be it. They would
44 be allowed to do so. And so in similar fashion staff's thought was allow this
45 one to be the same. Apples for apples sort of thing.
46

1 Kaiser: And if, you're agree/disagree, you want to keep that conditioning in. Go from
2 here.
3
4 Murray: I guess I'm fine with three stories.
5
6 MANY AUDIENCE MEMBERS SHOUTING OUT.
7
8 Murray: But I mean it's the same thing as 35 feet. Because What's to say builds to
9 15 foot stories. So I don't know.
10
11 Weir: Mr. Chairman. point of order for staff. stories don't have a set number of
12 feet for that, it's how they design it. So from an administrative standpoint, a
13 maximum height is just easier for review of the building permit and issuance
14 of it. And I think that's one of the reasons the staff recommendation was at
15 35 feet, that's the height that's allowed in the R-1 districts that's adjacent to
16 it so that they won't go any higher than the adjacent properties and their
17 zoning.
18
19 Kaiser: So would you be okay leaving it at all one max height 35 feet.
20
21 Murray: I'd like to hear other Commissioners comments. But just looking and
22 thinking of single-family stories, say this doesn't go through if you still can
23 build or whoever purchased it, 40 single-family homes based on density, if
24 it's eight units per acre, correct. And personally here neighborhood
25 characteristics, I've never seen a three story single-family home. So I would
26 limit his ability to just keep it to two stories, that does not exceed 35 feet
27 overall. If that makes sense.
28
29 Kaiser: Yes. There are three story duplexes in Sonoma Ranch. We looked at one.
30 So it is possible. They do exist.
31
32 Banegas: And Point of information, Mr. Chairman, Commissioners. Just to clarify.
33 The eight dwelling units per acre going back to the R-1a density cap. That
34 is considered in the R-1a zone just so that we're all on equal playing here.
35 The R-1a allows one dwelling per lot. The reason why it speaks to an eight
36 dwelling unit per acre density is when a developer develops, for instance
37 five acres, 10 acres, what have you, and they are subdividing lots out to
38 create a single-family environment, we look at the perimeter of that lot as
39 part of the density calculation. So that's where the eight comes in. But
40 admittedly only one dwelling per lot is allowed. So I hope that helps clarify
41 the eight compared to the other densities.
42
43 Kaiser: Is there any other thoughts to the height? I think we need to go one way or
44 another to make a motion here. So do we want to keep it at 35 feet, which
45 is R-1a or cap it at two stories. Or we could just omit the condition, in which
46 case it just defaults to whatever the R-2 to which is 35 feet, correct.

1
2 Banegas: Correct.

3
4 Kaiser: I mean I think from a design perspective I think it gives them the maximum
5 flexibility to work within the framework. I think if we, my opinion is that
6 without looking at the site and doing an exercise, a charrette on it, given the
7 topography on it, it might be hard or might be more expensive to move the
8 amount of dirt that you need to be able to keep everything at two stories, in
9 which case we're just driving up the entire cost of the project which is going
10 to translate to the cost of the houses.

11
12 MANY AUDIENCE MEMBERS SHOUTING OUT.

13
14 Smith: Just for clarification. If we keep it at 35 feet, that would zone it at R-2.

15
16 Banegas: Mr. Chairman, Commissioner Smith. Thirty-five feet is the maximum height
17 allowed for the R-1a, R-2, R-3 districts. They're all 35. It jumps to 60 when
18 you get to the R-4.

19
20 Smith: All right. Thank you.

21
22 Murray: I guess just to simplify the 35 feet, because if you look at the townhouses
23 that are three stories, that third floor could be a rooftop deck more or less.
24 So I think it makes sense. And we just omit that because it's going to be R-
25 2 35 feet altogether.

26
27 Kaiser: Okay, so we'll scratch number eight. And then just go through it so we're
28 all on the same page and look for a motion to approve. We're going to
29 approve; we're going to make a motion to approve with the conditions.
30 Number one, that this is R-2C. The max density allowed will be 12 dwelling
31 units per acre, which would be a maximum of 60. And then all other
32 conditions remain and we'll add an eighth one which is the one and a half
33 spaces for one bedroom, and two spaces for two to three bedroom
34 apartments. So looking for a motion to approve with those conditions.

35
36 Murray: So I've said this once before and I'll say it again, but our decision here
37 whatever it's approve or deny, is a recommendation to the City Council. So
38 your voice has not stopped here. We're kind of limiting what the original
39 plan is from what City staff is, to making it something that's more
40 manageable for everybody involved. So in a month or so, the City Council
41 will hear this case, get the same presentation from staff, and your voice can
42 still be heard at that meeting. So I want to make that clear that this is not
43 final.

44
45 So with that I make a motion to approve with conditions item 8.1 with all
46 conditions that City staff have recommended with amendments to number

1 one, making it R-2C, number five limit 12 dwelling units per acre of 60 max
2 units, and adding a condition number eight, which says 1.5 parking spaces
3 per one bedroom units, whereas two and three bedrooms will require two
4 parking spaces per unit.
5
6 Kaiser: I'll second.
7
8 Banegas: Mr. Chairman. Just point of order. If you could just reiterate that on the
9 vote, findings or your position clearly stated would be very helpful.
10
11 Baum: Board Member Acosta.
12
13 Acosta: I vote yes to approve with conditions based on staff recommendation and
14 you know Commissioner debate here.
15
16 Baum: Board Member Porter.
17
18 Porter: I vote yes with staff recommendations and the new findings that the
19 Commissioners have stated.
20
21 Baum: Board Member Smith
22
23 Smith: I vote no to deny.
24
25 MANY AUDIENCE MEMBERS SHOUTING OUT.
26
27 Kaiser: Excuse me. Excuse me. Excuse me. Please refrain so we can take a vote.
28
29 Smith: This is not a decision that I made to accommodate the residents here. I
30 mean this is a decision that I've taken a lot of care to make. As my fellow
31 Commissioners stated, this is not the end, this is going forward to City
32 Council. But my reason for denying, I still continue to feel that this project
33 even with the conditions that have been laid out, is still going to have a
34 negative safety and traffic impact on that area of Las Cruces that is
35 continuing to grow around this neighborhood. And those are one of my
36 primary reasons for my vote.
37
38 Baum: Board Member Murray.
39
40 Murray: I vote to approve based on the staff recommendations for various reasons,
41 but I believe that the 80 and 96 is too excessive. I also believe that the
42 zoning code does not have correct parking considering if you have multiple
43 cars and/or roommates that have multiple cars. Therefore adding that
44 condition to limit additional parking on neighboring streets.
45
46 Baum: Chair Kaiser.

1
2 Kaiser: Yes, based on the discussion here tonight, specifically around the need for
3 additional housing and a mix of housing type in this City, and housing that
4 is located to give residents of all family units, shapes, and sizes the
5 opportunity to walk to services. So that is my vote this evening.
6

7 Baum: Motion passes.
8

9 **9. NEW BUSINESS**

10
11 **9.1 Case 24VO0500047:** A request to approve a variance of $\pm$ 23 feet to the required
12 25-foot front yard setback required for carports/garages in the R-1a (Single-
13 Family Medium Density) zoning district. The property is located at 4861 Garnet
14 Street and is $\pm$ 0.160 acres in size. Submitted by Harold Pozas, property owner.
15 Council District 5.
16

17 Kaiser: All right. We are moving on to new business this evening. Item number 9.1
18 is next on the agenda. For those of you who will be traveling home, safe
19 travels. Thank you for participating tonight. So staff we'll turn it over to you
20 for 9.1, a request to approve a variance of 23 feet in the front yard setback
21 on Garnet Street.
22

23 Banegas: Mr. Chairman, Commissioners. Vincent Banegas, interim planner for the
24 record presenting the second case here, first on new business, for a
25 variance request at 4861 Garnett Street. It is case 24VO0500047. It
26 involves property that is currently developed as a single-family lot. It is plus
27 or minus 0.16 acres in size. The property is zoned R-1a, which is single-
28 family medium density residential. And the house that sits on the property
29 was developed in 1987 according to assessor records. And there is
30 currently a metal carport that as identified by the applicant was constructed
31 in March of 2022 without a permit. The placement of the structure is plus
32 or minus two feet, some of the pictures would illustrate a little less distance
33 than two feet, but I'm going to say plus or minus two feet from the property
34 line. A significant portion, probably shy of 50% of the structure sits within a
35 12 foot utilities easement that exists along the front property line. With the
36 encroachment of the structure in that easement there is no existing
37 encroachment agreement that has been secured for that structure.
38

39 The zoning map is identified above. The property in question outlined in
40 this teal color hatched in red. You have Garnet Street here, you have
41 Emerald Street to the east, and Jade down here and Beryl, I believe it's
42 Beryl Street to the west. And so it sits in an area of Las Colinas. One of
43 the original areas actually that is zoned R-1a. The rest of Las Colinas
44 became a PUD, planned unit development, and was developed in
45 accordance with those guidelines. But this area in yellow follows the R-1a
46 standards.

1
2 You have some medium density residential zoning down below in the R-2
3 zone, and then you also have some R-3 further southeast. The property is
4 outlined again in teal on this aerial map. You can see that the surrounding
5 properties are largely entirely developed, at least in this photo shot. You
6 begin to see a little bit of the carport in question which I'll have photos that
7 show that more clearly.
8

9 So the request that came in is plus or minus 23 feet variance to the required
10 25 foot front yard setback for carports and garages in the R-1a zone. The
11 applicant justification for the variance request, as you can recall justification
12 is required to be based on hardships, there's three that are illustrated in the
13 code. And in this instance the applicant didn't specifically address or
14 demonstrate any hardship per the code, but does refer to some recent
15 medical related issues and hence medical bills and as a concern and the
16 use of the carport at present for some of the daughter's therapy. Physical
17 therapy, I would assume. The applicant states that he was aware of the
18 need for a permit and discussed the matter with the contractor who was
19 erecting the structure. He later learned that a permit was not secured. And
20 when he attempted to follow up to correct the situation, he was not
21 successful in doing so. Apparently the contractor that had put it up, if I recall
22 correctly, was either out of business or moved on. So it was difficult to get
23 resolution to that matter.
24

25 This is a site plan aerial combination here that was submitted by the
26 applicant. The primary structure, the single-family home is here. And you
27 see the carport in question here. This is that easement that I referred to,
28 the 12 foot utility easement. So you can see just shy of 50% sits within that
29 easement. And certainly looks like it's a little shy of two feet. But
30 nonetheless, the plus or minus perspective on the advertisement covers us
31 in terms of the variance request. And it is this structure that is in question.
32

33 A couple of photos or few photos that illustrate the existing carport. It's this
34 unit here, sits in the front driveway. From an angle shot you can kind of see
35 it poking well beyond the house. It's all metal. And it again has existed
36 since 2022. It's got a colored roof, it's not all just the shiny metallic, the
37 supports are but the roof at least has some color to it to help it I would
38 assume blend in with some of the portions of the home that are painted
39 dark. This shot here is looking at it east, as well as this one head on shot.
40

41 And notice was sent for this case pursuant to code. Staff received one
42 phone call regarding this case and it was inquiry only. They weren't sure
43 what it involved and so we discussed that and they didn't give any indication
44 whether they're in favor or opposed to the structure. Staff recommendation
45 and findings as it relates to this is a recommendation of denial. The findings
46 are that a garage carport is required to meet a minimum of 25 foot front yard

1 setback in the R-1a zone. The request does not appear to meet the criteria
2 for decisions, and that section specifically talks about specific hardships.
3 Again, it was not specifically stated which hardship they we're applying.
4 Staff is just assuming that it's a monetary hardship, one of the three that's
5 addressed. The carport itself was constructed without a permit. The carport
6 significantly encroaches into the 12 foot utilities easement and no
7 encroachment agreement has been received or submitted for. And then
8 accessory structures in that it is not attached to the house. Accessory
9 structures are not allowed in the front setback. And the reason why I have
10 attached and detached, if the structure is attached it's certainly able to be
11 heard by this body as a variance of setback as part of the primary structure.
12 If it is detached, it is flat out not allowed. So some of the conditions that I
13 will speak to as an option speak to requiring the structure to be physically
14 attached to the house. And towards that end, if the Commission feels that
15 approval could be warranted, staff has provided this slide that gives you an
16 opportunity for an alternate consideration on this issue. And that is to
17 conditionally approve the request. Monetary considerations are allowed to
18 be considered as a hardship. And in this case, staff considers the cost of
19 removal of the structure to further increase some monetary hardships that
20 have been recently placed on the family through the medical condition or
21 situation of the daughter. The structure does blend to some degree, small
22 degree, the roofline, for example, is pitched similar to the primary house.
23 And the structure is not enclosed. Usually, when we start seeing enclosed
24 structure that has more of an impact, visual impact from the roadway. And
25 in this case, it is not. And that could be a consideration or condition placed.
26 The carport is to be attached to the house, if you do see that approval is
27 warranted. A building permit should be secured even after the fact. There
28 may be additional fees associated with that permit. But nonetheless we
29 would be interested in ensuring that proper placement, at least proper
30 securing of the structure to the ground, the concrete, etc exists. And that
31 construction met some standard pursuant to building code. And
32 encroachment agreement will have to be secured and that is through our
33 City of Las Cruces land management. So those bullet points are conditions
34 that could be considered if you feel that conditional approval is warranted.
35

36 And your options this evening is to vote "yes." This would deny the request
37 pursuant to staff's recommendation. If you vote "no," you would be
38 approving the request, in which case you'll have to come up with findings of
39 fact that support your decision contrary to those presented by staff. You
40 could certainly use some or all of the conditions as the alternative
41 consideration slide showed which I'll pop back up. And vote with conditions,
42 same thing, and vote to table. And that concludes staff's presentation, Mr.
43 Chairman. The applicant, Mr. Pozas, is here. Hope I pronounced that
44 correctly. And he would be more than willing to speak on this issue or
45 answer any questions you may have. And that concludes staff's
46 presentation.

1
2 Kaiser: Thank you. And does the applicant wish to speak this evening? Yes, sir.
3 Please come forward. Please state your name for the record.

4
5 Pozas: Good evening. I'm Harold Pozas.
6

7 Kaiser: And do you swear or affirm that the testimony you're about to give is the
8 truth and nothing but the truth under penalty of law?
9

10 Pozas: I do.
11

12 Kaiser: Go ahead.
13

14 Pozas: So again it was built in 2022. Before it was built, before I gave the go signal
15 to the contractor I specifically asked him to make sure if it needs permit. I
16 was not aware it needs permit but I specifically asked the contractor that
17 this permit, I want the permit to be done, because I don't want any problems
18 in the future. Because it's a costly construction. So and it was my first time
19 building something like that. And it was my bad that I didn't confirm that it
20 was submitted like the permit itself. So I gave the go signal. He provided
21 me with a blueprint thinking that was a permit. So I gave the go signal. So
22 initially we built this for community engagement for family gatherings as well
23 to give additional shades. As you can see in the pictures there is no, without
24 the carport, so it's hot in Las Cruces in in New Mexico. So that was the
25 initial reasoning for that carport. However, this changed last year towards
26 the end of the year since my daughter was diagnosed with a rare condition
27 which is dermatomyositis which targets the skin and the muscles. She's 15.
28 And the other one is a juvenile rheumatoid arthritis. So every now and then
29 we have go to doctor's appointments and everything. But the
30 dermatomyositis is affecting her skin. So just a little bit of sun exposure to
31 sun, she's like a vampire. So whenever she goes out to go to doctor's
32 appointment, we did that shade. That's helping her big time. So it was,
33 originally from we want this carport, now we need it. So that's our situation
34 right now. It's more of my daughter. Again the hardship is there. We have
35 to pay a lot of bills. Last year, from June to December, we had to bring her
36 to the ER at least three times. But from June to October, through
37 December, they were under Medicaid for the longest time, my three kids.
38 Because of COVID it was extended, extended. And then come June of last
39 year was it was discontinued. So and then in October when we found out
40 about my daughter, so we had to bring her to the ER and medical bills are
41 piling up because of that. So that's number one as well. But the most
42 important one is my daughter needs it because whenever she goes out of
43 our house that is helping her.
44

45 Kaiser: Thank you.
46

1 Pozas; Thank you.

2
3 Kaiser: Any questions or comments from the Commission?

4
5 Smith: I'm not sure if I have a comment, or a question. But we've had a number of
6 these cases come before us. And it always comes back to the lack of
7 permit, of course. And you know we've had a number of companies that
8 have come in and you know and built these structures. And it really puts a
9 burden on this Commission because it's obvious that a permit is required,
10 these structures get built. And we end up you know denying a variance
11 because it just, there needs to be a communication between the
12 homeowner and the contractor and the City to make sure that this is done.
13 And I'm not quite sure how that can change. And you know so I'm very
14 sensitive to you know your daughter's condition. And, but I just want you to
15 know that each time one of these cases come before us you know it's
16 generally the same scenario. And so we have to make a decision based on
17 you know the violation of the code. And I just wish that, it seems like there
18 should be a solution. And I don't know if it's a simple solution or not, to
19 make sure that you know any residence that wants to have any type of
20 shade structure or shelter constructed has knowledge and understanding.
21 I know the onus is on you, as you stated it was your bad that you didn't
22 follow up. It happens. And but I just feel like that there needs to be, I guess
23 I'm making a comment not a question. But I just feel like there has to be
24 some type of process where the residents, the homeowner knows, number
25 one that it is required, and number two that it's, there needs to be a follow
26 up and have it in hand before they even you know break dirt or break
27 concrete. And I don't know if there's something that the City or staff codes
28 is looking into some way from campaign, some way of like if you want a
29 structure build, this is what you have to do. I'm sure there's something on
30 a website. I'm sure it's all there. So I just wonder if there's something that
31 can be done or is being done. This is a very common situation that occurs.

32
33 Banegas: Mr. Chairman, Commissioner Smith. Just a couple of statements to that
34 point. City staff has in some of the meetings that we've held, we hold a
35 planning review team meeting every week just about. And this issue has
36 come up as to how we can allow carports or garages to encroach not into
37 easements but encroach into the setback. And one of the thoughts we
38 came up with, we haven't followed through with it yet, but one of the
39 thoughts was to specify in code that certain elements, architectural style,
40 that kind of thing be incorporated into the design of these carports/garage.
41 so that it is more integral to the primary structure, it blends better, it's easier
42 for the neighbors to accept that kind of thing. Metal structures are still kind
43 of a bone of contention with some staff. And so we're looking into how we
44 can codify rules and regulations that would allow it. And to avoid going
45 through unnecessary approvals, that kind of thing.

46

1 We haven't looked at specifically any campaign to discuss the need for
2 permits with some of these companies that sell these structures. I will say
3 that several of them, those that sell sheds and those that sell these type of
4 structures are well aware of the need for a permit. I think unfortunately, the
5 campaign would have to target property owners because you're right,
6 ultimately it's the property owner that bears the brunt. But the folks that sell
7 these structures are often very much aware of the need for a permit. I think
8 they try to sell them, get them erected, and move on before you know the
9 issue comes up in terms of addressing applicable provisions for their
10 construction. Oftentimes, staff will get calls and they're very vague as to
11 location, and so on and so forth. And they're just after generalities. And
12 these are for companies. So you give them the information and you tell
13 them whether a permit is needed or not. And they'll get back to us. And
14 then sometimes we find out, yes there's a problem, codes will alert us for
15 instance and ask was a permit pulled etc. And so that's when we find out
16 there's this type of situation going on. But I could certainly take back the
17 issue to our planning review team. We do have Larry and David here;
18 they're hearing the message. And maybe we can launch a campaign for
19 better you know getting the word out to property owners to be aware that
20 permits are needed in certain instances.

21
22 Smith: Yes, just as stated in previous you know proposals or requests have come
23 before us. You know Las Cruces is getting hotter, sooner, longer. And this
24 is not going to be you know a situation that's going to slow down anytime
25 soon, especially if you know a neighbor within that neighborhood sees that
26 there's a structure up and they're like, well you know, that's something that
27 we should be doing too. And so it's just going to possibly exacerbate the
28 problem.

29
30 Banegas: And a point of information, Mr. Chairman, Commissioner Smith. The
31 variances by their very nature are case by case. Doesn't necessarily set a
32 precedent depending on the information provided, the circumstances, that
33 kind of thing. You certainly base your findings and your vote on the
34 information that you hear.

35
36 Kaiser: All right. Commissioner Acosta, did you have something you wanted to
37 say?

38
39 Acosta: Yes, for the applicant I just wanted to clarify the dermatitis condition that
40 was being referenced. And then I have a follow up question after that.

41
42 Pozas: So as far as dermatomyositis is a rare condition. Her antibodies is high, so
43 it's targeting those antibodies is kind of it should be the, if the person is sick
44 those antibodies will attack the virus or anything like that. So on her case,
45 it was her skin and the muscles are being targeted. So right now she
46 couldn't even walk, she couldn't and even stand up on her own. But prior

1 to that she was very active. She was part of the school volleyball team in
2 her school, but now she couldn't even stand up on their own. We be have
3 to carry her from sitting down position. We have to walk with her. She
4 couldn't even walk by herself.

5
6 Acosta: And forgive me this question feels you know a little misled. But what do you
7 do when you park everywhere else in town. When you take her to doctor's
8 appointments and everything like that, because we don't really have a lot of
9 shade coverage anywhere else.

10
11 Pozas: Right. So right now we are on the process of, it's kind of hard, because we
12 always park at the handicap parking without the proper what do call this
13 documentation. But we're in the process of doing that as well. But I park
14 like the nearest handicap parking just to offload my daughter. And after that
15 I'll go ahead and move my car to another spot. So that's what's going on
16 right now whenever we bring her to the doctor.

17
18 Acosta: Which inherently she is exposed to the sun at those points right.

19
20 Pozas: At those points, yes.

21
22 Ads Thank you.

23
24 Murray: I have one quick comment. If we were to approve this with conditions, I
25 would just recommend that we add to be removed when the property is sold
26 to another individual. So it's not grandfathered in, if that makes sense.

27
28 Kaiser: I'll have to refer to staff for point of order on that one.

29
30 Banegas: Mr. Chairman, Commissioner Murray. The variance runs with the land. I
31 guess you could specify that. I know we've required you know no enclosure
32 of carports. That kind of thing. And especially in the back patios, that kind
33 of thing. And it's hard to enforce. So I think if the applicant is willing to
34 accept that I would think that could be placed.

35
36 Kaiser: So both before we get there, is, part of the problem is there's the 12 foot
37 utility easement, right.

38
39 Banegas: Yes.

40
41 Kaiser: So if the utility needed to come in and do work, it's my understanding that
42 they have every right to rip up the carport and they're not responsible for
43 replacing it, correct.

44
45 Banegas: That's correct, Mr. Chairman. If approval is granted, even with the
46 conditions, they're still on the hook to get an encroachment agreement.

1 That'll be through the land management office here with the City. But you're
2 right, part of the encroachment agreement will specify that should work ever
3 need to occur within that easement, if they need to you know cut through
4 that carport, they'll do so and it'll be the property owners responsibility to
5 repair, replace whatever.
6

7 Kaiser: So I mean I'm comfortable adding, If staff thinks that that is a legit condition
8 of upon sale it needs to be removed. I'm comfortable adding that. I think
9 for me the unfortunate part is the utility easement kind of complicates things.
10 We could approve this. You could go try to get the approval from the utility
11 and they have every right to refuse your request. That being said, I mean
12 you know it is a little silly that you have a public right-of-way and then you
13 get an additional 12 foot easement on your front yard. I don't know why we
14 can't just put things under the street, which is a logical place for them.
15 Because if there wasn't a utility easement, I think it would be easier for us
16 perhaps to make an exception here. But you know that being said that there
17 are rules, like you said, you made a mistake. We all do. I completely
18 understand it. I certainly feel for your daughter, your family. You have a
19 garage. I don't know how that plays into if you can get a car in there you
20 know to get her in and out. That certainly seems to be an option for you.
21 So it's tough. I mean we've seen these, like Commissioners Smith said, a
22 number of times. It's not easy. It's just kind of is what it is, I guess.
23

24 To the point about education. I think to any extent that, especially since
25 we've seen a volume of these things, I think we always can be looking at
26 how we can get the word out. I think I actually saw something in the Bulletin
27 I want to say, after the last kind of round that we have in these that was like
28 reminder. So I don't know if that was intentional or not, but I think there was
29 some effort there. Certainly, I think if we can look around other examples,
30 especially desert communities where maybe we can find a better permanent
31 solution for this. I'm always a fan of planting trees. But I know you gotta
32 wait a while before you reap the benefits. But they're you know that's just
33 kind of where we are. So if there's any other comments or questions I think
34 we're looking for a motion to approve and it is an affirmative for the motion.
35

36 Smith: Real quick. I know it's been a long night. And taking a lot of air out of the
37 room here. Just a quick question. Is there any way that that carport could
38 be modified? I'm looking at it's basically what 27 feet is the length of that
39 carport or is that just the distance from the house to the sidewalk? And
40 maybe I think I'm looking at that incorrectly. How long is the carport?
41

42 Banegas: Approximately 20 feet is what I'm hearing from the applicant. But significant
43 portion, because this is the encroachment part, the ...
44

45 Smith: Okay.
46

Agenda Item #7.4.

1 Banegas: Yes.
2
3 Smith: Yes, so it would be unreasonable to, even if it's basically half the length just
4 enough shade for them to access the vehicle, it still would not be possible
5 to do that.
6
7 Banegas: Correct.
8
9 Smith: Okay. All right. Thank you.
10
11 Kaiser: Okay looking for a motion to approve.
12
13 Porter: I motion to approve.
14
15 Smith: I second.
16
17 Baum: Board Member Acosta.
18
19 Acosta: I vote to deny just based on looking at the site and the situation.
20
21 Baum: Board Member Porter.
22
23 Porter: I vote to deny based on staff recommendations.
24
25 Baum: Board Member Smith.
26
27 Smith: I vote yes with conditions. And the condition would be that ...
28
29 Kaiser: Sorry. Commissioner Smith. There were no conditions on the motion.
30
31 Smith: I thought they were in the presentation.
32
33 Banegas: Mr. Chairman, Commissioner Smith. The motion did not include any
34 conditions.
35
36 Smith: Okay, my apologies. Based on that, I deny.
37
38 Baum: Board Member Murray.
39
40 Murray: I vote to deny based on staff recommendation.
41
42 Baum: Chair Kaiser.
43
44 Kaiser: No, based on staff recommendation.
45
46 Baum: Motion fails.

1
2 Kaiser: All right. Thank you for coming out, sir.

3
4 Murray: Can I make a motion to suspend the rules of order to include 9.3, 9.4, and
5 9.5 to be heard together?
6

7 Kaiser: We've got 9.2 to go first. I know we all want to go home, but we're not quite
8 there. So with that we'll, but I guess briefly does anyone need a bio break?
9 Because we could pause for that. Do we need make a motion for that?
10 Okay. I'll make a motion to recess and return at 9:12. Is that enough time?
11 Okay. We're going to need a second that and vote.
12

13 Murray: I second.

14
15 Kaiser: Okay, so recess, 9:12. Be fast.
16

17 RECESS OF APPROXIMATELY 10 MINUTES.
18

19 Kaiser: We will call this meeting back to, I don't know non-recess.
20

21 Ochoa: Order.
22

23 Kaiser: Order. There you go.
24

25 **9.2 Case 23ZO0500027:** A request to approve a zone change from R-1a (Single-
26 Family Medium Density) to C-3 (Commercial High Intensity) for 5.00 + acres and
27 OS-R (Open Space-Recreation) for the remaining 43.75 + acres of a parcel located
28 at 2040, 2045, 2060 & 2065 E. Madrid Avenue. The proposed zone change aligns
29 with the Apodaca Blueprint. Submitted by Souder, Miller & Associates,
30 Representative. Council District 1.
31

32 Kaiser: Item 9.2, a request a zone change from R-1a to C-3 and open space on
33 Madrid Avenue.
34

35 Ochoa: Next zone change you have before you is for property located at 2040,
36 2045, 2060, and 2065 East Madrid Avenue. You all may be familiar with it.
37 But I'll just go through my presentation. Subject property is located on the
38 west side of Triviz Drive, directly north and south of East Madrid, that
39 intersection there. It is currently vacant or undeveloped, but it was
40 previously used for the City's stormwater levee system that we had a while
41 ago. Property encompasses roughly 48.75 acres in size and is currently
42 zoned R-1a single-family medium density. It does have frontage along a
43 minor arterial roadway which is what Triviz Drive is designated as. And a
44 major collector roadway which is East Madrid Avenue. And this area is
45 actually part of what is the Apodaca Blueprint Policy Plan.
46

1 Showing the zoning here, as you can see highlighted in yellow R-1a nothing
2 but R-1a surrounding this property. Interstate here to the east. Showing
3 here the actual vacant property. Again nothing but single-family to the west
4 and the interstate to the east. The applicant is seeking to rezone for roughly
5 about five acres of that property for C-3 commercial high intensity zoning
6 and the remaining 43.75 acres will be rezoned to what is OSR, open space
7 recreational. The C-3 areas are for future commercial development. They
8 will have to follow the Apodaca Blueprint Policy Plan which did actually want
9 this type of zoning in that area to have kind of a supportive commercial
10 zoning for that area. And the OSR areas will be for a park and other City
11 facilities. Staff did talk to Parks and Recreation, they are looking at doing
12 a, trying to keep it as natural as they can, removing some invasive species
13 that are there as well, of plants. But mostly keeping it as natural as they
14 can, some minor pocket parks here and there and trail system within that
15 area.

16
17 Staff did take a look at this. There's no public safety, health, or welfare
18 issues associated by staff. And we feel that there'd be no adverse offsite
19 impacts with the proposed zone change. The proposed zoning does align
20 with the adjacent what is the suburban neighborhood place type, because
21 you already have all your single-family development, now we need some
22 commercial and some open space for that area as well to make it more of
23 a complete neighborhood if you will. It is located along a minor material and
24 major collector roadway where C-3 zoning is encouraged. And those types
25 of roads are used to utilize to have access to parks. It is also supported by
26 the Apodaca Blueprint Plan and its future development map, which is seen
27 here. As you can see, the actual Apodaca Blueprint calls up for this to be
28 relatively untouched if you would just to be used as a park facility area with
29 some trail systems. And then the commercial right at the intersection of
30 what is Madrid and Triviz, three acre parcel to the north, and a two acre
31 parcel to the south.

32
33 Showing here this is what is being proposed by the applicant. The vast
34 majority of everything staying OSR. But those two small total of five acres
35 of a C-3 zoning. Subdivision here that actually created those lots showing
36 the two different lots that will be utilized for commercial. And the larger
37 tracts, as you can see here will be utilized for that OSR zoning designation.
38 Notice was sent out to all surrounding property owners within 500 feet. Staff
39 did receive four phone calls actually in support of the proposal zone change
40 and two phone calls just getting general information. We also had a
41 gentleman come in today, again asking some questions about the zone
42 change and he was totally supportive of it and he feels that it's a great
43 connection for what the Apodaca Park will have coming all the way down
44 Madrid when City does all those improvements to the roadways in that
45 surrounding area.
46

1 With that staff does recommend approval for the proposed zone change
2 based on the following findings. Located along a major collector and minor
3 arterial where C-3 zoning is encouraged. Will help ensure the subject
4 property remain sensitive to the character of the existing neighborhood. I'm
5 pretty sure you all remember this last time when we had that subdivision
6 before you all, neighborhoods very conscious of what is going on in their
7 area so we feel that this would be definitely sensitive to them. Additionally,
8 the proposal zone change is supported by the Apodaca Blueprint Policy
9 Plan and the future development map. And based upon staff's analysis, we
10 believe that it does meet the intent of Elevate Las Cruces as well as the
11 2001 Zoning Code as well. With that your options are one, to vote "yes"
12 and recommend approval for the proposal and change, two vote "no" and
13 deny. If you do vote to deny, you will have to provide new findings of fact.
14 Three to vote to amend or four, table and postpone and direct staff
15 accordingly. The applicant representative is here as well. He has a
16 presentation as well. And I stand for questions.

17
18 Kaiser: Thank you.

19
20 Murray: I just a general comment. Since we got so much opposition last time, I'm
21 assuming notification was resent out, which clarified what we were trying to
22 do the previous time.

23
24 Ochoa: Mr. Chair, Commissioner Murray. Yes. So the new letters that we sent out
25 was a little more clearer as to what was being presented at this time. It
26 actually flat out said zone change for just this area for C-3 and this large
27 area to stay OSR. I think as soon as people saw 43, almost 44 acres of
28 open space, I everybody is just happy to see that that was going to remain
29 open space. There was some consideration of staff allowing for single-
30 family very minor amount of single-family. But we decided just to keep it all
31 open space considering we had that large outcry from the neighborhood.

32
33 Kaiser: Any other questions, comments from the Commission? Paul why don't you
34 give your presentation and then I'll ask my questions.

35
36 Pompeo: Yes.

37
38 Kaiser: Please state your name for the record.

39
40 Pompeo: Paul Pompeo, Souder, Miller and Associates on behalf of the City of Las
41 Cruces.

42
43 Kaiser: And do you swear or affirm that the testimony you're about to give is the
44 truth and nothing but the truth under penalty of law?

45
46 Pompeo: Yes, I do.

1
2 Kaiser: Go ahead.

3
4 Pompeo: Good evening Mr. Chairman, Commission. I have a very brief presentation,
5 then I'll stand for questions. Once again, this project is located on the Villa
6 Mora Dam property that's owned by the City of Las Cruces on Triviz Drive.
7 This property lies within the Apodaca Blueprint area, which I'll speak a little
8 bit more in a minute, and is also located on that corner of Madrid and Triviz
9 Drive. The preliminary plat of 56.51 acres was previously approved by this
10 commission. Note the difference in acreage between the 56 and the 48
11 acres that's being zoned. The 56 takes into account additional right-of-ways
12 that are created on Triviz, the creation of the Madrid right-of-way, and also
13 the creation of the Fairbanks right-of-way to west. These new right-of-ways
14 will allow for future widening of Triviz, the reconstruction of Madrid Avenue.
15 And extension Fairbanks Drive. As noted by staff, this proposal and change
16 is five acres of C-3, followed by the remainder of the property minus the
17 right-of-ways which will be left open space recreational. As noted by staff,
18 this property lies within the Apodaca Blueprint Policy Plan area that was
19 adopted by the City Council on July 2, 2018. Here's the same depiction
20 showing the land uses and the uses of the property within that area. There's
21 a blow up of the intersection showing the commercial tract and also for
22 community uses to the south. With that, that completes my presentation,
23 Mr. Chairman. And I'd stand for questions by the Commission.

24
25 Kaiser: Thank you. Believe it or not you almost answered every single one of my
26 questions in the presentation.

27
28 Pompeo: I'm getting better, Mr. Chair.

29
30 Kaiser: But just to clarify. So the applicant is the City, correct.

31
32 Pompeo: Yes, Mr. Chair.

33
34 Kaiser: The way you were referring to the applicant in third person it had me unsure.
35 And then as far as the uses go for the C-3. I mean can you talk a little bit in
36 the City's perspective of what kinds of uses you want to see here? I'm just
37 a little concerned about the C-3 being a bit too aggressive based on my
38 understanding of Apodaca Blueprint. So whoever wants to answer it, but
39 probably staff.

40
41 Ochoa: I'll give it a stab. So, Mr. Chair, the reason C-3 is being used for the property
42 is because that is the only really zoning designation we could put that would
43 allow the commercial uses that we're looking for that area. But what we're
44 looking for in the way of the Apodaca Blueprint calls out it's supposed to be
45 like supportive commercial for not only the neighborhood, but like for the
46 parks as well. So nodes or buildings with you know, you can go get some

1 ice cream and go to the park, services that will be kind of affiliated with that
2 area is what we're looking for. The Apodaca Blueprint does call out a list of
3 actual uses there but really not big box and not only that since it is City
4 owned property, that's definitely something that we would be keeping an
5 eye on, making sure it aligns with policy. But if you feel that potentially that
6 may be an issue, a condition can always be added that it says that just
7 follows the guidelines of the Apodaca Blueprint Policy Plan to make sure
8 whatever does get developed there, we make sure that we're following that
9 policy plan and what's called out for it.

10
11 Kaiser: Yes. I think that is kind of my concern is that if the City wants to you know
12 offload those parcels for development that we could end up with a developer
13 who's like, C-3 this is great, I could do my car washes, I could do my you
14 know drive through this, drive through that, my regional bank, which really,
15 to me flies in the face of what is supposed to be here like what you just
16 described. So that's kind of my concern is that the C-3 just seems like it's
17 too wide a spectrum here. And I don't know how we control that. I don't
18 want to nitpick conditions here on what specific uses because I think there
19 should be some flexibility, you know some innovation, some you know just
20 not this rigid prescription. But I'm concerned that there's just open ended
21 C-3 we could end up with something that we don't want because we can't
22 control the developer once it's out of our hands.

23
24 Ochoa: Mr. Chair. Staff is aware of that. But like I said a condition that can be
25 placed on there is to follow the guidelines of the Apodaca Blueprint, which
26 clearly states what the vision of those two lots is. So that's definitely
27 something you could add as a condition to the zoning. So it can move
28 forward with a with a C-3C shall follow the Apodaca Blueprint outlines for
29 what the C-3 properties would it be allowed to be developed for.

30
31 Weir: Mr. Chair and Commissioner. That's what you did with the Royal Crossing
32 project. When you rezoned it you put the restriction on it that it would follow
33 all the guidance that was provided in the Apodaca Blueprint.

34
35 Ochoa: Correct.

36
37 Kaiser: Okay. I guess shame on me for not having the Apodaca Blueprint in front
38 of me. But is there any way that we can maybe review that briefly just so
39 that I know what I'm talking about? You have internet connection, right, and
40 pull it up.

41
42 Ochoa: Let's see here. Some ways down, let me get to that. So there are the two
43 there. Here we go. So this is kind of showing what those two, the Villa
44 Mora Plaza and then the development reserve. So it'd be these two right
45 here, sir, is kind of explaining what the character that we're looking for. As
46 you can see it does limit the total like square footage of buildings, talks about

1 the character what it should look like. Talks about, let's see here, how
2 building should be pushed close to Madrid to make it a little more like a
3 walkable type of area if you will.
4
5 Kaiser: Okay. Yes, I mean it'd be nice if it made described the types of uses just
6 like you had stated earlier about serving trail users, the adjacent
7 neighborhood. I just really don't want a bank; I don't want a drive-thru. I
8 mean that doesn't serve any purpose as far as I'm concerned with the
9 Apodaca Blueprint. And I think ...
10
11 Ochoa: Mr. Chair. There's also the options you add on additional conditions to strike
12 those uses from the permitted uses on the property. So issues with drive-
13 thrus, issues with banks, that's removed. Not to permit those uses in the C-
14 3 zoning sir, that's another condition that could be added as well.
15
16 Kaiser: Okay. It's just hard to sit here without you know a list that I could scratch.
17 But I think if you could just repeat exactly what you said six minutes ago,
18 we're golden.
19
20 Ochoa: Like for the ...
21
22 Kaiser: I think the point is it's small retail establishments that provide immediate
23 services to the neighborhood and trail users. So restaurants, coffee shops,
24 you know small retail, a bakery, things that you just would want on your day
25 to day that you could walk across the park and get.
26
27 Ochoa: Understood.
28
29 Weir: Mr. Chairman. Just more information. Since the City does own the
30 property, we could always place deed restrictions and strike out certain uses
31 before we sell the property. Since this is a zone change, the record of this
32 meeting will be provided to City Council. And they'll be aware of the concern
33 in the neighborhood scale intended for the properties.
34
35 Kaiser: Okay. I think as long as there's a condition that we just are consistent with
36 the Apodaca Blueprint, I think we just go with that, make it simple. So we
37 can leave tonight. I don't think, so I think in order to make this happen if
38 someone wants to ... yes, almost forgot. Thank you for reminding. Well go
39 to the public. Is there anybody in the public who wishes to speak tonight?
40 Please come down. Please state your name for the record.
41
42 Heath: My name is Cynthia Heath.
43
44 Kaiser: And do you swear or affirm that the testimony you're about to give is the
45 truth and nothing but the truth under penalty of law?
46

1 Heath: I do.
2
3 Kaiser: Go ahead.
4
5 Heath: Yes, I live on Fairfax and Triviz which is right across the street from where
6 they want to do all of this. And Triviz is a two lane street that they use like
7 a racetrack. Madrid, they just extended that street from Triviz to the other
8 little street that start with A, I can't think of the name right now. It's too late.
9 All of this that he's talking about commercial, there's no room for commercial
10 there. There's property there for commercial, but there's no entrance or
11 way to get in and out with all the traffic that runs up and down. You've got
12 Telshor on the other side of the highway that they use, like a racetrack
13 whenever they can. Triviz is same way on this side of the highway. You
14 know we need to know what kind of commercial buildings are going to go in
15 that space you know to just say, we going to use it for commercial purposes,
16 just like you said, we don't want a carwash there. You know if you're going
17 to have the parks here and you're going to have commercial there, what
18 kind of commercial are you going to have there? It has to be something
19 that's going to benefit the community not something that's just going to line
20 somebody's pockets by having big business. Thank you for listening.
21
22 Kaiser: Thank you. Anybody else in the audience wishes to speak on this item? All
23 right. Hearing none. I'll come back. And just to touch on one point that she
24 just brought up. The plan is to actually improve that intersection Triviz and
25 Madrid and include an actual connection to the multiuse trail. So I think
26 we're going to see some really great things come out of this particular
27 project. Commissioner Murray.
28
29 Murray: Would it make sense to table this so that we all have enough time to review
30 every allowed use in C-3 considering its extensive versus making a quick
31 decision tonight?
32
33 Kaiser: I'll defer to staff and maybe it is an option, but I don't know what that does
34 for the process.
35
36 Weir: Mr. Chair. Public Works as a grant that they need to move forward with the
37 project. If we could pull up the municipal code we can ... I got zapped. We
38 could go through those lists of C-2 uses and if you wanted to strike those. I
39 normally would agree with your request to table, but because there is
40 funding for the improvements to Madrid, our Public Works department has
41 asked us to try to be as efficient with this proposal as possible.
42
43 Nichols: Mr. Chair. If I may.
44
45 Kaiser: Yes.
46

- 1 Nichols: Every once in a while a project comes along that giving up more time is not
2 going to improve it. We have had this property being studied and coming
3 up with proposed land use. I think now, nearly four years now and as City
4 does have ownership, there is quite a bit of control on that. But as far as
5 saying that we need to know what type of commercial structures may go
6 there. The person has to know the zoning that would enable them to tell
7 you what kind. So the zoning has to come first. I would just state that I
8 think this item is ready for action.
9
- 10 Kaiser: Okay. Yes, we can go through and strike, I don't know we want to capture
11 that. How should we capture that?
12
- 13 Ochoa: Staff can make a list, sir, so that way when we basically print out this list
14 and do the strike throughs or whatever uses you feel that should not be
15 permitted on the property. So we start here with the residential related uses.
16 I'm guessing probably remove all those because we don't want residential,
17 just straight commercial. There's agricultural, institutional, childcare,
18 community buildings, hospital, library, recreational, there are a number of
19 recreational uses that could potentially go on there. Service uses. So this
20 is your office, is your accounting, art studios, bank bonding, I believe that's
21 one that you were, had feelings about removing, beauty salons, business
22 offices, consulting, credit reporting, medical offices, dental offices, real
23 estate, tax preparation, and we'll get into the retail land uses. So auto truck
24 parts, auto truck services, bar, pub, tavern, building materials ...
25
- 26 Murray: If I may. I think if we just start at the top and start crossing off we can
27 expedite it versus going through. If I do say myself.
28
- 29 Ochoa: Okay.
30
- 31 Kaiser: Yes, I mean I think the residential seems like we want this to be commercial,
32 primarily.
33
- 34 Murray: I mean I guess looking under the residential like what's wrong with a
35 greenhouse or community garden? What's wrong with exercise, courts,
36 tennis, that's not the proposed use?
37
- 38 Kaiser: I mean I don't disagree. But there's how you know 40-something acres of
39 park land that I think that seems like where I would place those if they were
40 to be incorporated.
41
- 42 Ochoa: Mr. Chair. Point of clarity. These are residential. So it's a green house, but
43 it's noncommercial. So in other words, it's a greenhouse associated with
44 that home is what it would be. So these are residential related.
45
- 46 AUDIENCE MEMBER NOT AT THE MICROPHONE.

1
2 Kaiser: Unfortunately, we've got to press forward.

3
4 AUDIENCE MEMBER NOT AT THE MICROPHONE.

5
6 Nichols: Excuse me. Madam, would you step up to the podium, please for your
7 question. Thank you.

8
9 Heath: I'm sorry. But if they already have it zoned as a R-1a and you want to
10 change it to a C-3. Everything around this area that you're talking about
11 developing is houses, homes are there. Just homes. You know then on
12 the other side you've got the highway. So you want to put commercial
13 between the highway and these homes. Have any of you ever been down
14 that street? Have you been down Triviz to see this area, this stretch of area
15 that they're talking about? I can understand the parks. That would be fine.
16 But to put commercial on Triviz, that's a terrible place to put it. It's a terrible
17 place to put it. Thank you.

18
19 Kaiser: Thank you.

20
21 Heath: Okay.

22
23 Kaiser: Understand.

24
25 Ochoa: So we got your residential uses, we'll strike through those. Agriculture,
26 veterinary facility, would it be okay with that there?

27
28 Smith: I guess this exercise that we're conducting to go through this entire list. I
29 refer back to Mr. Nichols who stated that this is City property, they have a
30 lot of control over the type of commercial business goes there. And I feel
31 like this is kind of a futile exercise to go through this entire list to strike out
32 what we as a Commission think should or should not be there. I feel like
33 we should vote on this, move it forward. And you know the type of
34 commercial businesses that want to develop their still have to go through
35 the permitting process through the City. And I just feel like we could be here
36 till midnight going through this and striking this out. So it's already been a
37 long enough night and we also have other applicants that are here waiting.

38
39 Kaiser: Yes, I mean I completely agree with the Commissioners. I just wished staff
40 would have articulated this a little bit better. And I mean it's there, it's in the
41 Apodaca Blueprint. It's not hard in my mind to just translate that over into
42 the staff report into the recommendation of like this is the vision, this is what
43 we want to see. And instead, we slap C-3 on it, and I understand that the
44 City currently has control over this, but at some point, you're going to
45 release it out to a developer and that may come at a time when none of us
46 are here. None of you are at the City. And we get a whole nother regime

1 that says no, I want another Mr. Carwash, because that I think is perfectly
2 allowed under the C-3. So I agree with Commissioner Smith. I mean, this
3 list is way too long. I don't want to be here going and nickel and diming this
4 thing. I just wish staff would have been a little bit more, just say what you
5 want, just, and then let us decide if we agree or not.
6

7 Ochoa: Okay. Again, for point of clarity Mr. Chair. Again, we do have the Apodaca
8 Blueprint still in place that could definitely guide the development of this
9 property as well. Plus with the condition that I believe that the Chair asked
10 for, I think that's something we can definitely put into effect as well.
11

12 Kaiser: So one option for us is we can just table the conversation and move it to the
13 end of the meeting so we can get through the next item on the agenda and
14 then those folks and go home and we can come to a conclusion on this one.
15 Does that still work? Okay, so we'll make a motion to table this item until
16 we hear the remaining items on the agenda.
17

18 Smith: I second.

19
20 Murray: I second.

21
22 Baum: Board Member Acosta.

23
24 Acosta: Yes.

25
26 Baum: Board Member Porter.

27
28 Porter: Yes.

29
30 Baum: Board Member Smith.

31
32 Smith: Yes.

33
34 Baum: Board Member Murray.

35
36 Murray: Yes.

37
38 Baum: Chair Kaiser.

39
40 Kaiser: Yes.

41
42 Baum: Motion passes.
43

44 **9.3 Case 24CS0500021:** A request to approve a master plan known as the Tierra
45 Hermosa Master Plan for property that encompasses 54.286 + acres, is zoned R-
46 1a (Single-Family Medium Density) and is located on the east side of Porter Drive,

1 south of Village Drive and north of Central Road. The master plan proposes mostly
2 a single-family residential development with 354 single-family townhome and
3 detached home lots with one tract of land dedicated for drainage, one tract
4 dedicated for a park and two lots for potential future commercial development
5 along Porter Drive. Submitted by GEM Surveying, representative. Council District
6 5.
7

8 Murray: Can I make a, what do I want to say, a suspension of the rules of order to
9 hear 9.3, 9.4, 9.5 together.
10

11 Kaiser: I'll second.
12

13 Nichols: Mr. Chair. If I may. I appreciate that motion. We have lost security here. I
14 thought we would be finished by nine. And the security guard has left. So
15 I've had to lock the exterior doors. But we need to, if we could go ahead
16 and move forward then that would help us with the security of the building.
17 Thank you.
18

19 Ochoa: And I believe we have a motion and a second. So we need a vote please.
20

21 Kaiser: We need a vote.
22

23 Baum: Board Member Acosta.
24

25 Acosta: Yes.
26

27 Baum: Board Member Porter.
28

29 Porter: Yes.
30

31 Baum: Board Member Smith.
32

33 Smith: Yes.
34

35 Baum: Board Member Murray.
36

37 Baum: Chair Kaiser.
38

39 Kaiser: Yes.
40

41 Baum: Motion passes.
42

43 Kaiser: All right, we will now hear items 9.3 to 9.5
44

45 Ochoa: Correct. This is the Tierra Hermosa, what is called the Tierra Hermosa a
46 master planned area, Phase 1 preliminary plat, and Phase 2 preliminary

1 plat. Current conditions in the master plan is located on the east side of
2 Porter Drive, south of Village Drive and north of Central. The entire area
3 encompasses roughly 54.286 acres in size and is currently zoned R-1a
4 which is single-family medium entity. It is vacant and undeveloped. Phase
5 1 preliminary plat located in the same location, same area, encompasses
6 14.745 acres in size, also zoned R-1a and vacant and undeveloped. And
7 finally Phase 2 located in the same area encompasses 13.029 acres in size
8 is zoned R-1a single-family medium density and also vacant/undeveloped.
9

10 Showing the subject property here. As you can see you all completely
11 zoned R-1a. Surrounded by R-1a zoning to the north, east, and south, and
12 some R-1a and to the south as well. Showing here as you can see just one
13 big, large vacant piece of property out here off of Porter Drive. What the
14 master plan is proposing is a 354 single-family lot subdivision, which will be
15 made up of not only townhome lots but also detached home lots as well. It
16 is also proposing one tract of land for drainage that will be dedicated to the
17 City, another tract of land for a park that will also be dedicated to the City.
18 And two tracts or lots that have direct frontage on the Porter for future
19 development, commercial development. That will require a zone change in
20 the future though, so right now it's just a placeholder with the master plan.
21 The proposed master plan is proposed to be developed in five sequential
22 phases.
23

24 Showing here the Tierra Hermosa Subdivision master planned area.
25 Showing here how that phasing area happens, the drainage issues in this
26 area, as well as where the road network will work through for this
27 subdivision. Commercial area is located here to the west, which is
28 essentially the last phase of the subdivision. The preliminary plat proposes
29 96 single-family residential lots made up of townhomes and detached
30 homes with one tract of drainage that will be dedicated to the City. All
31 internal and adjacent roadways requiring improvements to City standards
32 for access for this phase shall be developed with this phase. The proposed
33 preliminary plat does follow the Tierra Hermosa Master Plan.
34

35 Showing here that Phase 1 with those townhome lots to the north among
36 Village is where Phase 1. It will be accessed off of Village with internal
37 roadways in here and there's that one tract of land that will be dedicated for
38 a pond. Phase 2 preliminary plat proposes 76 single-family residential lots,
39 again made up of townhome lots and detached homes with one tract of land
40 for a park. All internal adjacent roadways requiring improvements to City
41 standards will be required with this phase. And the proposed preliminary
42 plat does follow the Tierra Hermosa master planned area. Shown here that
43 second phase essentially directly east of what is Phase 1. The additional
44 lots here and the park located here within the center of the actual
45 subdivision itself.
46

1 When staff took a look at this we did see there's no real life, safety, or
2 welfare issues identified with the master plans or the preliminary plats. The
3 master plan is considered part of the planning phase process where a
4 proposal is viewed as a conceptual tool. So that's really what a master plan
5 does is kind of just conceptually outline what the area is and how it's being
6 phased out and so forth like that. Preliminary platting process is to establish
7 quality site design as well. The proposed subdivision provides for a more
8 attainable housing in the area with townhomes, that's definitely a housing
9 type that has not existed in this area. A lot of R-1a but it's all detached
10 single-family homes. No attached single-family homes, which this would
11 solve that issue. It does provide for a range of housing in the area per
12 Elevate Las Cruces. And the commercial lots or tracks are located along a
13 principal arterial roadway where commercial zoning is encouraged.

14
15 Notice was sent out to all surrounding property owners within 500 feet of
16 the proposed subdivision. Staff did receive two phone calls seeking just
17 general information. But it, that's what I did the presentation but today staff
18 received two more phone calls actually in support, would like to see this
19 development happen for the roadway improvements to occur in the area,
20 not only to the widening of Porter and Village but also the actual
21 construction of Central as well.

22
23 The DRC did meet to review this proposed subdivision. The DRC does
24 review technical components of the subdivision including infrastructure,
25 utilities, and other public improvements. Lengthy discussion did occur
26 concerning outstanding comments that are needing to be resolved by the
27 applicant's design professionals. The roadway widths and designs for this
28 area. The resolving of drainage issues as well. After more very minor
29 discussion, DRC did unanimously recommend approval with conditions for
30 the proposed master plan and two preliminary plats. The conditions being
31 that that they would remove any reference to a street cross section within
32 the actual documents themselves, essentially just providing the width to
33 allow the City to design those cross sections at the time of development.
34 Two full wide driving lane shall be required on Central Road. And all
35 outstanding staff comments shall be addressed prior to the Planning and
36 Zoning Commission meeting, which they have been.

37
38 With that staff does recommend approval with those conditions for this
39 proposed master plan and two preliminary plats based on the following
40 findings. Proposed master plan meets the requirements of the master plan
41 as called out by the subdivision code. The proposed preliminary plats do
42 follow the Tierra Hermosa master plan. Preliminary plats meet the
43 requirements for preliminary plat as called out by the subdivision code. And
44 also based upon review by staff, the proposed master plan and preliminary
45 plats all comply with the 2001 Zoning Code as required and the City of Las
46 Cruces design standards. Additionally, with that also that the DRC did

1 recommend approval with conditions for the proposed master plan and
2 preliminary plats during a public meeting on May 8, 2024. With that your
3 options, one to vote "yes" and approve the proposals as recommended by
4 staff, two to vote "no" and deny, a denial would require additional findings
5 of facts by the Commission if they deemed to vote that way. Three to vote
6 and amend or four, table and postpone and direct staff and the applicants
7 accordingly. The applicants are here if you have any questions for them.
8 And I stand for questions.
9

10 Kaiser: Thank you. Does the applicant wish to say anything? All right. I like the
11 enthusiasm at 9:51.
12

13 Dickerson: I'm here for you.
14

15 Kaiser: Please state your name for the record.
16

17 Dickerson: My name is Marci Dickerson.
18

19 Kaiser: Do you swear or affirm that the testimony you're about to give is the truth
20 and nothing but the truth under penalty of law?
21

22 Dickerson: Yes, sir.
23

24 Kaiser: Go ahead.
25

26 Dickerson: My name is Marci Dickerson. And I am one of the three principals of the
27 Porter Road Investment Group. My other principals are with me, the
28 Spedalieri's as well as the Jackson, Johnsons behind me. What we're trying
29 to do here is something that is brand new to Las Cruces. We have
30 partnered with French Brothers, the City of Las Cruces, and even El Paso
31 Electric have all come together to bring Las Cruces something that we don't
32 have. Our average new home or resale is average of \$330,000 a home.
33 Now with 7% interest, most people, working families, can't afford that.
34 There is something called affordable housing as you all are well versed in,
35 then there is attainable housing. We intend to bring attainable housing to
36 Las Cruces. What is attainable housing? Attainable housing is basically
37 where working families can afford their house payment. The houses that
38 are going to be available by French Brothers, built by French Brothers in
39 this subdivision will all be between \$195,000 to \$250,000. That is amazing.
40 People can afford that. They can afford the dream of homeownership. They
41 can raise their children, not in a cramped apartment. They can afford all of
42 those things. And that is what we're bringing to the community.
43

44 We're installing a two acre park. The park, the majority of the park is going
45 to be for use for sports fields. We all know people don't need to travel and
46 travel and travel to get to play baseball and soccer and all the things that

our kids, I mean, we live and die by that. We are a baseball and soccer town. You know we're going to have those things. We're going to make sure we've met with the people in charge of parks to have a really good you know a really good environment there for not only is it are the people that live in our neighborhood, but the people in adjacent neighborhoods as well. We also with Central, we're going to solve right now, if the majority of this is in a flood zone. All of my engineers and the people behind me have worked really hard to work with the City not only to solve that problem, but to solve a major drainage problem in Phase 3 that we'll be back to talk to you about later. But really the biggest piece is this. We're going to bring attainable housing to our community. And all of those people that we talked about earlier today. I'm really glad we don't have apartments by the way, just want to say that. But all of those people that you all talked about today about this creating more housing, finding places for these people to go. That's what's going to happen in our subdivision. So I'm here for any questions. I also have my fabulous panel of experts with us who've been brought on to make this project happen. But we would appreciate you all allowing us to move forward. Our goal is to have houses ready for people to buy at the end of this year. Thank you.

Kaiser: Thank you. Any questions from the Commission? Commissioner Murray.

Murray: I just have a quick staff comment. So basically what we're approving tonight is the master plan. And then we're hearing Phase 1 and Phase 2 preliminary plats. And then later on, they'll come back with Phase 3, 4, 5.

Ochoa: Mr. Chair, Commissioner Murray. That is correct. Three, 4, and 5 will be coming back before you all at a later date. They will be coming in in sequential order essentially.

Murray: And then the improvements to Central Road. is that going to be like a paved street all the way through from the cul-de-sac on, forget what it is, all the way to Porter.

Ochoa: Chair, Commissioner Murray. They are essentially required to provide full improvements for Central just from the edge of their subdivision to Porter Road. So that portion of the Central will be done. The other connection, the City sees an issue with that because there is drainage issues that the City is trying to resolve out there, so it's a possibility some other additional improvements will be done by the City because we needed to take care of that issue ourselves.

Kaiser: Any other questions? Commissioner Smith.

Smith: I don't have a question. I have a comment. You know after our earlier I guess contentious presentation, I just want to state that it's a pleasant

1 surprise to see this type of plan in development, particularly in regard to
2 townhomes. Just as Ms. Dickerson stated, you know we do have a need
3 for housing. And I liked that you delineated between affordable and
4 attainable, because we do have a number of working families and
5 Commissioner Kaiser, I mean he basically you know he's a working man
6 with a working family, his spouse and he had a difficult time just trying to
7 find a place to rent, let alone purchase. So this is a great opportunity. I
8 think your presentation of this type of plan is what the City needs. And you
9 know as we go forward I hope that this is something that we can continue
10 to see in the future as you know the housing needs in Las Cruces continues
11 to grow.
12

13 Kaiser: I don't know that's I'd call myself a working man, but I do my best. Just a
14 quick, hopefully a quick question, seems like I opened some cans of worms
15 tonight. On Central, that is Central Avenue, it's my understanding that an
16 alternative right-of-way/cross section was proposed. But City staff's
17 position was they wanted a full of a larger right-of-way I guess, to have
18 flexibility to handle I guess the transportation infrastructure and the flood
19 infrastructure, if you will. But then we say but we have to have a 12 foot
20 minimum travel lane. I'm just not sure we have an opportunity here to
21 maybe do something a little bit different. We just heard a heated discussion
22 about traffic safety concerns. We have policies already on the books that
23 recommend smaller travel lanes to actually calm traffic. So I guess I'm just
24 wondering why on the one hand we want all of the flexibility to design this
25 however it makes sense, but then constrain ourselves by saying but we
26 have to have that 12 foot travel lane.
27

28 Ochoa: Mr. Chair. That was a condition that was placed on there by Fire
29 Department, just because the limit of the width of that road. Because the
30 DRC did approve it's actually a smaller cross section instead of a 50 foot
31 wide road to 40 feet. Because of that narrowing he still wanted to make
32 sure that their trucks would be able to maneuver, because it'll be used more
33 like a through road than an actual accessible road from the single-family
34 residential lot adjacent to it. He just wanted to make sure he had enough
35 room to maneuver if need be with if there's on street parking, whatever
36 people, somebody parks they'll be able to move around. That was the
37 reason for Fire to do that essentially.
38

39 Kaiser: Got it. It's concerning to say the least. I mean the reality is a 12 foot travel
40 lane, that's what our entire City has been built off of. And look at the results.
41 A straight road like Central Avenue, you better believe that's going to be a
42 racetrack on day. If it's not already. I just, it's frustrating. I think I mean to
43 hear everything that we heard tonight to have policies that say, this is an
44 alternative direction. We had an applicant who was actually willing to say
45 we want something different and we say, no we want the raceway. But
46 other than that I think this is a fantastic project.

Ochoa: Mr. Chair. That is your prerogative as all. That condition can be removed by the Commission if you wish to.

Murray: If I can say myself. I'm like very familiar with this area because I have a parcel for sale two lots over. So I will say right now Central is undeveloped, as it is. And it's kind of difficult because, I don't necessarily see it becoming a speedway, just on how they're doing it. The access is going to be from the other side, on Porter and Village. And kind of where Central Ave. ends where my lot that I have for sale, it's a cul-de-sac right now. So creating that as a thruway is just going to be difficult. It will definitely be another exit and entrance point, but I don't think it's going to turn into another 500 speedway or something.

Porter: If I can say something. I think that it's actually going to slow it down. I go through Porter every single day. I live in that area. And you know there's always on their four by fours, they're always doing something. And it's at three in the morning sometimes. So actually building homes there would actually slow down all of the noise, all of the speeding and everything. Just because I've lived there so long. It's also going to help the flooding a lot because we get really bad rain during July, and some of August, and there's times where if you don't have a truck, you can't pass and that dirt is bad, too. So it's very underdeveloped. There's nothing there but tumbleweeds and all kinds of animals. So I really love the idea, especially of the attainable housing, because that's kind of what we need right now. It seems like it's been a common theme today.

Kaiser: Thanks. And I certainly you know appreciate the perspective. I think if you look at the data, the data says wider travel lanes equal faster speeds. I know in my own neighborhood, it's a residential neighborhood, we like to say the local streets they're safe, right. They're not. I mean the safe local streets in our neighborhood are essentially fair lane streets without cars parked on the either side. So it's just, we had an opportunity, have an opportunity to address some of these issues that we heard about tonight on the front end. I think undercutting the flexibility that we sought on the one hand by saying we need to have the 12 foot travel lanes; you know I would like to strike that I know others may feel differently. But if that's something that you'd be open to striking to give ... that doesn't say we can't build a 12 foot travel lanes, it just says that let's look at all the options available to us. Yes, did you want to comment or anything? You don't have to.

Dickerson: Just one thing. All of Central will be done in Phase 3. And I do know that Fire you know had said that, but I think one of the other things that we're all kind of waiting to see, and trust me Phase 3 will start the minute, the planning of that will start the minute we get the permit for this one. Is what it's going to take for the drainage, the roads, and those types of things. You

1 know, bike lanes are considered. There's a lot of things that we're looking
2 into on that. But really the basic of it is going to be you know of course,
3 what is our public safety, which is going to be what Fire requires. But also
4 exactly what that drainage is going to look like to make sure that we really
5 have a safe place for the water to go, but as well for our people to come
6 and go from their homes. So I think that is you know a big importance. And
7 like I say will be addressed in the Phase 3 application. If you don't mind.

8
9 And then the second one, to let you guys know, that our Porter Road
10 Investments, which is our development company, as well as French Bare
11 both committed to the fact that if this one goes and we're able to do this,
12 especially in the time span that we need to, that the rest of the other
13 subdivisions that we're committed to doing will all be the same. We are
14 going to come in, French Brothers is taking a little less money on it. We
15 certainly are not making money like some of the big developers that I know
16 come before you, but it's because every single one of us believes in the
17 same thing, which is to build our communities with attainable housing. So
18 thank you. But I wanted to let you know that you know this is not the one
19 and done. So we hope to change the face of our community's housing.
20 Thank you.

21
22 Kaiser: Thank you. Any other comments, questions from the Commission? All
23 right. Anyone in the public who wishes to speak on this item? We
24 exhausted everybody. Yes, ma'am. Please come forward.

25
26 Stanley: My name is Robin Stanley.

27
28 Kaiser: And do you swear or affirm that the testimony you're about to give is the
29 truth and nothing but the truth under penalty of law?

30
31 Stanley: Yes.

32
33 Kaiser: Go ahead.

34
35 Stanley: I live on Payan Road, which is right before Central behind where this
36 subdivision is going to be. And I just want to say I think that it's a wonderful
37 plan. I'd love having Central paved, and so that Porter doesn't flood.
38 Because that water runs down Central now. And I have a river behind my
39 house going down when it rains in July and August. But I also wanted to
40 say I know, right now I've got three generations living in my house, because
41 they can't afford to live anywhere else. And I think it's really wonderful. So
42 that's all I wanted to say.

43
44 Kaiser: Thank you. Anybody else who wishes to speak on this item this evening?
45 All right. Seeing none. We'll come back to the Commission. There's no
46 additional comments, we'll have to re ...

Agenda Item #7.4.

1
2 Ochoa: Reinststate.
3
4 Kaiser: Reinststate. Thank you order so that we can do these one at a time.
5
6 Murray: I make a motion to reinststate order to hear 9.3, 9.4, 9.5 separately.
7
8 Porter: I second.
9
10 Baum: Board Member Acosta.
11
12 Acosta: Yes.
13
14 Baum: Board Member Porter.
15
16 Porter: Yes.
17
18 Baum: Board Member Smith.
19
20 Smith: Yes.
21
22 Baum: Board Member Murray.
23
24 Murray: Yes.
25
26 Baum: Chair Kaiser.
27
28 Kaiser: Yes.
29
30 Baum: Motion passes.
31
32 Kaiser: Okay, we will start with item 9.3. Looking for a motion to approve.
33
34 Murray: Before I make a motion are we in agreeance to appro with conditions as set
35 forward in the packet.
36
37 Kaiser: I mean I think you just make the motion if you want the conditions or not
38 make the motion. I'm fine with striking a 12 foot travel lane.
39
40 Murray: I make a motion to approve 9.3 with conditions as set forth in the packet.
41
42 Porter: I second.
43
44 Baum: Board Member Acosta.
45

1 Acosta: I vote yes to approve with conditions that we outlined based on staff
2 recommendation.
3

4 Baum: Board Member Porter.
5

6 Porter: Yes.
7

8 Baum: And your reasoning.
9

10 Porter: I vote yes with staff recommendations and just meant that we decided on.
11

12 Baum: Thank you. Board Member Smith.
13

14 Smith: I vote yes with conditions based on staff recommendation.
15

16 Baum: Board Member Murray.
17

18 Murray: Yes, based on staff recommendation.
19

20 Baum: Chair Kaiser.
21

22 Kaiser: Yes, based on staff recommendation and consistency with Elevate Las
23 Cruces.
24

25 Baum: Motion passes.
26

27 **9.4 Case 24CS0500022:** A request to approve a preliminary plat known as the Tierra
28 Hermosa Phase 1 Preliminary Plat for property that encompasses 14.745 + acres,
29 is zoned R-1a (Single-Family Medium Density) and is located on the east side of
30 Porter Drive, south of Village Drive and north of Central Road. The plat proposes
31 96 single-family townhome and detached home lots with one tract of land
32 dedicated for drainage. All proposed internal roads and adjacent roadways
33 requiring improvements providing access to Phase 1 shall be developed with this
34 phase. Submitted by GEM Surveying, representative. Council District 5.
35

36 Kaiser: All right looking for a motion to approve 9.4.
37

38 Murray: I make a motion to approve 9.4 with conditions based on the packet
39 provided by City staff.
40

41 Smith: I second.
42

43 Baum: Board Member Acosta.
44

45 Acosta: I vote yes to approve based on staff recommendation.
46

1 Baum: Board Member Porter.

2

3 Porter: I vote yes based on staff recommendations.

4

5 Baum: Board Member Smith.

6

7 Smith: I vote yes based on the staff recommendation.

8

9 Baum: Board Member Murray.

10

11 Murray: Yes, based on staff recommendation.

12

13 Baum: Chair Kaiser.

14

15 Kaiser: Yes, based on staff recommendation and consistency with Elevate Las
16 Cruces.

17

18 Baum: Motion passes.

19

20 **9.5 Case 224CS0500048:** A request to approve a preliminary plat known as the Tierra
21 Hermosa Phase 2 Preliminary Plat for property that encompasses 12.368 + acres,
22 is zoned R-1a (Single-Family Medium Density) and is located on the east side of
23 Porter Drive, south of Village Drive and north of Central Road. The plat proposes
24 76 single-family townhome and detached home lots with one tract of land
25 dedicated for a park. All proposed internal roads and adjacent roadways requiring
26 improvements providing access to Phase 2 shall be developed with this phase.
27 Submitted by GEM surveying, representative. Council District 5.

28

29 Kaiser: 9.5.

30

31 Murray: I make a motion to approve item 9.5 was conditions based on the packet as
32 provided by City staff.

33

34 Smith: I second.

35

36 Baum: Board Member Acosta.

37

38 Acosta: I vote yes to approve based on staff recommendation.

39

40 Baum: Board Member Porter.

41

42 Porter: I vote yes based on staff recommendations.

43

44 Baum: Board Member Smith.

45

46 Smith: I vote yes based on staff recommendation.

1
2 Baum: Board Member Murray.
3
4 Murray: I vote yes based on staff recommendation.
5
6 Baum: Chair Kaiser.
7
8 Kaiser: Yes, based on staff recommendation and consistency with Elevate Las
9 Cruces.
10
11 Baum: Motion passes.
12
13 Kaiser: All right. Thank you all for coming out this evening. Feel free to stick around
14 to continue to listen to us talk.
15
16 **9.2 Case 23ZO0500027: CONTINUATION.**
17
18 Kaiser: So, I guess now we're returning to item 9.2. And I do apologize to my
19 colleagues. I did not anticipate opening this can of worms. Personally, I
20 think, do we need to or we don't need to make a motion or anything to go
21 back to this item? No. Okay. Okay.
22
23 Ochoa: Point of order, Mr. Chair.
24
25 Kaiser: Yes.
26
27 Ochoa: I believe since you did vote to table it, you need a vote to un-table the item
28 so you can discuss it.
29
30 Murray: I'll make a motion to un-table item 9.2 for discussion.
31
32 Smith: I second.
33
34 Baum: Board Member Acosta.
35
36 Acosta: I vote yes.
37
38 Baum: Board Member Porter.
39
40 Porter: Yes.
41
42 Baum: Board Member Smith.
43
44 Smith: Yes.
45
46 Baum: Board Member Murray.

1
2 Murray: Yes.
3
4 Baum: Chair Kaiser.
5
6 Kaiser: Yes.
7
8 Baum: Motion passes.
9
10 Kaiser: I appreciate staff printing out this list. I kind of feel at this point what
11 Commissioner Smith said, I feel like we could spend the next two hours
12 going through all of this. I think my point really was just we know what we
13 want and I don't know why we just come out and say it, instead we put a
14 land use on here that I feel like just has so much that's not compatible with
15 what we want. And why we didn't maybe try to rein it in before we got to
16 the discussion tonight. I think that was really just the point that I was
17 making. So I think we can just simplify it and say, you know make it
18 consistent with Apodaca Blueprint. I think that's fine. You know I guess for
19 future reference if we can, if we have the vision, we know what we want to
20 see here, let's make it very clear so that we up here can just you know move
21 on, move it through a process. That would just be my suggestion for next
22 time. So I'm fine with just saying, putting the condition that the land uses
23 would be consistent with Apodaca Blueprint and we go forward from there.
24
25 Ochoa: Follow the guidelines of Apodaca Blueprint. Yes, sir. That's how staff will
26 administer this zoning basically, sir.
27
28 Kaiser: Okay.
29
30 Weir: Mr. Chairman. You stated a specific concern about drive-thrus and drive
31 uses, I'd recommend you make that a condition if that was truly one of your
32 big concerns.
33
34 Kaiser: Okay. Yes, I mean I think at a minimum not allowing drive-thru
35 establishments. I mean this is supposed to be pedestrian, serving the
36 neighborhood, serving trail users, I just don't think that there's any need for
37 drive-thrus here so if we can make that a condition.
38
39 Ochoa: If I may add on top of that, sir. If we are looking to try to get away from that,
40 not only drive-thrus but any type of stacking lane, because a carwash isn't
41 necessarily a drive-thru, it's a stacking lane, so any business associated
42 that has a drive-thru or stacking lane associated with it, sir.
43
44 Kaiser: There you go. That'll be our condition. So we need a motion to approve
45 with those conditions added.
46

1 Murray: I make a motion to approve item 9.2 with conditions that it follows the
2 guidelines stated in Apodaca Blueprint, that it does not include uses of
3 drive-thrus, stacking lanes, and I'm going to add gas stations or car washes.
4

5 Smith: I second.
6

7 Baum: Board Member Acosta.
8

9 Acosta: I vote yes to approve with conditions based on staff recommendation and
10 further discussion.
11

12 Baum: Board Member Porter.
13

14 Porter: I vote yes as long as it aligns with Apodaca Blueprint, does not include any
15 drive-thru lanes, stacking lanes, and gas stations.
16

17 Baum: Board Member Smith.
18

19 Smith: I vote yes with conditions as laid out through the earlier discussion.
20

21 Baum: Board Member Murray.
22

23 Murray: Yes with conditions based on the Apodaca Blueprint and discussions
24 tonight.
25

26 Baum: Chair Kaiser.
27

28 Kaiser: Yes, based on consistency with Apodaca Blueprint and our discussion here
29 this evening.
30

31 Baum: Motion passes.
32

33 **10. DISCUSSION** 34

35 Kaiser: All right. Where are we? Any discussion or staff announcements?
36

37 Murray: I have one quick comment on the apartment building, the Roadrunner. For
38 future cases of that sort, can we make sure that we include submitted site
39 plan for reference?
40

41 Ochoa: Yes, sir. Definitely make that note.
42

43 **11. STAFF ANNOUNCEMENTS** 44

45 Kaiser: Staff.
46

1 Weir: Mr. Chairman and Commissioners. Just wanted to inform you that on June
2 24, Freese Nichols, the consultants that are doing the Realize Las Cruces.
3 The update of the development code, we'll be presenting the revised draft
4 to the City Council. And I would encourage any of you that could make that
5 meeting. It's a work session at 1:00 p.m. here at City Council. It will be a
6 Monday. It'll be the fourth Monday of June. If you could attend to see that
7 presentation. And also hear City Council's observations and input. The
8 meeting will begin at 1:00 p.m. It's one of three items that will be scheduled
9 for that work session. And the agenda hasn't been set yet.

10
11 Murray: And since it's City Council it will be broadcasted on YouTube.

12
13 Weir: Yes.

14
15 Kaiser: So just to clarify, this is not a joint work session.

16
17 Weir: Currently it is not a joint work session. It's just the City Council since they
18 put it with the other items.

19
20 Kaiser: Okay. Wasn't the intent that there was going to be a joint work session. So
21 that's going to come later.

22
23 Weir: Yes, there is another work session they want to hold. I believe they will still
24 be in town and, is your June meeting the next day?

25
26 Kaiser: It is, yes.

27
28 Weir: We can invite them to come and present to you at your regular June
29 meeting.

30
31 Kaiser: Okay. But there's no intent to do a joint work session as part of the process.

32
33 Weir: Not right now.

34
35 Kaiser: Go it. Okay. Thank you.

36
37 **12. ADJOURNMENT (10:13)**

38
39 Kaiser: All right. Looking for a motion to adjourn.

40
41 Porter: I second.

42
43 Murray: I make a motion to adjourn tonight's meeting.

44
45 Smith: I second.

- 1 Kaiser: All in favor.
- 2
- 3 MOTION PASSES UNANIMOUSLY.
- 4
- 5 Kaiser: Meeting's adjourned.
- 6
- 7 Ochoa: Thank you folks. Appreciate your hard work.
- 8
- 9
- 10
- 11
- 12 _____
- 13 Chairperson

DRAFT



Planning & Zoning Commission 5/28/2024
**CASE 22ZO0500156: N. ROADRUNNER PARKWAY
REZONING**

STAFF CONTACT:	Vincent Banegas, (575) 528-3058, vbanegas@las-cruces.org
OWNER:	Mohamed Aswad, M.D.
REPRESENTATIVE:	Tafiq Hindash – AJ Construction, LLC
DISTRICT:	District #3
SITE ADDRESSES:	2795 N. Roadrunner Parkway
EXISTING ZONING:	R-1a (Single-Family Medium Density)
REQUEST:	Rezone from R-1a (Single-Family Medium Density) to R-4 (Multi-Dwelling High Density & Limited Retail and Office)
RELATED APPLICATIONS:	N/A
STAFF RECOMMENDATION:	Conditional Approval

SUMMARY OF CASE 22ZO0500156:
A request to approve the rezoning of property from R-1a (Single-Family Medium Density) to R-4 (Multi-Dwelling High Density & Limited Retail and Office), located at 2795 N. Roadrunner Parkway. The property is ± 5.00 acres in size and is within Council District 3. Submitted by Tafiq Hindash – AJ Construction, LLC on behalf of Mohamed Aswad, M.D., property owner.

- SUMMARY OF RECOMMENDATION:**
Staff is recommending **CONDITIONAL APPROVAL** based on the findings listed below:
- The property owner has submitted a request to rezone a ± 5.00-acre tract of land to accommodate a 96-unit apartment complex.
 - A lesser zoning designation can be considered by both the Planning and Zoning Commission and City Council. If for example the R-4 district is deemed excessive, a change to R-3 or R-2, may be considered in greater alignment with the comprehensive plan and surrounding development.

- The subject property falls within the Suburban Neighborhood Place Type. This place type classification is characterized by low-to-moderate density residential land uses intermixed with areas of commercial development. Predominant land uses include single-family and multi-family development, retail and office uses, and other ancillary institutional and public uses such as schools, parks, and places of worship. The request is consistent with the place type character.
- The proposed zone change request is supported by the Elevate Las Cruces Comprehensive Plan and meets the purpose and intent of the 2001 Zoning Code, as amended (2001 Zoning Code, Section 38-2).
- The surrounding area consists largely of single-family residential, quasi-institutional, office, institutional, and open space (flood control) with multi-family residential, and one other institutional use in the broader vicinity.
- Zoning districts supporting surrounding uses include R-1a (Single-family Medium Density), A-1 (Flood Control), A-2 (Rural Agricultural), O-2 (Office, Professional-Limited Retail Service), PUD (Planned Unit Development), and R-4C (Multi-Dwelling High Density & Limited Retail and Office - Conditional).
- Per Elevate, the development/redevelopment of property, when proximate to existing development, should consider design measures that bring about a greater level of compatibility to said development.

Proposed Conditions include:

1. Consider changing the zoning to R-3C (Multi-dwelling Medium Density-Conditional) to accommodate residential development and increase compatibility with the surrounding neighborhood.
2. Uses shall be limited to either multi-family or single-family residential uses (primary) and shall exclude mobile home park use. Accessory/ancillary uses and structures are allowed in conjunction with said primary residential use and may include sheds, home occupations, and apartment related uses such as community/office building, recreation/exercise courts and related facilities.
3. Any Landscape buffers that may be required per Section 38-31 D-2 Matrix 1 shall be in addition to the landscaping requirements specified in Article IV of the Las Cruces Design Standards.
4. If multi-family development occurs, landscaping (softscape, hardscape, or combination of both) shall be used to buffer any parking lot areas adjacent to Morningstar Drive and N. Roadrunner Parkway. Elements like landscaped berms with short walls and/or decorative walls/fencing shall be used for said purpose.
5. Density shall be limited to 16 du/ac. (80 units max.)
6. No more than eight attached apartments/dwellings per building/grouping allowed.
7. Construction materials used for any multi-family development shall consist of natural materials or manufactured material made to look natural typically used in the construction of dwellings in the Las Cruces community.

PROPOSAL AND LAND USE HISTORY

DETAILED DESCRIPTION:

The property owner is seeking rezoning from R-1a to R-4 to accommodate a development proposal consisting of a 96-unit apartment complex. Although not required for a zone change, the applicant submitted a conceptual site plan and elevations that reflect multiple apartment buildings ranging from two to three stories in height. Ingress/Egress is proposed along both N. Roadrunner Parkway and Morning Star Drive. Please be advised that the layout and design is conceptual, and staff won't know what the final layout/design will look like until the building permit stage. This assumes the necessary approvals are granted. It is at this stage where final design and engineering efforts will take place.

LAND USE HISTORY:

The subject property is vacant/undeveloped and was originally annexed via the Western Development Annexation in 1978. This annexation incorporated 1,555 acres of land. Per Ordinance 209, dated 1/15/1979, the annexed area received an initial zone of R-1 (now R-1a). Said zoning followed development requirements set forth in the 1965 Las Cruces Zoning Code. Areas surrounding the subject property were formally developed via planning and platting processes involving master plan, preliminary, and final plat requirements. It should be noted that the subject property remained a standalone parcel never being incorporated into adjacent developments consisting of Northrise Estates, The Ridge at Northrise, Roadrunner Park at Northrise, Poco Lomas, or the area further south called High Range.

In late 1989, a Special Use Permit (SUP) proposal was submitted seeking approval for a church with a daycare/school component. The case brought significant protest from the surrounding property owners and ultimately was denied by the Planning and Zoning Commission. To be clear, the church would have been allowed by right however, the ancillary uses involving the daycare/school is what required SUP consideration. No other attempt to develop the property has been proposed and as such, the property continues to be vacant.

ZONING DECISION CRITERIA AND POLICIES

POLICY	DOES IT COMPLY?
<u>Neighborhood Character and Compatibility</u>	Yes
<u>Elevate Las Cruces Comprehensive Plan</u>	Yes
<u>Thoroughfare Plans</u>	Yes
<u>Purpose and Intent of the Code: Section 38-2</u>	Yes
<u>Criteria for Decisions: Section 2-382</u>	Yes

NEIGHBORHOOD CHARACTER AND COMPATIBILITY:

In large part, the area surrounding the subject property consists of single-family development. Quasi-institutional (church), institutional (middle school), office, and open space/flood control, are in the nearby vicinity. Given the land use and zoning pattern described, development following the requested R-4 zoning standards could create increased impacts to the surrounding neighborhood in terms of character, compatibility, and traffic. At minimum, conditions limiting the maximum density of the R-4 district currently set at 40 du/ac should be considered. Should the Commission feel it appropriate to allow multi-dwelling development at this location, additional conditions like those proposed by staff, which include restricting non-residential land uses, and aligning development potential and its' related design to that seen in the vicinity. This would help achieve greater compatibility with the neighborhood character.

COMPLIANCE WITH ELEVATE LAS CRUCES COMPREHENSIVE PLAN:

According to the Future Development Map in the Elevate Las Cruces Comprehensive Plan, the subject parcel falls within the Suburban Neighborhood Place Type. This place type is characterized as providing low and moderate density residential land uses intermixed with areas of commercial development. In context to the requested zone change and proposed apartment use as cited by the property owner, both elements could be considered consistent with the place type character identified (see Represented Land Uses and Representative Zoning Districts for the Suburban Place Type).

The following goals, policies, and actions from Elevate Las Cruces are relevant to the proposed zone change:

Suburban Place Type Description

- Suburban Neighborhood: Supports a gross density of 4-12 dwelling units per acre for single-family and 15-30 dwelling units per acre for multi-family.

Community Environment

- Goal: CE-1: Balanced Growth – Encourage efficient land use development patterns that accommodate projected growth in a sustainable manner.
 - Policy CE-1.1, Create consistency between the Elevate Las Cruces Future Development Program Recommendations and development regulations.
 - Action: CE1.1.5, Consider the appropriateness of future development proposals with place type designations and their relationship with surrounding land uses.
 - Policy: CE-1.2, Promote investment within older areas of the city through redevelopment.
 - Action: CE-1.2.1, Facilitate infill and/or higher density mixed use development in the downtown and at key activity centers and along transit corridors.
 - Action: CE-1.2.3 – Partner with property owners of vacant land for infill opportunities.

- Goal: CE-4: Complete Neighborhoods – Develop mixed-use neighborhoods that incorporate a wide range of recreational, commercial, employment, and civic uses.
 - Policy: CE-4.1, Encourage a variety of housing types into new and redeveloping neighborhoods to provide options for all ages and incomes throughout the city.
 - Action CE- 4.1.1, Promote a diversity of residential building types, lot sizes, density ranges, and architectural styles in new neighborhoods.
 - Action CE- 4.1.2, Promote transitions between residential development types at intersecting streets and alleys.
- Goal: CE-5: Building and Site Design – Establish standards to integrate new development with surrounding built and natural features while mitigating long-term natural resource and climate impacts.
 - Policy: CE-5.1, Promote building form and scale that complements surrounding neighborhoods and creates strong linkages between the development, site, the street, and other public grounds.
 - Action CE- 5.1.2, Provide gradual transitions between developments with residential lots of varying size and building heights.
 - Action CE- 5.1.4, Encourage the orientation of new buildings to face each other across public streets, parks, and civic spaces.
 - Action CE- 5.1.6, Encourage building arrangement on development sites that frame the street.
 - Action CE- 5.1.8, Retain variation in residential facades to provide visual interest and discourage monotony.
 - Action CE- 5.1.9, Incorporate form elements such as façade and roofline articulation, access, fenestration, and variable building materials, where necessary to provide visual interest.
 - Action CE- 5.1.11, Provide direct pedestrian access from street-facing facades, provide multiple pedestrian access points between the building and the street within each block.
 - Policy: CE-5.2, Utilize building materials that accentuate the city's cultural and historic heritage and natural surroundings.
 - Action CE- 5.2.1, Promote the construction of residential building that blend with the surrounding landscape by incorporating scale, form, materials, and color that is complementary to the area.
 - Action CE- 5.2.2, Utilize a mix of brick, stucco, stone, or comparable masonry material on building facades that face the street, parking areas, or public gathering spaces.
 - Policy CE-5.3, Ensure that development concepts provide an interconnected network of pedestrian facilities linking streets, buildings, parking, and public gathering space.

- Action CE- 5.3.1, In multi-unit and multi-building developments, provide designated pedestrian pathways from the public street and parking areas to all buildings and public gathering areas.
- Action CE- 5.3.2, Place pedestrian pathways on development sites in location that are physically separated from motor vehicle drives and parking areas.
- Policy CE-5.4, Provide motor vehicle access and parking options that preserve thoroughfare function and the comfort of pedestrians and bicyclists.
- Policy CE-5.5, Incorporate landscaping techniques into new development that are aesthetically pleasing while mitigating environmental impacts.

Community Prosperity

- Goal: CP-7: Attainable Housing – Provide affordable, clean, and safe housing options for all residents regardless of income.
 - Policy CP-7.4, Provide incentives for developing or re-purposing attainable units.
 - Action CP-7.4.3, Allow design standard flexibility to make the provision of attainable housing more financially feasible to developers.
- Goal: CP-9: Housing Diversity – Provide a diverse range of housing options to accommodate residents at all stages in life.
 - Policy CP-9.1, Encourage the use of alternative housing types, styles, and living arrangements to provide additional housing opportunities.
 - Action CP-9.1.4, Promote, facilitate, and encourage alternative housing options for seniors, students, and single-person households such as co-housing options.

Community Livability

- Goal: CL-2: Neighborhood Conservation
 - Policy: CL-2.2, Encourage redevelopment of vacant property within neighborhoods.

Due to the level of support that the Elevate Las Cruces Comprehensive Plan provides, staff believe that at least in part, the proposed zone change has merit. If you consider the staff proposed conditions that are aimed to help ensure that any future development achieves a higher degree of neighborhood compatibility, a conditional approval recommendation seems reasonable. The rationale being that the conditions stipulated are in alignment with various stated goals, policies, and actions that characterize the Suburban Neighborhood Place Type which the subject parcel and surrounding area are part. Moreover, other plans like the Housing Needs Assessment recognizes the need for housing variety and housing choice to supply housing for persons in all socio-economic strata thereby helping to close the gap between housing need and housing availability in Las Cruces.

COMPLIANCE WITH THOROUGHFARE PLAN:

Access to the subject property exists from both N. Roadrunner Parkway and Morning Star Drive. Roadrunner Parkway is designated as a minor arterial roadway as per the Elevate Las Cruces Comprehensive Plan and the Mesilla Valley Metropolitan Organization (MPO). Morning Star Drive is designated as a major collector from Roadrunner Parkway going east and a local roadway from Roadrunner Parkway west. Roadrunner Parkway has a 120-foot right-of-way width with approximately 25 feet of paved travel lanes (2) in each direction. The roadway is improved with curb and gutter, sidewalk, and street lighting on both sides of the roadway. Morning Star Drive has a 50-foot right-of-way width with a 35-foot paved surface, curb, gutter, sidewalk (except adjacent to the subject property), and street lighting. Any applicable development proposed for the subject property would require a trip generation calculation for the land use being considered. This calculation, particularly if the traffic generation meets or exceeds 100 peak hour trips would trigger the need for a Traffic Impact Analysis (TIA). A lessor TIA may be warranted for a calculation that does not meet the threshold. Traffic analysis could speak to specific roadway improvements or access design considerations (acceleration/deceleration lane) to ensure traffic operates both efficiently and safely. This is particularly important considering the line-of-sight Roadrunner Parkway has as one travels south bound toward the subject property. Line-of sight, increased traffic, speeding, and accident history have all been cited by area residents as significant concerns to any development that may take place at the subject location. Please be advised that both the calculation and subsequent analysis comes at the development stage, which is dependent on several factors, one of which involves the ultimate disposition of this zone change request.

CONSISTENCY WITH PURPOSE AND INTENT OF THE ZONING ORDINANCE:

Per Section 38-2: The intent of the Zoning Code is to encourage the most appropriate use of land and to promote the health, safety, and general welfare of the community for the purpose of improving each citizen's quality of life.

The tenets relevant to the proposed zone change include:

- A. Ensure that all development is in accordance with this Code and the Elevate Las Cruces Comprehensive Plan and its elements.
- C. Give reasonable consideration to the character of each zoning district and its peculiar suitability for particular uses.
- H. Encourage the conservation of energy in the use of structures, buildings, and land.
- K. Encourage development of vacant properties within established areas.
- L. Ensure that development proposals are sensitive to the character of existing neighborhoods.
- M. Foster a more rational relationship between different land uses for the mutual benefit of all.
- N. Conserve the value of buildings and land.
- Q. Mitigate conflicts among neighbors.

Review by City of Las Cruces staff determined the requested zone change could impact the surrounding area in terms of neighborhood character and compatibility, land use and traffic. However, the zoning designation per the proposed conditions, would be more sensitive to land uses within the surrounding area. Whether the request is conditioned or not could lay the foundation for bringing back into

productive use, underutilized property that has sat vacant for several years. Productive use that would take advantage of utilities adjacent to the site and transit services that in part run along Roadrunner Parkway.

CRITERIA FOR DECISIONS:

Per Section 2-382 of the Las Cruces Municipal Code, the Planning and Zoning Commission shall determine the following:

- A. The Planning and Zoning Commission shall review the comprehensive plan, and other applicable plans and codes and determine whether the request will:
 1. Impair an inadequate supply of light and air to adjacent property or otherwise adversely adjoining properties.
 2. Unreasonably increase the traffic in public streets.
 3. Increase the danger of fire or endanger the public safety.
 4. Deter the orderly and phased growth and development of the community.
 5. Unreasonably impair established property values within the surrounding area.
 6. In any other respect, impair the public health, safety, or general welfare of the city.
 7. Constitute a spot zone, and therefore, adversely affect adjacent property values.
 8. Be in harmony with the purpose and intent of the zoning code, sign code, design standards, and other companion codes.
- B. The commission shall take care that the development of the city, in accordance with present and future needs, best promotes the health, safety, morals, order, convenience, prosperity, and general welfare of the people. It shall also promote efficiency and economy in the process of development.
- C. The commission shall encourage the proper use and development of land, shall seek to create and maintain an aesthetic urban setting, and protect and preserve the quality of the water, air, and other environmental, natural, historical, and cultural resources for the city.
- D. The commission shall use the comprehensive plan as a guide in making all future decisions concerning land use and development, and in the financing and location of capital improvements.
- E. Before taking any action concerning land use and development and financing and location of capital improvements, the commission shall review the relationship between the proposed action and the comprehensive plan.

Upon internal review, Staff found that the original request to change the zoning to R-4 was cause for concern in that the R-4 zone allows substantially more residential density and land uses than the surrounding R-1a district. As a result, a decreased level of neighborhood compatibility would exist. Furthermore, if one considers that the development proposal as conceptually presented by the applicant could be accomplished with a lesser zoning designation of R-3 (Multi-Dwelling Medium Density), the R-4 request seems excessive. Staff believes that if the zoning considered is reduced to R-3C (Multi-Dwelling Medium Density - Conditional), and the specific conditions as proposed are applied, any reasonable proposal would become substantially more compatible with surrounding land uses and more in alignment with Elevate policy. As such staff feels the staff recommendation can lend itself to an affirmative recommendation by P&Z to City Council. Please note that at least two of the conditions recommended by staff align or closely align with the R-2 standards to increase development compatibility within the area.

DEVELOPMENT STANDARDS

SITE COMPLIANCE FOR USES UNDER CURRENT ZONING:

The subject property is currently zoned R-1a. This designation allows townhouse, patio home, and typical single-family detached residential development. Apartments are not allowed in this district unless authorized through a variance process that is reviewed by P&Z. Even then, such a request would limit the number of additional units considerably and be considered on a parcel-by-parcel basis. To accomplish residential development in the style the R-1a district allows, at minimum, preliminary and final plat processes would be required again, necessitating review and approval by the Planning and Zoning Commission.

SITE SUITABILITY FOR USES UNDER PROPOSED ZONING:

If the subject property is rezoned as requested, a density of 40 du/ac will be authorized although this density could not be achieved given code related site design requirements for setbacks, parking, landscaping, and drainage to name a few. Please be aware that although the R-4 district authorizes said density, the applicant, based on his conceptual development proposal only seeks to create 96 units (19.2 du/ac). A zone change to R-3 would authorize a maximum of 100 units (20 du/ac). All development would then follow the requirements of the approved zoning district unless conditions dictated variations of same.

ADEQUACY OF PUBLIC FACILITIES AND SERVICES:

City water, gas, and sewer currently serve the property and will not be negatively impacted by the zone change request and any resulting development. Road infrastructure is largely in place and should accommodate any reasonable development proposed. Worst case, some access and traffic mitigation may be necessary at the time of development. Exactly what that will look like is unknown at this time.

STAFF AND PUBLIC COMMENTS

PUBLIC NOTIFICATION AND INPUT:

This case has drawn substantial public/neighborhood interest and input. The applicant carried out early notification twice in that the initial effort's notification letter was inadequate in addressing required points of information outlined in code. A second effort was then required and completed.

On April 9, 2024, a neighborhood meeting was hosted by and held at the Morning Star United Methodist Church. A significant number of attendees were opposed to the zone change request largely citing traffic related concerns (speeding, congestion, poor line of sight, accidents, lack of proper signalization, on-street parking along Morning Star Drive related to school release, etc.), and pedestrian safety. Other concerns involving increased noise, decreased property values, and privacy concerns were also noted.

Several emails and related correspondence have been received by area residents. If received prior to completion of this packet, the information has been included. In early April, 2024, staff mailed public notification letters to property owners within 500 feet of the subject property informing of case consideration set on April 23, 2024. However, about a week prior to the scheduled meeting, staff was apprised of an error involving the placement of the required property sign for public notification. As such, the case that was scheduled for consideration in April, was postponed. On May 3, 2024, staff sent out another meeting notification letter for the May 28, 2024, meeting. Staff anticipates receiving additional correspondence and will make that information available as appropriate.

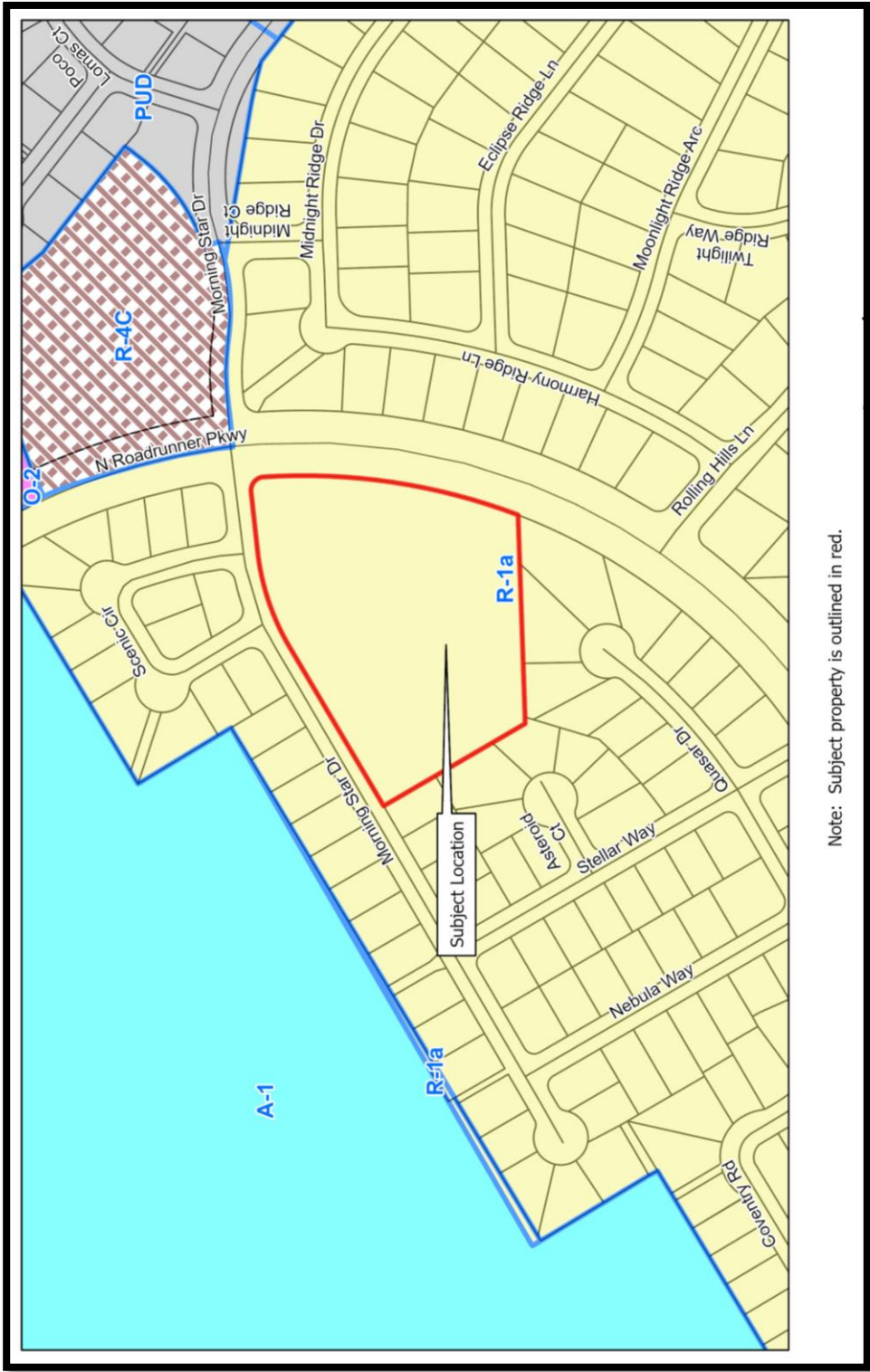
STAFF COMMENTS:

No reviewing department had any negative comments and only the Community Development Dept. suggested approval with conditions (mitigation measures) to allow options for the development of the subject property with an increased level of compatibility with the surrounding area. These conditions were identified early in the report and are summarized in the Department Review Comments that follow.

ATTACHMENTS:

1. Zoning Map
2. Aerial Map
3. Department Review Comments
4. Public Comment

ATTACHMENT 1
Zoning Map



Note: Subject property is outlined in red.

ATTACHMENT 2
Aerial Map



Note: Subject property is outlined in red.

ATTACHMENT 3

Department Review Comments

Department: Planning

Status: APPROVED W/ CONTINGENCIES

1. Zoning of R-4 is excessive given conceptual development plans submitted. R-3 at minimum would be required to achieve density of 19.2 du/ac.
2. Elevate supports request from a multi-dwelling perspective but requires mitigation measures in the design and layout of any future development that may move forward for compatibility with adjacent uses.
3. Staff is recommending R-3C for consideration. Conditions will speak to building scale, bulk, screening to adjacent uses/zone, screening of parking areas and construction materials used. Density will be recommended at 16 du/ac. Uses to be limited to single-family or multi-dwelling residential uses excluding provisions for a mobile home park.

Department: Flood

Status: NOT REQUIRED

Department: Transportation

Status: NOT REQUIRED

Department: Engineering

Status: NOT REQUIRED

Department: Utility

STATUS: APPROVED

Department: Fire

Status: APPROVED

Department: MPO

Status: APPROVED

Department: Parks and Recreation Review

Status: APPROVED

ATTACHMENT 4 **Public Comment**

The documentation herein is organized by the date received.

Agenda Item #7.4.

Vincent Banegas

From: Dave Lukens <daveandbirdie92@gmail.com>
Sent: Thursday, April 11, 2024 4:48 PM
To: Becki Graham
Cc: Vincent Banegas
Subject: Re: Rezoning discussion from R-1a to R-4

You don't often get email from daveandbirdie92@gmail.com. [Learn why this is important](#)

Thank you for the clarification.

On Thu, Apr 11, 2024 at 4:44 PM Becki Graham <bgraham@lascruces.gov> wrote:
Good Afternoon -

Thanks for the follow-up, and I'll certainly check in with staff.

Just to clarify, the April 23rd meeting is for the Planning and Zoning Commission, rather than the City Council. P&Z decisions (or appeals thereof) come to Council after these proceedings. However, transcripts of P&Z meetings, including all public input, are included in the packets Councilors receive, so we're aware of that information.

Thanks again -
Becki

Becki Graham, PhD
City Councilor, District 3
Direct: (575) 386-7541
Main: (575) 541-2100
Fax: (575) 541-2119
bgraham@lascruces.gov

-----Original Message-----

From: Dave Lukens <daveandbirdie92@gmail.com>
Sent: Wednesday, April 10, 2024 3:22 PM
To: Becki Graham <bgraham@lascruces.gov>
Cc: Vincent Banegas <vbanegas@las-cruces.org>
Subject: Rezoning discussion from R-1a to R-4

[You don't often get email from daveandbirdie92@gmail.com. Learn why this is important at <https://aka.ms/LearnAboutSenderIdentification>]

Councilwomen B. Graham,

Councilwomen Graham on April 9, 2024 a forum was held at Morning Star United Methodist Church, to discuss re-zoning the corner of Morningstar and Roadrunner Pkwy from R-1a to R-4.

Agenda Item #7.4.

We received our letters today April 10th, 2024 about the Notice of Public Hearing scheduled for April 23, 2024 / 6:00 PM, case # 22ZO0500156. After the meeting the majority of attendees were opposed to the zone change. Here is a list of concerns.

1. Increased vehicle and pedestrian traffic in an already congested area.
2. Devaluation of our property values.
3. An increase in crime.
4. Limited sight distance for vehicles entering Roadrunner Pkwy from Stellar and Morning Star Dr. thus posing a safety concern.

Hope to speak with you at the April 23 meeting.

Thank You,

David and Roberta Lukens (phone # 575-639-3654)

2676 Nebula Way

Las Cruces, NM 88011

Sent from my iPad

Sent from my iPad

Vincent Banegas

From: David Weir
Sent: Thursday, April 25, 2024 1:17 PM
To: Vincent Banegas
Cc: Adam Ochoa; Larry Nichols
Subject: FW: Rezoning of 2795 Roadrunner Parkway (PDF format)

David T. Weir, AICP

Deputy Director / Community Planning / Community Development

Direct: (575) 528-3067

Main: (575) 528-3066

dweir@lascruces.gov



From: Yvonne Flores <yflores@lascruces.gov>
Sent: Thursday, April 25, 2024 1:15 PM
To: ROGER HALLIE <rogcat1@comcast.net>; Eric Enriquez <eenriquez@las-cruces.org>; Ikani Taumoepeau <itaumoepeau@lascruces.gov>; Becki Graham <bgraham@lascruces.gov>; David Weir <dweir@lascruces.gov>; David Sedillo <dsedillo@lascruces.gov>; Alexis Rodriguez <alrodriguez@lascruces.gov>; Manny Melendez <mmelendez@lascruces.gov>; Marvin Kelley <mkelley@lascruces.gov>; baselaswad@gmail.com
Cc: swetnam1421@gmail.com
Subject: RE: Rezoning of 2795 Roadrunner Parkway (PDF format)

Good afternoon, Mr. Hallie,

I share your concerns.

Sincerely,

Yvonne Flores

City Councilor/District 6

Direct: 575-541-2069 Main: 575-541-2100, yflores@lascruces.gov



From: ROGER HALLIE <rogcat1@comcast.net>
Sent: Saturday, April 20, 2024 9:48 AM
To: Eric Enriquez <eenriquez@lascruces.gov>; Ikani Taumoepeau <itaumoepeau@lascruces.gov>; Becki Graham <bgraham@lascruces.gov>; Yvonne Flores <yflores@lascruces.gov>; David Weir <dweir@lascruces.gov>; David Sedillo <dsedillo@lascruces.gov>; Alexis Rodriguez <alrodriguez@lascruces.gov>; Manny Melendez <mmelendez@lascruces.gov>; Marvin Kelley <mkelley@lascruces.gov>; baselaswad@gmail.com
Cc: swetnam1421@gmail.com
Subject: Rezoning of 2795 Roadrunner Parkway (PDF format)

Agenda Item #7.4.

You don't often get email from rogcat1@comcast.net. [Learn why this is important](#)

Something that I would like to add to the attachment is that if you can arbitrarily change a piece of land from R1 to R4, then no one buying a home near an open lot can be sure that eventually they could have a dollar store next door even though they were assured that the piece of land was zoned R1. Please open the .PDF attachment for further opinions related to the rezoning.

Sincerely,
Roger Hallie

Rezoning of 2795 Roadrunner Parkway

I am writing this email as I am deeply concerned about the prospect that the above noted address may be rezoned from R1 to R4 in an effort to accomadate the building of an apartment complex. There are many issues that will affect those of us adjacent to that specific area.

When my wife and I purchased our home, which is across Roadrunner Parkway, from the area in question, we understood that the empty five acres was zoned R1. So we assumed that at some point there would be single family units on that lot. Our home is a retirement home where we were hoping to live out the rest of our lives in relative safety. As you know, apartment complexes bring there own problems, one of which is an increase in crime, Not something we were looking for when we bought.

Another issue with building an apartment complex on that five acres is the elevation of the ground. An three level apartment complex in that location would negate the privacy of the homes surrounding it. Tenents would be able with impunity, to look into the homes around the complex.

We have lived in our home for fifteen years, and have observed an increase in traffic due to the combination of the Camino Real Middle School, and the Morning Star Methodist Church, not to mention the already completed apartment complexes along Roadrunner Parkway. Roadrunner Parkway has become a major thoughfare between Lohman and highway 70. Another apartment complex will only elevate the traffic issues already in place. After school parents or guardians are blocking the adjacent streets while waiting to pick up their children. Again, the apartment complex will only serve to create more safety issues concerning traffic.

Another issue apartments present is the reduction of property values in homes in the surrounding area. This area has been known as a desirable area to live in, and we would like to keep it that way. A apartment complex will severely reduce that desirably. We have met with other property owners within our area and all agree that single family unit would be a better option.

As elected representatives of your respective regions, we sincerely hope that you will vote with the will of the people, and vote NO on this issue.

Sincerely,
Roger Hallie and Cathy Waters

David Weir

From: Shirley Swetnam <swetnam1421@gmail.com>
Sent: Friday, April 19, 2024 4:47 PM
To: eeniquez@lascruces.gov; Ikani Taumoepeau; Becki Graham; Yvonne Flores; David Weir; David Sedillo; Alexis Rodriguez; Manny Melendez; Marvin Kelley; Amy Nitzschke; minoles2@gmail.com; grandyfarmer@yahoo.com; petetirney50@hotmail.com
Subject: REZONING - FIVE ACRES - CORNER OF ROADRUNNER AND MORNINGSTAR

Some people who received this message don't often get email from swetnam1421@gmail.com. [Learn why this is important](#)

POTENTIAL BETRAYAL BY THE CITY OF LAS CRUCES

Rezoning of Five (5) Acres of Land

Corner of Roadrunner and Morningstar

April 19, 2024

There are (plus or minus) one hundred homes that will be affected by the proposed rezoning of five acres of land at the corner of Morning Star and Roadrunner. At the time these people bought their home, they were confident that in purchasing their new home, the five acres of undeveloped land would, at some point in time, be developed as single-family residential properties since it was zoned R-1 (single family homes) which was an incentive and selling point for their purchase. Currently, Dr. Mohamed Basel Aswad, who owns the five acres, wants the city to rezone the five acres to R-4 for apartments. How can City Council members even think of ruining the value of these affected homes by rezoning this land for apartments? If you owned a home in this area, would you vote for apartments to be built in the front or backyard of your home? The consideration for this atrocity is only being deliberated because of potential money earned by the city and Dr. Aswad.

Dr. Aswad's proposal is to build approximately ninety-eight apartment units; three stories high and only have 1.5 parking spaces for the tenants. This is insidious. Dr. Aswad is trying to cram a lot of people into a very small space, apparently, only for his own gain. Is the city falling for this because of the potential revenue they may receive? How can the city ignore the plea of the people who will be affected by this rezoning? These people bought their homes in good faith, pay their taxes, and support the city. All the City Council members should be ashamed of themselves to even consider this proposal.

The other very important consideration is the consequence the tenants of the apartments will have on traffic at the corner of Morningstar and Roadrunner. This intersection is already a bottleneck with Morningstar Church on the corner and Camino Real Middle School just east (or behind the church) using this intersection to drop off and pick-up school children. As mentioned at the recent meeting on April 9, 2024, at the very least, four-way stop signs should be erected at the corner of Morningstar and Roadrunner immediately. Does someone have to be killed while crossing from one side to another before something is done to justify installing four-way stop signs or a traffic light?

Agenda Item #7.4.

Thank you for your consideration of the above comments and concerns.

Shirley Swetnam and Duane Smith

Email: swetnam1421@gmail.com

POTENTIAL BETRAYAL BY THE CITY OF LAS CRUCES
Rezoning of Five (5) Acres of Land
Corner of Roadrunner and Morningstar
April 19, 2024

There are (plus or minus) one hundred homes that will be affected by the proposed re-zoning of five acres of land at the corner of Morning Star and Roadrunner. At the time these people bought their home, they were confident that in purchasing their new home, the five acres of undeveloped land would, at some point in time, be developed as single-family residential properties since it was zoned R-1 (single family homes) which was an incentive and selling point for their purchase. Currently, Dr. Mohamed Basel Aswad, who owns the five acres, wants the city to re-zone the five acres to R-4 for apartments. How can City Council members even think of ruining the value of these affected homes by re-zoning this land for apartments? If you owned a home in this area, would you vote for apartments to be built in the front or backyard of your home? The consideration for this atrocity is only being deliberated because of potential money earned by the city and Dr. Aswad.

Dr. Aswad's proposal is to build approximately ninety-eight apartment units; three stories high and only have 1.5 parking spaces for the tenants. This is insidious. Dr. Aswad is trying to cram a lot of people into a very small apparently only for his own gain. Is the city falling for this because of the potential revenue they may receive? How can the city ignore the plea of the people who will be affected by this rezoning? These people bought their homes in good faith, pay their taxes, and support the city. All the City Council members should be ashamed of themselves to even consider this proposal.

The other very important consideration is the consequence the tenants of the apartments will have on traffic at the corner of Morningstar and Roadrunner. This intersection is already a bottleneck with Morningstar Church on the corner and Camino Real Middle School just east (or behind the church) using this intersection to drop off and pick-up school children. As mentioned at the recent meeting on April 9, 2024, at the very least, four-way stop signs should be erected at the corner of Morningstar and Roadrunner immediately. Does someone have to be killed while crossing from one side to another before something is done to justify installing four-way stop signs or a traffic light?

Thank you for your consideration of the above comments and concerns.

Shirley Swetnam and Duane Smith
3545 Midnight Ridge Dr.
Las Cruces, NM 88011

Email: swetnam1421@gmail.com

Rec'd 4/30/24

Carolyn Truxal
2879 Morning Star Drive
Las Cruces, NM 88011-0838
Email: ctruxal@hotmail.com
Phone: 575-649-5613

21 April 2024

Zoning Board of Las Cruces : *Case Number 22200500156*

RE: Opposition to Proposed Rezoning of the Property at the Corner of Roadrunner and Morning Star Drive

Dear Honorable Members of the Zoning Board

I am writing to express my strong opposition, along with my neighbors who have signed a petition, to the proposed rezoning of the vacant lot located at the corner of Roadrunner and Morning Star Drive from Single Family to Multi-Family housing. This proposal would allow for the construction of approximately 100 units, resulting in a significant increase in traffic and density in our quiet, single-family neighborhood.

Our primary concerns are:

- 1. Increased Traffic and Safety.** The proposed development would more than double the number of vehicles in our neighborhood, leading to increased congestion, noise, and safety risks. The existing traffic study was not conducted during school or commuting hours, and we believe a new, comprehensive study is necessary to accurately assess the impact. Our neighborhood has no through streets and only two entrances onto Roadrunner – with blind curves in both directions at both exits. With people speeding along Roadrunner, we already have difficulty getting out of the neighborhood.
- 2. Pedestrian Safety.** With the increased traffic and density, we are worried about the safety of pedestrians, particularly children, who will be walking to and from the nearby school.
- 3. Parking and Overflow.** The proposed development requires only 1.5 parking spaces per unit which will likely result in overflow parking into our neighborhood, limiting visibility which increases the likelihood of both vehicle and pedestrian accidents, causing inconvenience and safety issues.
- 4. Stormwater Management.** The current catchment basin on the property collects rainwater during the rainy season. We are concerned about how the proposed development will affect this system and ensure proper stormwater management.

We urge you to consider our concerns and reject the proposed rezoning. We believe it is essential to prioritize the safety, well-being, and quality of life of our neighborhood residents.

Thank you for your time and consideration.

Sincerely,


Carolyn Truxal

Agenda Item #7.4.

From: Sara Gonzales <sgonzales@lascruces.gov>

Date: Mon, Sep 25, 2023, 8:11 AM

Subject: RE: Proposed zone changes for 2795 Roadrunner Pkwy, LC, NM

To: Daniel Bishop <orion2895@gmail.com>

Cc: Larry Nichols <lnichols@lascruces.gov>, Tim Pitts <tpitts@lascruces.gov>, David Weir <dweir@lascruces.gov>

Good morning Mr. Bishop,

Regarding the email forwarded by Councilor Flores, there is an application submitted to staff for 2795 Roadrunner Parkway. The applicant is proposing a zone change from R-1a (Single Family Medium Density) to R-4 (Multi-Dwelling High Density & Limited Retail and Office) for the 5-acre parcel.

The application was submitted on 12/17/2022 and the record number in our online portal is 22ZO0500156. Planning Staff has not made a recommendation for the proposed zone change as of today's date.

The applicant was required to send out early notification to the neighbors with the intent of the development prior.

We understand that the letters were sent to the neighbors and now staff will discuss the proposal and provide the applicant with a recommendation. From there the case will move forward to the Planning and Zoning Commission, recommending body to City Council for final action.

Staff will send letters, generate a publication in the Sun News, and a 4'x4' yellow sign will be placed at the site with the hearing time and date.

If you or any other citizens have any further questions, feel free to contact me.

Thank you.

Sara Gonzales

Senior Planner/ Community Development

Direct: 575-528-3049

Main: 575-528-3043

sgonzales@lascruces.gov

PETITION TO OPPOSE

THE REZONING AND DEVELOPMENT OF A NEW APARTMENT COMPLEX LOCATED AT 2795 ROADRUNNER PARKWAY

BACKGROUND AND SUMMARY: We are petitioning the City of Las Cruces for the re-zoning application submitted by Aswad Mohamed to rezone 2795 Roadrunner Parkway from a R-1 (Single Family Residence) to a R-4 (multi-dwelling high density and limited retail and office) zone. We are concerned for the increase in population (96 apartments proposed, three stories in height), increase in traffic flow and parking availability (one entrance and exit, limited parking spots), the decrease of value to our homes (loss of visibility, increase of environmental concerns due to the construction of the complex, increase of crime related incidents to the neighborhood and overall residential character. Many of the residents residing in this area have lived here for many years and although we understand the reason for new development, we are requesting this application be denied due to our various concerns.

ACTION PETITION FOR: We, the undersigned, want the City of Las Cruces to deny this application of rezoning and keep the historical zoning established as an R-1 (Single Family Residence). Thank you.

Name:	Phone:	Email Address:
DAN BISHOP	575-915-6276	ORION2895@gmail.com
Claudia Reyes	650 4284	} alonso.zimmermann@yahoo.com
Alonso Zimmermann	475 3969	
Angel Zimmermann	650 4286	
Dominick Zimmermann	575-405-9501	inrubberducky88@gmail.com
Richard Griffin	575 312-1116	Griffin6677@gmail.com
Adriane Griffin	575 405 9343	roxanogriffin74@gmail.com
Marc Paul	575-590-8495	mcquike@gmail.com
Carrie Gontreml	575-635-2222	Coopersgirl@gmail.com
KATHARIN STONE	239-699-4947	_____
Darlene Berncl	575-636-3042	darlene@icatt.net
Martha A. Romeo	(619) 865 6196	maar5002@yahoo.com
Victor Trevizo	(619) 245 8183	Vtrevizo1@yahoo.com

ad.

PETITION TO OPPOSE**THE REZONING AND DEVELOPMENT OF A NEW APARTMENT COMPLEX
LOCATED AT 2795 ROADRUNNER PARKWAY**

Name:	Phone:	Email Address:
Hazel Carrayo	(619) 919-5946	hazelcarrayo@yahoo.com
Christina Wingfield	(575) 520-9618	loverok79@hotmail.com
Timothy Wingfield	575-642-7006	TimW78@MSA.com
Gwendolyn Wingfield	575-910-9137	gwendolyn77113@gmail.com
Joseph Gabaldon	575-650-1686	Joseph Paul Gabaldon@gmail.com
Leslie Gabaldon	575-650-1756	Leslie Gabaldon no email
Joyce Bishop	575-915-5944	Joyce.V.Bishop@gmail.com
Jackie Sue Horton	575-521-0797	RAMBETTE@ZIANET.com
Brenda Hernandez	575-496-5030	brxhernandez@gmail.com
Hortencia Hernandez	575-680-5908	horthernandez@gmail.com
Sergio Hernandez	575-913-0026	sergiohernandez61@icloud.com
Art Bernal	575-649-7136	Art Bernal gbernal77@gmail.com
GARY FOSTER	575-642-5058	gfos48@gmail.com
Vanni Barron	575-644-9600	vbarr17@gmail.com
Fran Smith	575-644-5523	frsmith@outlook.com
Ras Smith	575-644-5523	frsmith@outlook.com
TY GRESHAM	575-644-5028	stussyburton@YAHOO.com
Rachel Morales	575-494-2201	rachel.morales@gmail.com
Jose A. Morales	575-545-3476	↓

PETITION TO OPPOSE

**THE REZONING AND DEVELOPMENT OF A NEW APARTMENT COMPLEX
LOCATED AT 2795 ROADRUNNER PARKWAY**

Name:	Phone:	Email Address:
Linda K. Jackson	575-642-1412	linda.ChocolateLad@Gmail.com
Octavio Sanchez	720-932-1914	mariaveroleale@gmail.com
Verónica Sanchez	303-359-6112	mariaveroleale@gmail.com.
Josias Gordon	575-632-4445	N/A
JOHN BACCA	505 301 6455	johSTRL57@yahoo.com
STELLA BACCA	505 301 6784	
Gerald W. Drake	575-621-9103 575-621-9103	Gerald W. Drake@MSN.COM
Marisa Drake	575-621-0287	marisadrake@msn.com
Dave R. Luke	575-639-3654	daveandbirdie92@gmail.com
Roberta Lukens	(575) 639-0019	" "
MICHAEL S. WILLIAMS	(575) 644-8478	MSW575@COMCAST.NET
EDWARD A. WILLIAMS	(575) 644-8472	EDWARD@COMCAST.NET
Crystal L. Rodriguez	(505) 506-5405	cnyrodri52@hotmail.com
Ddre Brock	(575) 430-9551	ddre.brock@gmail.com
John Brock	(575) 430-4788	johnmarlanbrock@gmail.com
Sandra Bein	708 738 2065	Sandyh2227@gmail.com
Jason Boyle	(979) 599-7596	Jbboyle@utep.edu
Krystal Rufe	(979) 599-7583	Krberrym@hotmail.com

PETITION TO OPPOSE

THE REZONING AND DEVELOPMENT OF A NEW APARTMENT COMPLEX LOCATED AT 2795 ROADRUNNER PARKWAY

BACKGROUND AND SUMMARY: We are petitioning the City of Las Cruces for the re-zoning application submitted by Aswad Mohamed to rezone 2795 Roadrunner Parkway from a R-1 (Single Family Residence) to a R-4 (multi-dwelling high density and limited retail and office) zone. We are concerned for the increase in population (96 apartments proposed, three stories in height), increase in traffic flow and parking availability (one entrance and exit, limited parking spots), the decrease of value to our homes (loss of visibility, increase of environmental concerns due to the construction of the complex, increase of crime related incidents to the neighborhood and overall residential character. Many of the residents residing in this area have lived here for many years and although we understand the reason for new development, we are requesting this application be denied due to our various concerns.

ACTION PETITION FOR: We, the undersigned, want the City of Las Cruces to deny this application of rezoning and keep the historical zoning established as an R-1 (Single Family Residence). Thank you.

Name:	Phone:	Email Address:
Patricia Keen	575-639-0088	KEEVER1@YAHOO.COM
Vernon Smith	2685 Stella Way	mcvsmi@yahoo.com ?
Margaret Smith	575-646-7182	" "
Billy Inghton	972 6899232	rltlk+50@yahoo.com
Doreen Felipe	575-571-5818	doreenfelipe@comcast.net
Janet McQueen	575-644-1152	mcqueen1511@hotmail.com
Dale E. Yeo	575-405-7530	y.dale43@gmail.com
Joy Ann Smith	575-202-6221	
Mary Bratcher	206-949-3824	
Joe Brack	575-642-6292	Joe.edgath01.msn.c
Karen Taylor White	575-649-7756	karentaylorwhite@comcast.net
Deborah Santmyer	Deborah Santmyer	Santmyerd@yahoo.com
Amanda Lambright	214-293-7683	aham22@yahoo.com

PETITION TO OPPOSE

**THE REZONING AND DEVELOPMENT OF A NEW APARTMENT COMPLEX
LOCATED AT 2795 ROADRUNNER PARKWAY**

Name:	Phone:	Email Address:
Eileen Rosenblatt	407-766-0652	eileenrosenblatt@yahoo.com
Frances Boldt	575-202-2303	francesfaye2@gmail.com
Carol Con	575-520-1901	clcoon2@gmail.com
Adriana Torres	208-630-8805	adrianac802@yahoo.com
Jesse Torres	575-294-9937	
JUDY MEDA	575-496-9892	
Lorraine Chavez	575-644-9310	JohnnyRaine@gmail.com
JOE DELAPAZ	575-373-7071	Joe
Jenny Delp	575-805-7409	Jenny Delp
Clinton Wilde	575-430-8151	cculde@hotmail.com
ANNEROSE EITREIM	575-521-0509	annerose eitrim
JOHN EITREIM	575-521-0509	John Eitrim
Orlando Miranda	575-649-7488	Orlando Miranda
CAROLYN TRUXAL	575-649-5613	Carolyn Truxal
Alexis Rodriguez	575-839-5831	Alexis Rodriguez
Diego Rodriguez	575-202-7714	Diego Rodriguez
Bodi Bitton	575-680-7234	Bodi Bitton
Diana Jeremias	575-630-4321	Diana Jeremias
JOHN PALMER	575-339-9636	John Palmer

no email

no email

no email

PETITION TO OPPOSE

**THE REZONING AND DEVELOPMENT OF A NEW APARTMENT COMPLEX
LOCATED AT 2795 ROADRUNNER PARKWAY**

Name:	Phone:	Email Address:
Joseph L. Trammel	575-532-7076	revjtrammel@msn.com
Benedicta Trammel	" "	" "
Tiffany Meddard	(575) 956-5008	" "
CHARLES Juarros	575-737-8852	cjuarros@gmail.com
Frances R Kemp	575-642-8194	frkemp75@gmail.com
Raymond D Aaltonen	575-644-7242	raaltonen1@gmail.com
Glenn E. Bressette	(808) 381-4694	gebressette@yahoo.com
Lyvette Bressette	808-381-2990	bressette8855@comcast.net
Irene Jacques	575-202-9531	riciren@msn.com
Ricardo Jacques	575-640-8653	riciren@msn.com
RUBEN ZAMORA JR	575-639-3569	ROB1947RUB@GMAIL.COM
Maile Zamora	(740) 504-4405	mailemulligan@gmail.com
Humbert Corazzini	575-640-4754	kimmilew8@msn.com
Denise Shepan	575-680-7663	dmshepan@comcast.net
Travis Schump	575-680-4472	Travis5C@comcast.net
James H. Montoya	575-635-0906	changiro@hotmail.com
Linda Montoya	575-644-6601	NONE
Christine Juarros	505-750-4468	cjuarros3@gmail.com

PETITION TO OPPOSE

**THE REZONING AND DEVELOPMENT OF A NEW APARTMENT COMPLEX
LOCATED AT 2795 ROADRUNNER PARKWAY**

BACKGROUND AND SUMMARY: We are petitioning the City of Las Cruces for the re-zoning application submitted by Aswad Mohamed to rezone 2795 Roadrunner Parkway from a R-1 (Single Family Residence) to a R-4 (multi-dwelling high density and limited retail and office) zone. We are concerned for the increase in population (96 apartments proposed, three stories in height), increase in traffic flow and parking availability (one entrance and exit, limited parking spots), the decrease of value to our homes (loss of visibility, increase of environmental concerns due to the construction of the complex, increase of crime related incidents to the neighborhood and overall residential character. Many of the residents residing in this area have lived here for many years and although we understand the reason for new development, we are requesting this application be denied due to our various concerns.

ACTION PETITION FOR: We, the undersigned, want the City of Las Cruces to deny this application of rezoning and keep the historical zoning established as an R-1 (Single Family Residence). Thank you.

Name:	Phone:	Email Address:
Anita Morales	—	—
Chris Morales	575-636-3903	2901 Quasar Drive
MIGUEL MORALES	—	—
Wm M	310-418-7953	2901 QUASAR DR
Joanne Turenbaum	415-464-7237	2893 Quasar Dr
Joanne Turenbaum		
Robert Kyle	575 520 3223	2885 Quasar Dr
Genesis McBrise	575-993-9160	2898 Quasar Drive
Wm M		
Vincent G. Dutay	575-642-3157	2897 Quasar Drive
Joe & Jill Howalski	575-520-1899	2894 Quasar Dr (joejill@Q.com)
Jake Franco	575-644-9282	2906 Quasar Dr.

(Signature: Jake Franco)

PETITION TO OPPOSE

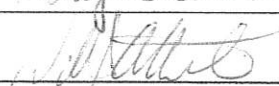
**THE REZONING AND DEVELOPMENT OF A NEW APARTMENT COMPLEX
LOCATED AT 2795 ROADRUNNER PARKWAY**

Name:	Phone:	Email Address:
Wyatt A. Bonalumi	575-276-1921	wyatt.bonalumi@live.com
Pamela Bonalumi	575-202-1543	yankceinnm@hotmail.com
Jennifer Bonalumi	575-496-7298	jbonalumi@hotmail.com
GAIL GOMEZ	206-853-0322	gailwgomez@yahoo.com
Eric Gomez	206-852-7763	ericg@fulfilledchristiancounseling.com
Melissa Apodaca	575-642-5011	melissaapodaca4@gmail.com
Meggun Apodaca	575-640-8333	zpnickel01@gmail.com
Ernest Perez	575-202-9040	Peregaa@aol.com
TONY JONES	415-846-0507	TENTONISALEX@HOTMAIL.COM
Cheryl R Ellington	415-596-2190	chcellington@hotmail.com
RICHARD DEWMAN	575-650-2119	LCCAVE@gmail.com
BILL PARSHALL	724-612-0757	BPARSHALL@BRANDYOURBUSINESS.COM
Dana Kyle	575-525-0020	dana@dmkylekw.com
Francisco Sanchez	760-578-0635	TACOSon12@comcast.net
Hermelinda Sanchez	760-578-6510	Millie.Sanchez@comcast.net

PETITION TO OPPOSE**THE REZONING AND DEVELOPMENT OF A NEW APARTMENT COMPLEX
LOCATED AT 2795 ROADRUNNER PARKWAY**

BACKGROUND AND SUMMARY: We are petitioning the City of Las Cruces for the re-zoning application submitted by Aswad Mohamed to rezone 2795 Roadrunner Parkway from a R-1 (Single Family Residence) to a R-4 (multi-dwelling high density and limited retail and office) zone. We are concerned for the increase in population (96 apartments proposed, three stories in height), increase in traffic flow and parking availability (one entrance and exit, limited parking spots), the decrease of value to our homes (loss of visibility, increase of environmental concerns due to the construction of the complex, increase of crime related incidents to the neighborhood and overall residential character. Many of the residents residing in this area have lived here for many years and although we understand the reason for new development, we are requesting this application be denied due to our various concerns.

ACTION PETITION FOR: We, the undersigned, want the City of Las Cruces to deny this application of rezoning and keep the historical zoning established as an R-1 (Single Family Residence). Thank you.

Name:	Phone:	Email Address:
Joni Highsmith	575-650-1356	jonigbh@hotmail.com
Robert Highsmith	575.650.1556	ra-highsmith@hotmail.com
Myed Gsch	575-636-4000	2141111111@line.com
Elizabeth Zava	575-639-0650	l3hrasil@msn.com
TIMOTHY FLYNN	575 635 7353	Tim @ RIVALLEY C.H.I. Com
Doug Baker	575 270 6733	glendandoug@yahoo.com
	859803 6692	attenweiler@nku.edu
Glenda Baker	575-270-6733	glendadoug@yahoo.com
Salvador Fino Jr	575 532 0693	salvadorfino@comcast.net
Bill Newton	575- ⁵¹¹ 511 -0977	Bill Newton
Carolyn Newton	575-522-0977	Carolyn Newton
Guadalupe Fino	575-532-0693	Guadalupe Fino

**THE REZONING AND DEVELOPMENT OF A NEW APARTMENT COMPLEX
LOCATED AT 2795 ROADRUNNER PARKWAY**

✓ *
✓ *
✓ *
✓ *
✓ *
✓ *
✓ *

Re: 2795 Roadrunner Parkway

----- Forwarded message -----

From: ROGER HALLIE <rogcat1@comcast.net>

Date: Sat, Sep 16, 2023, 2:06 PM

Subject: 2795 Roadrunner Parkway

To: joyce.v.bishop@gmail.com <joyce.v.bishop@gmail.com>

Joyce;

My name is Roger Hallie, and for your information, I have already written to the owner of the property, every person on the city

council, as well as the Mayor, about my and my wife's issues with building a 96 unit apartment on that property. Several years ago,

a church wanted to put a daycare center and church on that property. We, owners and renters in the area, were able to convince

the city council to disapprove that proposal. Now we have to do it again. The size and scope of that apartment, would contribute

immensely to the already unwanted congestion in the area, not to mention those items you talk about in your email. We would

rather see single family units on that property as appose to the apartment.

We must stick together, and defeat this ridiculous proposal.

Sincerely,
Roger Hallie/Cathy Waters

Agenda Item #7.4.

Subject: Re: Apts off roadrunner

On Sat, Sep 16, 2023, 1:48 PM Gloria Martinez <snoopyglow@yahoo.com> wrote:

Hello Joyce,

First I would like to thank you for asking for homeowners input. I live at 3620 Midnight Ridge. I am very concerned about the proposal to rezone the land at 2795 Roadrunner Parkway. The letter we received from the owner made it sound as if they were going to build beautiful apts. with gardens and other contemporary amenities, which by his thinking would improve the neighbor. On your notice it says there are going to be 96 apts 3 stories high. I have been in the construction business for 42 years and these are far from being apts suited to the surrounding area of high end homes. Also the owner said they would be abiding by city requirements. City ordinances would require him to build a % of these apts as "affordable housing units." (which in essence would lower our property values) Other concerns would be:

- There is already a lot of traffic on Roadrunner and adding 96 apts would add more to the congestion. Also Morning Star and Roadrunner is kind of a dangerous intersection as cars come flying by and it is kind of a blind curve. This would probably warrant a traffic signal be installed here. Is the city going to pay for this?
- Has anyone seen the traffic congestion for Camino Real Middle school morning and afternoon? Adding 96 apts would increase this also.
- Crime in this area would increase
- Increased noise
- 3 story buildings would be blocking our views
- Our property values for our high end homes would decrease
- Owner does not live in Las Cruces, so who would be overseeing the maintenance and operation of these units?
- All schools in this area are already over capacity, Sonoma, Camino, OMHS. This would overburden the schools with additional kids, and making it harder for the schools to function effectively.

I strongly object to allowing this owner to have his property be rezoned to build apts here. I have no objection to high end houses being built here. If you know when this will come up to the city council for a vote please let me know. Also do you think if the homeowners in the neighborhood signed a petition to reject the change in zoning and presented that to the City Council prior to them voting on it would that work better?

Gloria Martinez
3620 Midnight Ridge
575-312-1231

Agenda Item #7.4.

On Sat, Sep 16, 2023, 1:19 PM Tim Hess <timhtech@gmail.com> wrote:

Joyce.V.Bishop@gmail.com

I strongly object to building apartments at 2795 Roadrunner.

1 Too much traffic already, mostly from Camino Real School.

2 Schools in the area already, at near or at capacity.

3 Will devalue surrounding properties.

4 Will likely increase crime in the area

note that this area consists of middle to high end homes & currently has a low crime rate.

Tim Hess on Midnight Ridge Dr.

Agenda Item #7.4.

----- Forwarded message -----

From: DIXIE FELIPE <dixietony@comcast.net>

Date: Sat, Sep 16, 2023, 3:26 PM

Subject: Rezone

To: JOYCE.V.BISHOP@Gmail.com <JOYCE.V.BISHOP@gmail.com>

Dear Ms. Bishop,

I think that an apartment building should not be placed on 2795 Roadrunner Parkway. That part of Roadrunner is residential. With a Grade School nearby children should not be subjected to the additional traffic that these apartments will bring. Roadrunner is largely residential up to Morning Star and should remain that way. Thank you for organizing a protest against this unwise proposed zoning.

Sincerely,
Dixie Felipe

2541 Rolling Hills Ln.
Las Cruces NM 88011

575-571-5848
email: dixietony@comcast.net

From: Cherri Hudson-Brown <cjudson@comcast.net>
Subject: Concern about 2795 Roadrunner Parkway
Date: September 18, 2023 at 10:22:48 AM MDT
To: joyce.v.bishop@gmail.com

Dear Joyce

A couple people dropped off a flyer at our home about the proposed rezoning of 2795 Roadrunner Parkway.

You probably have already thought of this but it probably would be good to have people contact our local council member.

I'm having surgery in a few days and will be out of commission, but if neighbors could know when this item is on the agenda then our thoughts could be passed on. People could also attend the meeting.

In my view the best argument against this is to say we are NOT against multiple family housing but we are concerned about traffic. There aren't crossing guards at Camino Real Middle School; there isn't a traffic light; parents often use Morning Star Church parking lot or side streets in taking their children to school or picking them up. I know there has been at least one accident at Roadrunner and Morningstar, there may have been more. People use Morningstar also as a shortcut to Sonoma Ranch Blvd. At this point a traffic light isn't needed at Morningstar and Sonoma, but it may be needed with increased traffic.

I don't think that talking about property values and rising crime will be effective, but concern about traffic safety and the children at Camino Real may be.

Sincerely,

Cherri Hudson-Brown
3040 Harmony Ridge

From: LOUIS SALAS <salasl@comcast.net>
Date: Mon, Sep 18, 2023, 11:28 AM
Subject: Strongly Oppose Proposal to Rezone 2795 Roadrunner Parkway
To: joyce.v.bishop@gmail.com <joyce.v.bishop@gmail.com>

To Whom it May Concern,

The proposed apartment complex at this location is not beneficial to this community. The major concerns are protection of living conditions in our neighborhood, especially preserving the privacy, character, and general livability of our community. An apartment complex only serves to create more unneeded and unwanted traffic as well as noise and obstructing views of homes in the area. There's a reason apartments haven't been built at this location in all these years and there is no benefit in having an apartment complex there.

Louis Salas
The Ridge Community

Agenda Item #7.4.

From: JERRY CARL <carl_jerry@hotmail.com>
Date: Thu, Sep 21, 2023, 6:23 PM
Subject: Re: Neighbors of Roadrunner Parkway
To: joyce.v.bishop@gmail.com <joyce.v.bishop@gmail.com>

Joyce: In response to your e-mail request for our concerns about the proposed 96 apartment units we submit the following items for consideration:

- 1: Vehicular traffic entering/leaving the Church parking (on Morningstar) lot on Sundays and whenever other services are scheduled. This includes evening services on occasion.
- 2: Tuesdays present a similar problem. Tuesday is food giveaway day at the church. Both upper and lower parking areas at the church on Morningstar are full. The church does provide people to direct traffic into and out of the area, however there is considerable traffic on Morningstar in the mornings because of the school situation on Road Runner and with people trying to exit/enter Midnight Ridge Ct off of or onto Morningstar. The problem is compounded and made more dangerous because the city does not keep the median strip cleared of vegetation. Furthermore, the intersection is on a blind curve. If you are trying to exit onto Morningstar, you chance a collision with folks that can't see you and are probably speeding over the 25 MPH speed limit. Traffic is presently increasing because of the apartment/business construction on Sonoma Ranch Road. Going up Morningstar it is very difficult to make a left turn onto Sonoma Ranch because of poor visibility to the right.
- 3: Additionally, school buses pass along Morningstar each weekday during the school season. Starting and stopping.
- 4: Morning and evening traffic is definitely increasing on Morningstar because of the aforesaid reasons. Adding another 96 residential units to the immediate area means approximately another 100 cars added to the traffic problems. Read on for more.
- 5: Each school morning the congestion on Roadrunner and the intersection with Morning star is an accident waiting to happen. Parents trying to drop their kids off at the school on (street below Morningstar). can't make a left turn if they are coming down Roadrunner from Rinconada so they continue down Roadrunner to Morningstar where they attempt to make a U-turn so that they can make a right turn into the school. Traffic coming down Roadrunner usually travels about 40MPH or faster and then is immediately in the school zone trying to slow down. The people on Morningstar wanting to make their U-turn can't make their U-turn and the folks on Morningstar can't turn right or left. No police presence or traffic control. What a mess!
- 6: Traffic on Roadrunner (the speedway or autobahn) is heavy and moves along quite expeditiously as I know the police know. But, AM early and PM traffic is very heavy. No traffic control devices!!! If you think another 100 cars in this area is a good idea, you may as well throw this e-mail away.
- 7: Parent's vehicles jam the neighborhood streets again when the school day is done. Kids and adults are walking about searching for each other. This situation presents a potential auto-pedestrian accident scenario. Midnight Ridge is loaded with these cars starting about 3:30 PM as is the church's two parking lots.
- 8: What I don't understand are the lines of cars, over 100 maybe 200 each school day I'm sure, with only one or two kids for drop off and the school buses that these same folks are paying taxes to use, have very few kids riding on them. No police presence and no traffic controls. And now there are folks that seemingly want to add to the congestion and confusion.
- 9: What planner makes these decisions? Does anybody come out and look the situation over? Do you think that this will add value to your property? Does anybody THINK anymore?

Betty and Jerry Carl
Midnight Ridge Drive

Agenda Item #7.4.

On Mon, Sep 25, 2023, 11:39 AM Joni Highsmith <jonigh@hotmai.com> wrote:

I strongly agree that 2795 Roadrunner Parkway should not be rezoned for an apartment. I believe it will exacerbate the congestion problems during school drop-off and pick-up.

I believe it will cause drainage issues, decrease property values, and make it unsafe for the children to ride bikes in the neighborhood.

I am concerned about my own driving from my house, and as my grandchildren live on Scenic Circle, I am concerned about their safety and the congestion when I pick them up and drop them of

Joni Highsmith
2920 Suncrest Arc
Las Cruces, NM 8011.

I am concerned about my own driving from my house, and as my grandchildren live on Scenic Circle, I am concerned about their safety and the congestion when I pick them up and drop them off.