

# CITY COUNCIL AGENDA

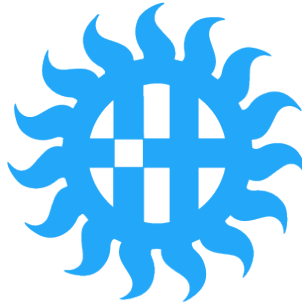
Mayor  
Eric Enriquez

**Monday, July 1, 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.

Page

### 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. READ CLOSED MEETING STATEMENT

- 4.1. Read June 24, 2024 Closed Meeting Statement into the record.

### 5. ACCEPTANCE OF AGENDA

### 6. CITY COUNCIL MINUTES

- 6.1. Regular City Council Meeting of June 3, 2024.

[City Council - Jun 03 2024 - Minutes - Pdf](#)

4 - 28

- 6.2. Work Session of June 10, 2024. 29 - 50  
[Work Session - Jun 10 2024 - Minutes - Pdf](#)

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

- 7.1. RESOLUTION NO. 25-001: A RESOLUTION AUTHORIZING THE CITY OF LAS CRUCES (CITY) TO ACCEPT TWO (2) GRANT AWARDS FROM THE NEW MEXICO DEPARTMENT OF TRANSPORTATION (NMDOT). 51 - 84

[Resolution No. 25-001 - Pdf](#)

- 7.2. RESOLUTION NO. 25-002: A RESOLUTION AUTHORIZING THE CITY OF LAS CRUCES (CITY) TO ACCEPT GRANT AWARDS FOR VARIOUS CITY DEPARTMENTS AND AN AMENDMENT TO THE CITY'S ADOPTED FY2024 BUDGET AND THE FY2024 CAPITAL IMPROVEMENTS PROGRAM (CIP). 85 - 178

[Resolution No. 25-002 - Pdf](#)

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

- 8.1. RESOLUTION NO. 25-003: A RESOLUTION REVERSING A DENIAL DECISION OF THE PLANNING AND ZONING COMMISSION REGARDING AN INFILL DEVELOPMENT PROPOSAL SEEKING APPROVAL OF A FIFTEEN (15) UNIT APARTMENT COMPLEX AND ASSOCIATED DEVELOPMENT STANDARD WAIVERS ON PROPERTY ZONED R-1A (SINGLE-FAMILY MEDIUM DENSITY). 179 - 277

[Resolution No. 25-003 - Pdf](#)

- 8.2. COUNCIL BILL NO. 24-028; ORDINANCE NO. 3070: AN ORDINANCE AMENDING ORDINANCE 2698, FOR THE DEDICATION OF A MUNICIPAL HOLD HARMLESS GROSS RECEIPTS TAX. 278 - 281

[Ordinance No. 3070 - Pdf](#)

- 8.3. COUNCIL BILL NO. 24-029; ORDINANCE NO. 3071: AN ORDINANCE APPROVING A ZONE CHANGE FROM C-2 (COMMERCIAL MEDIUM INTENSITY) TO C-3 (COMMERCIAL HIGH INTENSITY) FOR A PROPERTY ENCOMPASSING 2.567 + ACRES AND LOCATED AT 2605 BATAAN MEMORIAL WEST. SUBMITTED BY KARY BULSTERBAUM, REPRESENTATIVE. (24ZO0500035). 282 - 306

[Ordinance No. 3071 - Pdf](#)

**9. BOARD APPOINTMENTS**

**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. 25-001; ORDINANCE NO. 3072: AN ORDINANCE ADOPTING A MUNICIPAL GROSS RECEIPTS TAX. 307 - 310

[Ordinance No. 3072 - Pdf](#)

- 10.2. COUNCIL BILL NO. 25-002; ORDINANCE NO. 3073: AN ORDINANCE APPROVING A ZONE CHANGE FROM C-2 (COMMERCIAL MEDIUM INTENSITY) TO C-3 (COMMERCIAL HIGH INTENSITY). THE 311 - 336

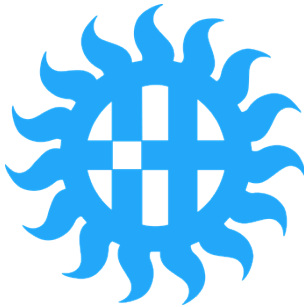
SUBJECT PROPERTIES ENCOMPASSING 1.4 ± ACRES IS LOCATED AT 3200 W PICACHO AVENUE. THE ZONE CHANGE IS TO ALLOW FOR THE FUTURE REDEVELOPMENT OF A COMMERCIAL BUSINESS ON THE SUBJECT PROPERTY AND BRING THE LOTS INTO COMPLIANCE WITH THE 2001 ZONING CODE, AS AMENDED.

[Ordinance No. 3073 - Pdf](#)

- 10.3. COUNCIL BILL NO. 25-003; ORDINANCE NO. 3074: AN ORDINANCE APPROVING A ZONE CHANGE FROM R-1A (SINGLE-FAMILY MEDIUM DENSITY) TO C-3C (COMMERCIAL HIGH INTENSITY-CONDITIONAL) FOR APPROXIMATELY 5.00 ACRES AND TO OS-R (OPEN SPACE-RECREATION) FOR THE REMAINING APPROXIMATELY 43.75 ACRES OF A PROPERTY LOCATED AT 2040, 2045, 2060, AND 2065 E. MADRID AVENUE. SUBMITTED BY SOUDER MILLER AND ASSOCIATES, REPRESENTATIVE. (23ZO0500027). 337 - 440

[Ordinance No. 3074 - Pdf](#)

- 11. **CITY COUNCIL MEMBER BOARD REPORTS AND COMMENT**
- 12. **CITY MANAGER REPORT**
- 13. **ADJOURNMENT**



## **MINUTES**

### **City Council**

**Monday, June 3, 2024 @ 1:00 PM**

City Council Chambers, City Hall

**PRESENT:** Mayor Eric Enriquez, Councilor Cassie McClure, Councilor Becki Graham, and Councilor Becky Corran

**ABSENT:** Councilor William Mattiace, Councilor Johana Bencomo, and Councilor Yvonne Flores

#### **1. OPENING CEREMONIES**

##### **1.1 PLEDGE OF ALLEGIANCE - COUNCILOR BENCOMO.**

##### **1.2 PRESENTATION OF CERTIFICATES OF APPRECIATION/PROCLAMATIONS - COUNCILOR BENCOMO.**

None.

##### **1.3 JOBS OF THE WEEK.**

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

##### **1.4 PETS OF THE WEEK.**

Amy Defelix, Animal Services Center 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**

Michael Hays, Member of the Public said I live in Las Cruces. My topics are the city's communications with its citizens and its compliance with the law. If my experience are typical city officials are derelict in both respects. If they are not typical my question is



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why not? For four and half years I have sought a retraction of police allegations against me which the LCPD found to be false. It has ignored its policy on honesty and have refused to retract them. Five months ago, I met with the Police Chief outlying the issues, urging corrective action, and offered to discuss antisemitism if he was interested. He has not. I have not heard from him. Why does the Police Chief not enforce LCPD policy on honesty, not choose to do the right thing and not want to address possible biased base policing? A month ago, I emailed the City Manager to question his corrective action. I provided him with my three recent blogs on the issues, the flawed investigation of the allegations, the likely destruction of evidence and the likely antisemitic motive underlying the allegations. I have had no response by the City Manager, why not? A few weeks ago, I learned that the latest City Attorney advised you and other officials not to communicate with me because of my litigation against the City Clerk and the city for repeated violations of IPRA requirements. When I made an IPRA request for a record of that advice the City Clerk most likely advised by the acting City Attorney denied it because of Attorney Client Privilege. For a third time she violated IPRA requirements to identify author, audience, and the date and to indicate enough content to justify the exemption. Why does the city council concur with the City Clerks repeated IPRA violations? Why does it comply with the City Attorney's advice which forbids communication between my councilor and me, treats me like a second-class citizen and encourages city officials to discriminate against me. The silence of city officials is arrogant and disrespectful to citizens. If my experiences are typical and to me as a targeted individual if not. Indeed, they have targeted me because they have the power and approval to be silent and unresponsive to a Jew. All three experiences show city officials are contemptuous of their responsibilities, uncommitted to good government and unable to serve all citizens with stability and without prejudice.

Jennifer Kreie, Member of the Public said I wanted to come and say thank you for the support for our police force and my quick Google search there were 18 new positions approved last year whenever the 23/24 and 13 new positions approved for the future year which I think is 24/25. So, when people accuse or demand for support of the police it is clear that you do that. You do that and I appreciate it. Saturday, I went out to the East Mesa Recreation Complex and wow that place is beautiful. It is a work in progress, but it is fabulous. So, I hope your inboxes are full of thank yous from the pickleball crowd. I hope they haven't inundated you with too much email. As a tennis player I just want to say we appreciate the increased help, security at Lions and we continue to enjoy playing there.

Tim Jenkins, Member of the Public said I know Yvonne Flores isn't here today, but I would like to thank her for the comments and her concerns at last city council for the Police Department being understaffed, underpaid, and overworked. We are fighting for the same things, and we appreciate the support that you guys are fighting for. I was contacted Thursday afternoon by the owner of Pecan Grill who is out of state. He is very concerned that his business is being overrun and overtaken by the homeless and asked me to please go out there and see what I could determine and find out to support him. Arriving on site I found that there was an encampment directly behind the Pecan Grill and walking all the way along Lohman, behind Bubba's and behind the vacant lot behind all the way around the arroyo I found a rather large Airbnb encampment of homeless. Contacted LCPD, they came out there and met with me

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and they said you have to find out who owns the lot, you got to figure that out before we can do anything. We did that. The next day they came out there and went down and made contact. There was 7 individuals down there in that encampment, three of them had warrants out for their arrest and four of them were issued no trespassing. The next day I went back on site there was three more people down there. I contact LCPD again. They came out there, two of the individuals fled up the highway which I believe were two of the ones from the day before that had been cited and they ran off. They issued another no trespassing to another one and then I walked from behind the Pecan Grill all the way down to that encampment, there were seven shopping carts and what I counted was 147 needles just in that little area. Thank you to Community of Hope. They went out there this morning and cleaned everything up, 58 bags of trash and over three pickup loads of garbage. The Police Chief on Saturday when they met me out there apologized that they are sorry that it took so long but they had 27 calls holding. They have been very phenomenal in every way and supported and we ask that we pass the shopping cart ordinance, and we support them in every way that they can so that we can move forward here.

Jennifer Dahlgren, Member of the Public said I work for the New Mexico Commission for the Deaf and Hard of Hearing, and I am so thrilled to come to this meeting today and there is an interpreter available. That is amazing. I didn't put in a request in advance when I came. I really just showed up and now that I know I can show up to any meeting, any day and you and you provide an interpreter. Having that opportunity for the deaf community, the deaf members to really be involved with our city council is amazing so thank you so much.

Vee Quevedo, Member of the Public said I am a resident of District 1. I am going to share something written 15 years ago by Rafeef Ziadah during the cast led massacre when US backed Israel killed over 1,400 Palestinians. Today my body was a TV'd massacre made to fit into sound bites and word limits filled enough with statistics to counter a measured response. I perfected my English and learned my UN resolutions but still he asked me, Ms. Ziadah, don't you think everything would be fine if you just stop teaching your children to hate? Pause. I look inside of me for strength to be patient and patience is not at the tip of my tongue as the bombs drop over Gaza. Pause. Smile. We teach life sir. Rafeef, remember to smile. Pause. We teach life, sir. We Palestinians teach life after they have occupied the last sky. We teach life after they have built their settlements and their apartheid walls but today my body was a TV'd massacre made to fit into sound bites and word limits and just give us a story, a human story. You see this isn't political. We just want to tell people about you and your people so give us a human story. Don't mention the word apartheid or occupation. This is not political, you have to help me as a journalist to help you tell your story which is not a political story today my body was a TV'd massacre. How about you give us a story about a woman from Gaza who needs medication or how about you? Do you have enough bone broken limbs to cover the sun, hand me over your dead and give me their names in 1,200 limits. These are not two equal sides. Occupier and occupied, 100 dead, 200 dead, and 1,000 dead and between that war crime and massacre I vent out words and smile, not exotic, smile, not terrorist and I recount, 100 dead, 1,000 dead. Is anyone there? Will anyone listen? I wish I could whale over their bodies and run barefoot in every refugee camp and hold every child and cover their ears so they wouldn't have to hear the sound of bombing for the rest

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of their life the way I do and let me just tell you there is nothing any of your UN resolutions have ever done about this, and no sound bite, no sound bite, I come up with no matter how good my English gets. No sound bite, no sound bite, no sound bite, no sound bite will fix this. No sound bite will bring them back to life. We teach life, sir. We Palestinians wake up every morning to teach the rest of the world life, sir. In 2008, it was 1,400 dead, today it is 40,000 dead.

William Roberts, Member of the Public said I have lived here for over 35 years, and I applaud the effort that you have in a resolution to control the fireworks issues this July 4th. In my neighborhood we are having a very difficult time with drugs, animal control and I see that the city council has really somewhere down the line restrained our law enforcement and underfunded them because I see an insufficient number of officers available and the gun fire that goes on. Along with that there is fireworks Mr. Mayor that happen year-round, and they are masking firearm usage. I would hope that the council would consider strengthening our police and our codes enforcement to where they are not neutered from doing their job and getting the people protected in the manner that they should be.

Dolores Bernal, Member of the Public said I am a resident of District 3. I am here to let you know that this week areas of the west and southwest including our region will be ten degrees hotter than normal. We will be in a heat dump for several days if not weeks. This happened last year as well. We had record temperatures from July all the way to September. If you are younger than 65 or 70 these high temperatures won't really impact any of us, we have air-conditioned homes and cars but if you are elderly the heat can impact you even by doing a quick run to the supermarket or if you go outside to pick weeds from your yard. We have a lot of retirees here in Las Cruces so a lot of them take this risk during the heat dump. The heat can also complicate the health of people suffering from chronic illnesses and impacts children at the playground. So, yea, even though we have air conditioning here and, in our homes, and in our cars but what would happen if we had a major power outage in the middle wave? Can the City of Las Cruces help 50,000 or 100,000 people with cooling centers? The point of all this is that it is time to be proactive. Proactive with the environment to lessen the impact that the scientist are warning about. You as city officials have the opportunity to influence Las Cruces Public Works, Parks and Recreation, and other departments to review current practices on how they can be improved to protect our natural resources, wildlife, trees, and shrubs. In one of your working meetings, you can focus on the environment and what the city can do to lessen its carbon footprint. There are other issues you need to look at as well including historic preservation, mental health, etcetera but crime, homelessness, all these ecological issues are all connected. I assure you that if you tackle the environment and historic preservation issues you may see a reduction in crime and domestic violence, again all issues are connected, and you have some power here to restore balance.

Grace Martinez, Member of the Public said I am a resident right off of Anita Drive. My main concern here is a recent meeting on March 26th, highlighted also the need for better notification process. Some neighbors received notices by certified mail while others like myself are still waiting on ours. The sign on the corner of Triviz and Madrid was unclear and caused a lot of confusion among residents. This lack of

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communication and clarity is unacceptable especially when it comes to projects that impact the community safety and wellbeing. So, I urge the city to develop a more effective strategy for providing notices that include all residents and use clear and concise language. The city must also consider the impact of development on our community wildlife and take the necessary measures to mitigate any harm. I request that the city council prioritize transparency, communication, and accountability in their decision making process that way we can work together and build a better future for all the Las Cruces residents. My main objective to the signs there is that not everyone receives the notice. I think that is very unfair. Like I said I am a resident, I pass by the area each day. The wording is that tiny. You have to pull over. You have to put your own safety at risk so you could get down and read the notices. Not everybody has Facebook so that they can see the notices online. Not everyone is signed up and knows about the lascruces.org or any of the websites that Las Cruces offers the community. I am pleading for a better source of communication from the city to the residents.

Juan Garcia, Member of the Public said when I heard the Telshor Funds were to be used these were funds that were established by Resolution 08-112, "for the purpose of funding health related services for the benefit of city residents". I thought the advocacy and hard work by Yoli Diaz by pleading for support was finally coming to fruition. These would be funds to help citizens who can't afford insurance or can't afford the medical bills they have incurred as a result of their catastrophic illness. These folks are about 95% Hispanic with about 90% of those being women. Folks that if not for Yoli and others would have been put out to pasture. I also read in the New Mexico Search Light where one of our councilors described herself as, "an impart brown women who is a beacon in Southern New Mexico". Given the large number of catastrophic patients are Hispanic women I figured that it was a done deal to have a strong advocate in this area and not quite. Telshor Fund was depleted by 28.3 million or about two thirds of the current amount. There was money for the Amador Hotel, for the homeless, Mesilla Valley Community of Hope, and other programs approved by some of the council. This is all good. Money for the Amador Hotel, to take care of the homeless, due to their often bad choices but no money for those suffering because of their illness and the high burden of trying to survive financially. Once again when we saw when poor Hispanic women came and begged for help when their small businesses were being plundered, they were ignored. Poor, ill, Hispanic women, and those suffering from crime perhaps don't bring anything to our politicians that they can use but there is still a tiny ray of hope and hopefully you will do something about this and help those in desperate need.

Jim Hurst, Member of the Public said I would like to start off by reminding you of the New Mexico Human Rights Act of 1969 and as amended this law makes it illegal to discriminate against someone on the basis of their race, color, religion, national origin, sex, including pregnancy, age 40 and older, ancestry, disability, serious medical condition, sexual orientation, gender, gender identification, or spousal affiliation. Let me introduce you to Rafael Cruz. Rafael Cruz was the speaker last year at the Republican party of Dona Ana County at their Republican dinner in August of last year. Rafael Cruz said gay rights will bring about communism. Rafael Cruz said the Supreme Court's decision to allow gay marriage was like allowing two men to marry a horse. Rafael Cruz criticized Houston for having a gay Mayor. Rafael Cruz said

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evolution is a communist lie. He said gay marriage is an attempt to destroy the family and he praised Kim Davis the County Clerk in Kentucky who refused to grant same sex marriage licenses. In short Rafael Cruz is an anti-intellectual McCarthyistic bigot and a homophobe. Again, he was the keynote speaker for the Republican dinner last year, \$75 a plate.

Susan Cabello, Member of the Public said I am the Executive Director of Downtown Las Cruces Partnership and the Las Cruces Arts and Cultural District. I want to start off with some good news, Total Golf which was on Wyatt will be relocating to our district on the very edge by Picacho. On Friday the Chamber helped us welcome the grand opening of Collective Co. where our personal office space is. A co-working space downtown that is going to fill a lot of needs for people as far as office space. As we know office space downtown is at a premium. I would also like to remind you that our speed dating event which we had changed the name to the B2B Quick Connect Event is coming June 14th. It's going to be a chance for entrepreneurs at all stages to come and meet with people from our economic development ecosystem as well as private and public entities that can help them with their business. It's going to be from 10-2 on the 14th at Electronic Caregiver on the 7th floor conference room, it is ADA accessible. I am really excited about this event. It is new for us. I think what makes it unique is that there are no speeches or lectures. It is all one-to-one conversation and interaction so business entrepreneurs will be paired at tables with our experts and will be able to answer their questions and be able to talk about their business personally. We have tickets on sale for \$10, however if \$10 is a barrier for anyone I urge them to email me personally at [director@dlcp.org](mailto:director@dlcp.org) before the 7th and we will scholarship them. So please share this with everyone. Coffee and lunch provided. Please share this with your constituents and have everyone who needs it to come join us.

Dolores Lucero, Member of the Public said I am here to give the city staff a big kudos and this is to Public Works because I presented in front of you in July of last year, January of this year and unfortunately I seemed to plan this wrong because my city councilor has missed me every time I was here on the same subject but I was able to meet with city staff March 22nd, and there was 6 city staffers and we discussed my situation that doesn't only affect District 6 but affects this whole city and that is getting the Lohman from Telshor to Sonoma Ranch will be completed in a twenty year project. After meeting with staff, we are working on getting it on the ICIP because I know that is how we get funded, and we can go to the state legislature for additional funding. I am told by Tony Trevino out of Public Works that the report, the traffic study that started last October will be done sometime in the next couple of weeks and that I can make an IPRA request so that I can review it. I am slow at getting this started last year, but it is critical that we expand that road. Just on my way in today I was a little late because on Telshor to Roadrunner it was back-to-back traffic. There were no accidents, and an ambulance was stuck behind that traffic trying to get to MountainView Hospital. That roadway needs to be completed and I understand that the traffic study was the first step and this study coming out in the middle of June will help us put this on your agenda and you're budgeting and all that has to happen with that. I ask you for your assistance. I ask you for your support. I ask you to elevate the frustration that is on that roadway because as I stated before by the time we get to getting it through the ICIP and we have to fund it and we are talking a year and half to two years before that roadway can be finished and that is from today. So 2026, is a

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long time to wait for some reprieve on that roadway so I ask the City Manager to help push us along and the city council to approve the funding that goes with that because it is in dire need in our neighborhood. It doesn't only affect District 6, but every district has people that come up that road. Every district has students that leave Centennial High School and get on that road and now there is a new public pickleball and everything else right behind my house and guess what that is just going to increase the traffic even more. So, kudos to the staff and I really need your assistance.

Katherine Lucas, Member of the Public said the dog park on Rinconada which is visited by a lot of dogs. There is a lot of activity. We have been without water for fourteen days. Everybody is lugging cans of water, buckets so this week will be very hot. When will we have the water back?

Peter Goodman, Member of the Public said I want to thank you for the pickleball courts even though my current condition of one knee won't let me play on them yet. As I was about to leave a gentleman from Utilities came by and was explaining something and my wife was really happy with the fact that he was so forthcoming and so helpful not just being there but explaining and I won't embarrass him by naming him, but I am going to send a note to Utilities folks. I would encourage everyone else in the audience to do the same thing on occasion when some public servant does serve you send a little quick email to somebody's department head. The other thing I was going to mention for the benefit for people who have talked about the crime and mental health problem and people's competency and Chief Story, there is a pilot program. The Judicial system and Supreme Court and others are putting together a pilot program for basically reaching out and taking people who are charged with misdemeanors, particularly the ones charged over and over and trying to get them into some kind of treatment situation as soon as possible and do things as maybe they should be doing and that is going to be a pilot program in Dona Ana County and one other county. We are going to talk about it with a few people that put it together on my radio show Wednesday. The show is 8-10 and that will be from 8:30 to 9:30 for anybody that is interested in that subject.

Sarah Smith, Member of the Public said we are all continuing to witness the substance abuse crisis in Las Cruces. I have spoken numerous times about the drug usage that my children have witnessed in Las Cruces and especially in the downtown area. A recent incident involved two vagrants spiking crack or meth in a pipe right outside my kids' class in the middle of the afternoon in the downtown mall. At the May 13th Work Session, it was reported that Dona Ana County is seeing an increase in opioid overdoses compared to the rest of the state. You and the county commission are discussing how to use opioid settlement funds and I am hoping you will consider implementing medication assisted treatment in our jails. As you know medication assisted treatment also known as MAT is an effective strategy for helping recover from drug addiction. For opioid users MAT can help to minimize brain chemistry, relieve the physiological cravings, and normalize body functions for recovery. Last year you approved a program for Las Cruces firefighters to refer people to medication assisted treatment. However, our jails are still not using the MAT program and the state is not planning to roll this out until at least 2026. Will you please be proactive and work towards getting the MAT program in our jails now instead of waiting for the state to handle it. Incarceration is an ideal time in which to use the MAT program

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because it provides the structure needed for people to get clean and stay clean during their time behind bars. Some other states have found this to be very effective. For instance, Rhode Island was the first state to use MAT statewide in their prisons. Along with giving medications, Rhode Island has recovery coaches who work with people while they are in jail. After incarceration that care, and medication continues to support individuals with staying off drugs. Rhode Island has shown that this program works. The first year after it was implemented there was a 12% drop statewide in overdose deaths and a 61% drop in post incarceration overdose deaths. In implementing MAT in our jails now could prevent overdoses and deaths here in Dona Ana County. This could also reduce crime in the city as more people would be rehabilitated and able to recover from the addictions that are driving them to steal from and harm others. Instead of waiting for the state to handle this will you please prioritize the use of medication assisted treatment here in our jail in Dona Ana County.

4. **READ CLOSED MEETING STATEMENT**

4.1 **READ MAY 20, 2024 CLOSED MEETING STATEMENT INTO THE RECORD.**

The Las Cruces City Council met in Closed Session and only discussed those limited items as stated in the posted notice to discuss pending litigation regarding:

- 1. To discuss pending litigation regarding Michael Hays V. City of Las Cruces, Cause No. D-307-2023-2167, which is closed pursuant to NMSA 1978, Section 10-15-H(7).
- 2. To discuss pending litigation regarding Philip San Filippo V. City of Las Cruces, Cause No. D-307-CV-2021-2305, which is pursuant to NMSA 1978, Section 10-15-1H(7).

5. **ACCEPTANCE OF AGENDA**

**Councilor Becky Corran moved, seconded by Councilor Becki Graham, to accept the agenda as presented with the removal of item 7.4 for discussion.**

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

6. **CITY COUNCIL MINUTES**

- 6.1 **SPECIAL WORK SESSION OF APRIL 29, 2024.**
- 6.2 **REGULAR CITY COUNCIL MEETING OF MAY 6, 2024.**

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

- 7.1 **RESOLUTION NO. 24-123: A RESOLUTION AUTHORIZING A CONTRACT FOR OFFICE SUPPLY CATALOG SOLUTIONS WITH STAPLES CONTRACT & COMMERCIAL, LLC OF FRAMINGHAM, MASSACHUSETTS, VIA SOURCEWELL CONTRACT NO. 012320-SCC FOR A TERM THROUGH**

**APRIL 6, 2025, IN AN AMOUNT NOT TO EXCEED \$500,000.00 ANNUALLY, SUBJECT TO APPROVED BUDGET APPROPRIATIONS (PROCUREMENT NO. 23-24-092).**

- 7.2     RESOLUTION NO. 24-124: A RESOLUTION AUTHORIZING AN ANNUAL NOT-TO-EXCEED AMOUNT OF \$150,000 FOR ADVERTISING WITH OSTEEN MEDIA GROUP DBA THE LAS CRUCES BULLETIN OF FLEMING ISLAND, FLORIDA, SUBJECT TO APPROVED BUDGET APPROPRIATIONS.**
- 7.3     RESOLUTION NO. 24-125: A RESOLUTION AWARDDING A CONTRACT FOR CPA AUDIT AND PROFESSIONAL SERVICES TO PATTILLO, BROWN & HILL, LLP OF ALBUQUERQUE, NM, IN THE AMOUNT OF \$236,775 INCLUDING NM GROSS RECEIPTS TAX FOR ONE (1) YEAR WITH FOUR (4) ADDITIONAL ONE YEAR CONTRACTS, PENDING ANNUAL CONTRACT RENEWAL AS AUTHORIZED BY THE STATE AUDITOR AND APPROVED ANNUAL BUDGETS AS AUTHORIZED BY CITY COUNCIL (PROCUREMENT 23-24-044).**
- 7.4     RESOLUTION NO. 24-126: A RESOLUTION AUTHORIZING THE CITY OF LAS CRUCES (CITY) TO ACCEPT GRANT AWARDS AND APPROVE A BUDGET ADJUSTMENT FOR VARIOUS CITY DEPARTMENTS THROUGH AN AMENDMENT TO THE CITY’S ADOPTED FY2024 BUDGET.**

Vanessa Perez, Budget Analyst gave the overhead presentation.

**Councilor Becky Corran moved, seconded by Councilor Becki Graham, to amend Resolution No. 24-126 to remove Exhibit B and Attachment F.**

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

**Councilor Becki Graham moved, seconded by Councilor Becky Corran, to Approve Resolution No. 24-126 as amended.**

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

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

- 8.1     RESOLUTION NO. 24-127: A RESOLUTION APPROVING A MEMORANDUM OF AGREEMENT (MOA) BETWEEN THE CITY OF LAS CRUCES (CITY) AND THE NEW MEXICO DEPARTMENT OF**



**TRANSPORTATION (NMDOT) FOR THE LC00360 LOHMAN INTERCHANGE PROJECT, AND TO RATIFY THE CITY MANAGER'S SIGNATURE ON THE AGREEMENT.**

Steven Bingham, Director Parks and Recreation gave the overhead presentation.

**Councilor Becky Corran moved, seconded by Councilor Becki Graham, to approve Resolution No. 24-127.**

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

**8.2    RESOLUTION NO. 24-128: A RESOLUTION TO ACCEPT THE 2024 LEGISLATIVE SESSION REAUTHORIZED GRANT AGREEMENT 24-I4074 FROM THE NEW MEXICO DEPARTMENT OF TRANSPORTATION (NMDOT).**

Crystal Silva, Associate Grant Development and Compliance Specialist gave the overhead presentation.

**Councilor Becki Graham moved, seconded by Councilor Becky Corran, to Approve Resolution No. 24-128.**

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

**8.3    RESOLUTION NO. 24-129: A RESOLUTION TO DECLARE EXTREME DROUGHT CONDITIONS WITHIN LAS CRUCES MUNICIPAL LIMITS AND TO RESTRICT THE USE OF FIREWORKS FOR 30 DAYS FROM ADOPTION.**

BC Michael Landavazo, Fire Department gave the overhead presentation.

Mayor Enriquez asked did you say June 7th or June 20th?

BC Michael Landavazo said it would be in effect for thirty days, for June 7th and conclude July 6th.

Mayor Enriquez said the selling period is from June 20th to July 6th.

Councilor McClure asked why aren't other counties doing this throughout the state?

BC Michael Landavazo said I couldn't get a really good answer from the forester about that. I did notice that Dona Ana is probably in the most severe drought in the state or at least close to the most severe, but I didn't get a clear answer.

Tony Chavez, Member of the Public asked how do you propose to implement this? Are there going to be any fines or anything if some people violate this issue and number three what is the county doing so that we are in sync together to ensure that things are going to happen within the city?

BC Michael Landavazo said right now any violation is a petty misdemeanor with a \$500 fine or 90 days imprisonment or both. Right now, we have 7 employees to patrol the city on 4th of July and it is a big undertaking but that is what we have right now in place.

Jason Smith, Fire Chief said to answer the second part of the gentleman’s question about coordinating with Dona Ana County. Dona Ana County, the portions that are not incorporated have already adopted the restricted list of fireworks. So, there are some surrounding municipalities such as Mesilla and other areas within the county that sell all fireworks that are legal within New Mexico. We do not have a good mechanism or way of stopping those fireworks that are illegal in the city of Las Cruces from entering our city and being used during the holiday season. Our fire investigators and prevention team do their best to patrol through the days before or during the 4th of July holiday and after, but it is a large undertaking for our members several who are not law enforcement certified but I do believe that we do our best in educating the public and getting out there to try to reduce the amount of illegal firework use within the city. The big option that we need to focus on is what happens at the state level, and it is really a state law that needs to change to protect our communities from wildfires. It is not the local jurisdiction in our current state law that has anything with enough teeth in it to really stop or reduce our community risk.

**Councilor Becky Corran moved, seconded by Councilor Becki Graham, to Approve Resolution No. 24-129.**

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

**8.4     RESOLUTION NO. 24-130: A RESOLUTION REVERSING THE PLANNING AND ZONING COMMISSION’S APPROVAL DECISION REGARDING A PROPOSED NON-ADMINISTRATIVE REPLAT KNOWN AS VILLA MORA DAM REPLAT NO.1 LOCATED AT 2040, 2045, 2060, AND 2065 E MADRID AVENUE, ZONED R-1A (SINGLE-FAMILY MEDIUM DENSITY).**

Christine Rivera, City Clerk said David really quick I need to swear you in. David do swear or affirm that the testimony that you are about to give is the truth and nothing but the truth under penalty of law?

David Weir, Deputy Director Community Development said I do.

Christine Rivera said thank you.

David Weir said again Mayor and City Councilors, David Weir Community Development Department. I am here to present the appeal of the approval of the replat by the Planning and Zoning Commission at their March meeting. Just to give you some background of the property that was within the subdivision. It is located west of Triviz Drive and it is intersected by East Madrid. I will spare you all the addresses.

The property itself encompasses a little over 56 acres. It is currently vacant and undeveloped and in the past, it has been a drainage facility for the city. Now the current zoning is R-1a, which is single family density and just if it were to be developed there is probably approximately 42 acres that could go into single family development, at its maximum density that would be 339 lots and at the density of the County Club Neighborhood it is about 250 lots. So just to get you some idea of what could be developed under the current zoning. It is currently accessed off two major roads, Madrid is a major collector and Triviz is a minor arterial roadway so roads that are built to handle a lot of traffic and cross traffic through the community.

Here is a vicinity map to show all of this area is generally called out as the country club area and also, I believe there is the Loma Heights is the neighborhood down in this area but as you can see I-25 goes through this way, this is Triviz Drive and here is Madrid as it goes back towards Main Street. This is an aerial photograph so then you can see the homes that are in the area and the surrounding uses. As you can see the property is vacant. Currently Madrid ends at Triviz. There is no access under or over I-25 to Telshor Drive. This is a slide of the Apodaca Blueprint. In 2018, City Council approved a master or conceptual master plan and including within that planning process was the Villa Mora Dam. It was identified as planning area B. Just to give you a little break down of this map, all the green areas were identified as a use called Restoration Park, so it identified approximately 40 acres to go into a natural setting or natural park for use of the property. The red was identified as the Villa Mora Plaza area and that was an area identified for office and small retail to support the park, access to the trails, and then provide neighborhood services to the surrounding neighborhoods. They identified approximately three acres for that type of use and actually called out that it would be an enhanced trail head for the Triviz Trail and also there was some sort of connectivity to the former country club as to when that was to be developed and it also encouraged that no development be over a story tall. The beige or peachish area to the south of that was also called out for future development. It was identified as uses similar to the Villa Mora Plaza and if there was a need in the community it could be developed in that area, and it was also looked at for potential housing. It was identified as approximately two acres in size. These are just aerials, excuse me photographs from the street level that show the existing conditions of the park. As you can see it is vacant and there is a mix of native and other vegetation that has sprung up on the property. Again, just kind of give you a feel what the properties look like. The plat itself was, the term is non-administrative replat. Previously the property was platted, it combined several parcels into one just large tract and so when we went through this replating because it increased two additional lots it also actually provided the right-of-way for Madrid Drive. That is something that can no longer be done administratively. It would have to go to the Planning and Zoning Commission for their approval and then our Chapter 37 Municipal Code states that type of subdivision

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approval is under the purview of the Planning and Zoning Commission. They would have final approval if anybody felt that there was some adverse impacts they could appeal it to city council and that is what happened today.

Just to go over the layout of the subdivision, there is a plat here on a later slide. It pretty much mirrored that conceptual layout of the Apodaca Blueprint. One of the lots is three acres in size, one of the lots two and then there is a tract off of Fairbanks Drive or Fairbanks Road that is approximately less than an acre, but it is created as a separate lot. Then there are a number of tracts created. They are for the intended open space. There are some drainages for Triviz and there is also some Utility facilities in there. I believe there is a couple of well heads and then as I noted some dedications of right-of-way for Triviz and for Madrid Drive. This is the actual subdivision plat itself. It shows the lots. So, this is the three-acre tract, this is the approximate acre tract and then on the next slide you will see the two-acre tract, two acre lot, excuse me. These are dedications for Triviz, this area is the dedication for Madrid and this is the dedication for Fairbanks. This is one of the utility facility locations and this is another one of the utility facilities so the tract is being created for that. Just another point of interest in regard to this. There is a zone change that was reviewed by the Planning and Zoning Commission last Tuesday and they recommended approval of it. They recommended a 3c which is our community commercial for lots 1 and 2 and then they recommended for the tracts for open space that they all be OS-r which is open space recreation, so it is limited to recreational uses of those properties.

As required with all subdivisions we are required to provide public notice, that we do that by three methods. One, that we post it in the local newspaper. In this case it's the Sun News approximately 15 days prior to Planning and Zoning Commission hearing. We post one of the large yellow signs that provides detail on where the meeting is held and also some summary of what the actual proposal is. The intent of those signs isn't really to explain the case, it's really to one, make people aware that there is development proposal for that property and two there is a phone number so that you should contact the Community Development Department to get more specific details and then also it provides the time and date and location of the meeting. The third way that we do public notice and again this is all in Chapter 37, is that we send out letters to all property owners within 500 feet, the first 100 feet is certified letters and that is where they have to come down to the post office for them. If they don't do that the letter is returned to Community Development Department after a specific period of time. From this public notice we did receive request for information. A lot of that was traffic safety, public safety in the area, just general comments about the desire to limit future development especially in this location, general location about the subdivision process, zoning of the property, next steps and then also what potential impact, environmental impacts could have on the property whether it be the drainage for the area or just the impacts to the vegetation that's on the property.

After the application for a subdivision is submitted to the city it is reviewed by all departments that provide services for that area so it would be Planning and Zoning, excuse it would be the Community Development Department, Planning Activity, it would be Utilities, it would be the Fire Department, notice goes out to the Police Department. There is also input sought from Parks and Recreation and Quality of Life

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and also more specific within the Community Development Department is impacts to drainage and traffic within the area. Once that review is done it is placed on a DRC which is a Development Review Committee meeting. The way the process for subdivision approvals takes place is after the staff review it goes to DRC before it would go to Planning or Zoning Commission, they make a recommendation to Planning and Zoning Commission, so this slide demonstrates that meeting took place in February of this year. The DRC did recommend approval of the replat. They had conditions on their approval, one that any outstanding comments be addressed. Often times that may be a misspelled word or a North arrow is missing on the subdivision plat or some bearing and then also that it be clear that before any development of property could take place that all the requirements of the flood control for the area. Basically, they update the flood standing for the property and those are identified as the letter of map revision that it would be update to current conditions and in this particular case it could be two steps. There could be approval of a conditional letter map revision basically stating that what is being proposed will not increase any chance of flooding and then you do the permanent LOMR and get that approved by FEMA. The Planning and Zoning Commission did hear this at their March meeting. They did vote to approve with a vote of 3 to 1. There are two seats vacant. As they do with all of their recommendations or their approval, they based it on findings of fact as in this particular case it was the staff report. It was the fact that the plat met the technical requirements of the subdivision code and all the lots met the lot size and access from the zoning code and that the subdivision also met the intent of the Apodaca Blueprint.

As also stated, staff always looks at against all policy plans, not only the Apodaca Blueprint but also Elevate Las Cruces and then just any other requirements that apply from a code standpoint, that those conditions are met and also the review by the DRC they took that into account and took their recommendation. After the approval there was an appeal to its approval and in the appellant, they cited several sections of Municipal Code. I will note that the approval of subdivision falls under Chapter 37, these chapters deal with amusement uses, impact fees, and drainage, and so in the case of approval they I guess are not the authoritative section of the City's Municipal Code. They also stated violation of some state and federal statutes. I would just note that there were environmental and drainage studies that have been done by the city and the findings by third parties was that there was no violations of any of these particular statutes at the state and federal level. There was also a basis for the appeal that the public notice was lacking and then also the application of some of these other conservation environmental standards were lacking on the part of the city. As you have on all your, if you vote yes that will approve the resolution and then that will deny the subdivision so it will remain the way it is. If you vote no that will uphold the Planning and Zoning Commission and the plat would be approved and then if you vote to amend it, you can place additional conditions on it if you voted yes and an outright denial I don't think there is any reason to condition on it if you were to uphold it. I guess we will cross that bridge when we get there and then also you could table it for more information. Just one other point before, the appellants are also in the audience if you have questions for them. You may have a question and I will try to answer it beforehand, why wasn't the zone change in the subdivision taken at the same time? There was a need, funds that the city has received I believe from the state to do improvements to Madrid Drive and that deadline is coming upon us and so

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from a timing standpoint we needed to take the subdivision first. As I said the zoning change has been taken to Planning and Zoning Commission. They did recommend approval and it will be on your agenda at the end of July, first of August. With that I will be happy to stand for questions and answer any you have or if there is additional information you would like clarification for.

Mayor Enriquez said alright, thank you David. Before we go to that we will go ahead and have the appellants come forward. I believe we have Dolores Bernal, Gracie Martinez, and Dana Parsons. If you all want to come up. I will give you each 3 minutes to speak and you have to be sworn in as well. So come on up to the podium. That is correct.

Dolores Bernal said good afternoon again. My name is Dolores M Bernal.

Christine Rivera said I can swear you all in at the same time since you are all up there. If you could raise your right hand, okay.

Dana Parsons said my name is Dana Parsons.

Grace Martinez said my name is Grace Martinez.

Christine Rivera said okay, great. Do you all swear or affirm that the testimony that you are about to give is the truth or nothing but the truth under penalty of law?

Dana Parsons said yes.

Grace Martinez said yes.

Dolores Bernal said yes.

Christine Rivera said perfect, thank you.

Dolores Bernal said hello everyone. I wish I had gotten a little more time since Mr. Weir got I don't know ten minutes and he got a lot of time to argue his side. So, city council, Mayor, and to bad Ms. Bencomo is not here. I am the leader and organizer of Save the Roadrunner, our website is [savetheroadrunner.org](http://savetheroadrunner.org), [savetheroadrunner.org](http://savetheroadrunner.org). We have a lot of our members watching right now. Key members of our group were the ones who filed the appeal, and they are here present with me. The appeal cites Municipal Code violations, state law violations, and federal law violations as the basis for reversing the Planning and Zoning's decision to approve the replat. These violations were outlined in our appeal packet and neither of the city employees including Mr. Weir got in touch with me or the City Attorney to let me know that there was anything wrong or in accurate with the statements we made in the appeal. We are asking that you vote today to reverse this decision approving the replat. So that you could adhere to the laws mentioned in the packet and do further investigation. Those laws were established long before you got elected and it is your duty to uphold them not to just listen to city employees. In the packet we outline amendments to the

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P&Z's approval including one asking that city employees to put things in writing for us to make sure that the areas that have been designated as open green spaces will remain untouched and unmanicured even just building trails could scare off sensitive wildlife and we ask that you seek to hire a city employee whose main mission will be to remain vigilant on issues related to development and its impact on wildlife. This person could also be the one guiding you on how to improve our traffic issues and how to make Las Cruces more walkable. It is very obvious that you need someone with expertise in Urban Planning. It is a win, win for all of us if you follow this route. Now if Villa Mora Dam and Apodaca Blueprint receive even one federal dollar and I would like this to be confirmed, if the City Clerk please take my question to find out if any federal dollars are going to this project that would be great because that automatically requires to do an environmental impact study. Now Mr. Weir said that the studies were done, well I have not seen them, the public has not seen them, you haven't seen them. Were the studies included in your packet? I don't think so. So, I think there is due diligence that needs to be done. More investigation that needs to be done so I would really encourage you to vote no, get more information on this, get all the details, see the impact studies that they are claiming they have done and then make your decision based on that. This is not to stop development. This is just to make sure it is done right and protects that wildlife. Thank you.

Dana Parsons said hi, my name is Dana Parsons. I am here with savetheroadrunner.org. We are asking that you vote to reverse the approval of the Villa Mora Dam replat. I am concerned with how recent current and planned developments are affecting our local and migratory wildlife. These developments are not taking the proper precautions to protect our local habitat that is essential to the survival of many species such as the greater roadrunner. These projects are a mirror image of the city's past developments that led to the decline of the burrowing owl which were once prevalent within the city and now have not had reported sightings in three years. Las Cruces being in the Chihuahuan Desert and close to the border there are species that exist here that can't be seen in the rest of the United States. In protecting these species doesn't mean slowing our economic progress. Ecotourism is the fastest growing and one of the largest drivers of economic growth in the world. People come from very far to visit our region of the country hoping to see something unique or something they have never seen before. I have come across people from states as far away as Alaska and countries as far away as New Zealand. Our visitors sometimes ask where are the roadrunners? Where are the burrowing owls? If the city continues to develop with its current methods other species will meet the same fate as the burrowing owl and once gone they will likely remain gone forever. It is clear that the city is rushing to develop these areas with disregard to the habitats of our local and migratory wildlife. Local ordinances such as Section 34-125 and the better interest of the community and this disregard will lead to a bigger breakdown of the people's trust in the city of Las Cruces in irreparable harm to native wildlife populations. I am again asking that the city votes to reverse the approval of the Villa Mora Dam replat and change how current and future development is undertaken for the better interest for the people of Las Cruces and our native wildlife. Thank you.

Grace Martinez said good afternoon once again city council members my name is Grace Martinez, and I am a concerned citizen and also a resident of the area where the Villa Mora project would be affected. Also, a proud member of Save the

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Roadrunner, our website is savetheroadrunner.org. Also, an appellant on the Villa Mora project. I stand, excuse me, I stand before you as a voice for the community pleading for improved communication and transparency regarding future developments, Villa Mora being one. The Villa Mora project threatens to erode privacy, compromise our safety, numerous residents have objected to this project, and I am here to represent those who cannot be present due to illness, mobility issues, and lack of awareness. How do I know this? It is because we have taken the time to walk through the neighborhood and there has been plenty of residents who have said we cannot go, we cannot voice our concerns because we cannot get out of our home due to our illness. The recent discovery of 147 needles in a small area is a stark reminder of the urgent need for effective solutions to address transient related issues. If we do not act soon, we risk driving out longtime residents and making it impossible for families to enjoy a peaceful day out. The funds in this area of the Villa Mora project could go towards helping the community of Las Cruces become safer. I am sure you all agree. The city could also allocate the funds to an area of Telshor to Del Rey, as this street is becoming more congested each day. Especially with the school that has now been added to the Vista College area, I am not sure if you guys are familiar with that, but it gets very congested. I have seen three accidents just this year alone. I implore to you to please consider the long-term consequences of your decisions and prioritize the needs of our community. Let us work together and find alternate solutions that benefit all of Las Cruces residents rather than sacrificing our beloved nature areas, placing our wildlife at risk. Please, I beg each of you to reconsider the replat decision and put the needs of our community first. Thank you.

Mayor Enriquez said okay, thank you. Is there anyone else from the public that would like to speak on this issue? Yes, please come forward.

Erika Vasquez, Member of the Public said good afternoon my name is Erika Vasquez, and I grew up in this neighborhood and I want to tell you about my experience as a kid. I spent a lot of time in that plat of desert, riding bikes, playing with friends out in the desert, we had a good time. I don't currently reside in that district or the adjacent district, but my parents do and so does my sister and my niece and just protect the area. Families want to go out there and walk around. I know I take my kid out to the desert and yeah, we are like look at the roadrunner. Look at the liebras. Look at the lizards. Look at the osha plants, the mesquite, can you smell it after it rains? Give families an opportunity to enjoy the desert in town. You know not have to go to the outskirts of town to enjoy the desert or have to worry about your kids going far away from your home to go and enjoy the desert. You guys can make it into a recreational area like they showed on the map similar to the one behind the dam or Desert Trails, beautiful areas for families to enjoy the outdoors in the summer. You know you can go out there at 8 o'clock at night and just enjoy the summer. Enjoy the plants and enjoy the wildlife, enjoy the sunsets but as a kid I had a great time hanging out in that desert and I grew up in the time when Triviz was still dirt and little by little it is chiseled away, chiseled away and now all we have is this little plat and save it. Save it for the future generations so that future generations can appreciate what Las Cruces was and now we have developed it to what it will be. You know being outside with your children is so important and vital to their development and you hear about all the studies and then after all this Covid stuff where kids were jammed into technology and everything. No, we have to promote get out. Get out into your environment. Get out into the



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desert. Enjoy the area in which you live in not just the cement buildings, technology, there is so much to do here and we should promote that and yea, I agree with one of the appellants, you have so many people coming here from outside the area just to enjoy the climate because we have warm weather and it is not like super-hot like Phoenix or Tucson but you can still go out and enjoy it. You can mountain bike, you could run, hike, and like I said just enjoy the natural elements of what our city has to offer, and this is in town. It is not on the outskirts, and it is a beautiful plot, and the neighborhood is beautiful. I grew up in that neighborhood. I went to Loma Heights, I mean if you develop that into a recreational park space can you envision some of the teachers from Loma Heights going out there to have a live educational session with their kids. Let's look for roadrunners, the yucca plants. Thank you.

Mayor Enriquez said thank you, anyone else? Hold on sir. Okay, go ahead, come on.

Jorge Aguirre, Member of the Public said sorry about that, second time. Good afternoon council. Good afternoon council my name is Jorge Aguirre, and I am a longtime resident of the old country club neighborhood that we are talking about, and I am here because I support building high density housing all over the city including in my neighborhood. My whole life I was raised with ecology and the environment in mind. I am an environmentalist as aware, so I empathize with the cause to save the roadrunner. I love the state bird. Afterall wildlife is disappearing in the US not just here. However, I am concerned that the bird is being used as an excuse to slow down development in the parts of town that would benefit the most people with the least harm to our environment. It is almost impossible to divorce development from harm to the environment, but we can select how and where we develop. A lot of societal problems come from the lack of housing. We have a lot of problems coming from the lack of housing and inequality and we need to solve those problems first. We need housing for humans more than we need wildlife in the middle of the city. The biggest threats to wildlife in general are habitat loss and climate change. Both caused by human activities like agriculture and commercial development. Among others that can make it difficult for wildlife to find food, water, shelter, and places to raise their young. Saving the roadrunner is not going to come from saving a tiny plot of land in the middle of the city. In fact, the opposite is true. Cities are friendlier to the environment then rural areas, despite their increased activity. In part because of their density, their density allows their benefits of development to reach the most people while costing the less environmental impact so instead of spreading sprawl into the desert and in Metro Verde and these other areas, paving ancestral land to put yet another cookie cutter single family home development I say let's focus on infill development in the city. All of this to say that if we really care about saving wildlife in the Chihuahuan Desert we should advocate for sustainable development that prioritizes high density housing infill in the city, multi-use development and not acres and acres and acres and acres of sprawling single family home development in the middle of the desert in the outskirts of town. That really kills a lot more birds than we will save in this plot. So please vote no on the appeal, save our desert not just one plot of land. Please vote no on the appeal.

Mayor Enriquez said hold up ma'am. Go ahead sir come on up.

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Harry Murray, Member of the Public said Mayor Enriquez and council my name is Harry Murray. I have lived in the Villa Mora area close to Triviz for over 46 years so probably longer than most of you have been around. I don't support the latest rezoning of the Villa Mora property for several reasons. First of all, it is going to bring more traffic into our neighborhood, more people, and as for the rest of Las Cruces it is going to bring us more crime. I have no problem with the rezoning to family housing but last week they are going to rezone five acres for commercial high density and the rest for parks. Why wasn't all of this proposed two months ago?

What caused the change? Why is it a two-step process? It sounds like the Planning and Zoning Commission is doing smoke and mirrors with the public. The planning for Villa Mora had been going on for over six years according to the Apodaca Blueprint. More recreational areas are a good thing and one of the land areas over there is being held for reserve, I think it is about 2 acres. What is that for? What is being planned for the future? Is that high density housing for along Anita? The real question is what is being planned for this area in the future and who is going to benefit from it? Thank you.

Mayor Enriquez said thank you sir. Anyone else? Council, any questions? Councilor McClure. No, I am sorry you already had your opportunity to speak. Thank you. Ma'am, ma'am, ma'am you have had your moment. Councilor McClure.

Councilor McClure said I think, thank you Mayor. I also kind of have questions about transparency. I think people have known that at this point. Would you like me to share David Sedillo's information, or can you?

David Weir said Mayor and Councilor McClure it is up to you. I would be happy to go through that.

Councilor McClure said I am more curious as to why we could not get more information out the public specifically about these environmental studies. So, I did follow up on that. So 2009, biological study by Souder, Miller & Associates included no effects to federally endangered or threatened species nor their habitat related to the Madrid extension as it customary it recommends additional disturbance of grounds occur outside nesting season March to August or that we survey for new nest prior to disturbance. Cultural resource study also via SMA cleared obtained through NMHPD. This was repeated 2022 and there is a current one going through March through June 2024 with Terracon. Why can't we share this kind of information with the public?

David Weir said Mayor and Councilor McClure there is no problem with sharing that information. It is available for them, they just needed to request that. As you know these cases were reviewed at public hearings, the Planning and Zoning Commission also requires that you affirm that you are telling that accurately city staff at that time said that we had those studies and there was not any environmental issues at that time. There was also the fact that when the actual development takes place and an additional review at time and we have to make sure that we meet all these environmental standards so it was just more of the fact that it is built into the system and the city is not going to knowingly violate any of these standards and when they do

## Agenda Item #6.1.

a project and in this particular case the city is the property owner so that was kind of the thought process behind it.

Councilor McClure said thank you. So, these are the things that I talk about City Manager to in terms of communication. How we communicate the story we want to tell so that people are more informed. Things like this. I feel like this is something that should have been very clearly defined because if it was a concern we don't have to dig for it. So that was one of my things. When is the last time we have done some sort of push for explaining the Apodaca Blueprint and I am not sure who could answer that for me because it has been six years and I understand that, but refreshers are also super helpful.

David Weir said Mayor and Councilor McClure, prior to this particular project it was probably with the platting and zoning of the country club property itself that took place probably 18 months ago and so it would have been at that time but there has been no other outreach or explanation of the plan.

Councilor McClure said thank you and that I also find problematic. So, I am just going to leave that out there in terms of people who might be doing communication might be well advised that these are the ways that we can head off miscommunication and concern and worry for our citizens. I really am concerned about that. Thank you.

Mayor Enriquez said Councilor Corran.

Councilor Corran said thank you and I just want to clarify a few things. About 90% of this will remain designated open space as a result of this replat, correct?

David Weir said Mayor and Councilor Corran that is correct. Approximately 43 acres will be designated for open space recreational only use of it. There are the two tracts, the three-acre lot and the two-acre lot that will be in commercial through the development of the Apodaca Blueprint. One of the thoughts was the city's either sale of lease of that property could go back into programing the park and providing revenues to maintain it.

Councilor Corran asked as it is zoned now, we can sell all of this and just put 200 and somehouses in there?

David Weir said correct.

Councilor Corran asked okay and then what would the park look like if we upheld the P&Z's decision?

David Weir said Mayor and Councilor Corran, the Parks and Recreation Department has another grant or I think it is a Legislative Pass Through to master plan that property. The Apodaca Blueprint envisioned it being a nature type park with trails.

Councilor Corran asked like Desert Hills?

David Weir said yes with benches and the trails, and I would just note that anytime that a master plan for a new park is done by Parks and Recreation they also go through a public engagement where they invite surrounding neighborhoods to come in and have their input in the development of those parks.

Councilor Corran said okay, thank you that provides some clarity. So, it hasn't been planned yet but it has sort of legislatively, the conversations have been to support that kind of park?

David Weir said Mayor and Councilor Corran I believe staff is doing the initial data research and kind of surveys of the property then the next step would actually be that outreach and development of the plan.

Councilor Corran said okay. Thank you those are all the questions I have.

Mayor Enriquez asked anyone else? We are good? Okay, again just to clarify a vote no will uphold the Planning and Zoning Commission and a vote yes would reverse the Planning and Zoning Commission approval. Christine, go ahead.

**Councilor Becky Corran moved, seconded by Councilor Becki Graham, to Approve Resolution No. 24-130.**

|                  |                                                                                                   |
|------------------|---------------------------------------------------------------------------------------------------|
| <b>RESULT:</b>   | <b>DEFEATED.</b>                                                                                  |
| <b>MOVER:</b>    | Councilor Becky Corran                                                                            |
| <b>SECONDER:</b> | Councilor Becki Graham                                                                            |
| <b>AYES:</b>     |                                                                                                   |
| <b>NAYS:</b>     | Mayor Eric Enriquez, Councilor Cassie McClure, Councilor Becki Graham, and Councilor Becky Corran |
| <b>ABSENT:</b>   | Councilor William Mattiace, Councilor Johana Bencomo, and Councilor Yvonne Flores                 |

**9. BOARD APPOINTMENTS**

**9.1 ANGEL VELASQUEZ**

**Councilor Becky Corran moved, seconded by Councilor Becki Graham, to appoint Angel Velasquez to the City Art Board.**

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

**9.2 MARY MULVIHILL**

**Councilor Becky Corran moved, seconded by Councilor Becki Graham, to appoint Mary Mulvihill to the Affordable Housing Committee.**

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

**9.3 MATTHEW SMITH**

**Councilor Becki Graham moved, seconded by Councilor Becky Corran, to appoint Matthew Smith to the Airport Advisory Board.**

|                  |                                                                                                   |
|------------------|---------------------------------------------------------------------------------------------------|
| <b>RESULT:</b>   | <b>Carried</b>                                                                                    |
| <b>MOVER:</b>    | Councilor Becki Graham                                                                            |
| <b>SECONDER:</b> | Councilor Becky Corran                                                                            |
| <b>AYES:</b>     | Mayor Eric Enriquez, Councilor Cassie McClure, Councilor Becki Graham, and Councilor Becky Corran |
| <b>ABSENT:</b>   | Councilor William Mattiace, Councilor Johana Bencomo, 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. 24-028; ORDINANCE NO. 3070: AN ORDINANCE AMENDING ORDINANCE 2698, FOR THE DEDICATION OF A MUNICIPAL HOLD HARMLESS GROSS RECEIPTS TAX.**

Council agreed to bring it forward.

**11. CITY COUNCIL MEMBER BOARD REPORTS AND COMMENT**

**11.1 COUNCILOR MCCLURE**

I was also looking forward to today’s agenda partially for this. I also live in that neighborhood, and I am excited that there is development. I have been watching that closely through Parks and Recreation Advisory Board for the last lots of years so the idea that we can’t be transparent and still yet make progress that benefits us, it doesn’t have to be that way. We can talk about this in different ways, and I think I will be helping to push that along to say that we can tell that story to show why we are doing the things we are doing. It is always interesting too me to that people will talk about how they were born and raised here. I am raising my children here and I am very concerned as to what that future looks like, and it will not look good if they have no place to live. So, balancing those ideas with balancing the ability to have recreation and open spaces which is part of this plan is something I look forward to and I hope that my children do too.

**11.2 COUNCILOR GRAHAM**

None.

### **11.3 COUNCILOR CORRAN**

I talked with some constituents, and I have heard some folks getting sick and I also know that avian influenza is still around. I just want to remind folks that Covid is still four times as deadly as the flu so just as a note I think that there is as much evidence to suggest that there is a resurgence of Covid coming and we also live in a community surrounded by agriculture and so I hope and I appreciate the work that is being done to sort of look where avian flu can cross over into our daily lives. So, I think just as a note a couple of constituents asked me to remind folks that Covid is still around, and we still are experiencing it so bear with each other as we figure that out and try not to infect each other.

I toured La Clinica de Familia. I think a few other folks from the city staff and council have done this to hear a lot of what they are doing in behavioral health and their ACT Program among other things. I do want to point out that they are doing extraordinary work and I hope that we can partner with them as we think dynamically about all of these things sort of facing our community as they come from behavioral health, mental health, substance use disorder, and so I think they would make a great partner and I really appreciated learning. I had no idea of all the things that they were doing to support people in our community and so I just want to lift that up in our conversations. I also missed a meeting a few weeks ago, I was in DC at the EPA Local Government Advisory Council Meeting where we learned a lot about what kinds of things the EPA is looking for in terms of policies and policy work as well as funding and I shared all of those that had relevance to the city back to the departments that it related to links and resources and we have been invited to a group considering how lithium batteries are moved through the lifecycle of their use and so I will keep providing updates as I find out more about them and potential opportunities for us to pilot things here in Las Cruces.

I also want to give an update for the Metropolitan Planning Organization which several of us participate on. They are transitioning to a new space. We are working on a new MOU and JPA and this is a lot of work and I really want to give a strong shoutout to Andrew Wray who works very hard to keep the MPO moving and has been working on this transition really diligently and Barbara Bencomo who has been supporting this process really administratively, keeping up, following up on a very complicated and detailed adminstrivia, I would call it although it doesn't feel like trivia to the folks who are working on it to make that happen and be successful so thank you Andrew and Barbara for that ongoing work.

I do have a follow-up thanks to our Parks and Rec Department in particular related to Rincon Hills Park. I really appreciate the follow up that you all have done in helping make it more useable addressing the slides so thank you. I know it means a lot to folks who go there and take their kids there and who might frequent the slides and the pickleball court and the basketball court and all that. I really just wanted to appreciate you for following up on that as you have been so those are all the things that I have in my notes.

### **11.4 MAYOR ENRIQUEZ**

On May 26th I opened up the Mayor's Jazz Festival and got a history lesson, I got

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educated on that. I didn't know that our former Mayor, Ruben Smith played in the jazz band so that is how it originated. We just want to keep that tradition going and that Jazz Festival opens up the Music in the Park that will be every Sunday from June 2nd till August 25th at Young Park. So, it was well attended so please attend some of that entertainment that is available.

Also serving on the Mesilla Valley Economic Development Board, MVEDA, tomorrow we have a luncheon where myself and County Commissioner Hernandez will be the guest speakers to talk about economic development here in our community and just a reminder that tomorrow is Primary Election date to vote. If you have not voted already, please vote.

## 12. CITY MANAGER REPORT

### 12.1 IKANI TAUMOEPEAU

Earlier today there was a public comment by Ms. Katherine Lucas requesting that the repair of the water fountain at the dog park on Rinconada, be looked at and assessed. Just an update from staff, we appreciate them. Staff and plumbers were already planning to be onsite today, this afternoon to begin the assessment and repair.

For the library, Quality of Life Director Carol Brey, Assistant Director Rebecca Slaughter, and Deputy Director Sarah Booth are preparing for the arrival of American Library Association President Emily Drabinski and the bus tour. Emily will arrive in Las Cruces Friday, June 14th and will hold a meet and greet lunch at the Branigan Library from noon to 1, followed by a tour and interviews of community leaders and library stakeholders. Emily will bring a film maker with her who is filming the tour and will be interviewing members of our community regarding their views of libraries in Las Cruces and we will then go to El Paso on June 15th where she will visit the UTEP Library and have dinner with members of the Border Regional Library Association. Just another announcement on library, summer reading started last Saturday, June 1st. I am jealous because the kickoff had a magician, Jamie O'Hara and I wasn't there.

Cooling stations, just a heads up. Anticipate three-digit temperatures this upcoming Wednesday and Thursday and we appreciate our ACM Sonya working with departments to make sure that our facilities are open for cooling stations. We have Frank O'Brien Papen, our Community Center Henry Benavidez, Munson Center, Sage Café, Meerscheidt Recreation Center, Thomas Branigan Memorial Library, and City Hall and that will be available for cooling. We will have waters as well for those who want to get out of the hot sun and heat.

Visit Las Cruces, the Spanish version of the visitor guide is available. They can be accessed and requested in person at the offices, online, staff is ready to email this out, they can be downloaded on the website, they can be mailed out. This is free to the public so that can happen at any time.

Lift Up Las Cruces, we mentioned that they were going to win and dominate this award ceremony that happened in Texas and Lift Up Las Cruces, the local community

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initiative has been honored with a third place award for Best Neighborhood Program of the year by Neighborhood USA. The award ceremony took place in Lubbock, Texas where city staff Isaac Holguin, Catrina Godinez, and Grace Tellez proudly represented City of Las Cruces. This award is recognition of the city’s commitment to fostering strong vibrant neighborhoods and the success of collaborative efforts improving neighborhood conditions. So, congratulations to all the departments who contributed to making Lift Up Las Cruces a success.

13. ADJOURNMENT

13.1

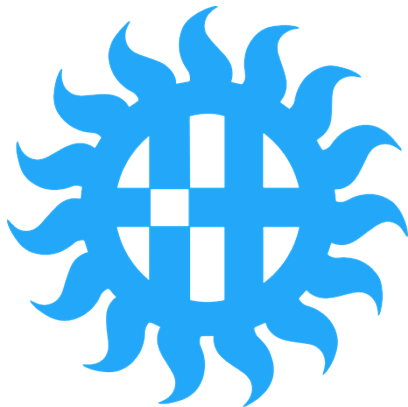
Councilor Becki Graham moved, seconded by Councilor Becky Corran, to adjourned at 2:58 p.m.

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

\_\_\_\_\_  
Mayor

\_\_\_\_\_  
City Clerk





**MINUTES**  
**Work Session**  
**Monday, June 10, 2024 @ 1:00 PM**  
City Council Chambers, City Hall

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

**ABSENT:**

**1. JOBS OF THE WEEK**

**1.1**

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

**Councilor Becki Graham moved, seconded by Councilor Johana Bencomo, to allow Councilor Corran to participate via Zoom.**

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

**2. PETS OF THE WEEK**

**2.1**

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

**3. AGENDA ITEM**

**3.1 PRESENTATION OF THE LAS CRUCES PUBLIC LIBRARIES MASTER PLAN**

## Agenda Item #6.2.

Carol Brey, Director Quality of Life introduced the topic.

Brad Waters, Godfrey and Associates Consulting gave the overhead presentation.

Councilor Bencomo said the salary for libraries really stuck out to me in your presentation. Can you share with us what that range is right now and are librarians' part of the blue-collar union or not unionized?

Brad Waters said not that I am aware in this state. We do recognize you did have a compensation study done and has elevated a lot of those salaries. We will put that into a cost model we have to tell you exactly how much it is going to cost to staff these future libraries and we will add in the benefits and everything so you know exactly what it is going to be but you saw the difference between your salary of 53 and the peer average is 74, again those are from Colorado, not from Texas, mostly from Colorado and other places in New Mexico.

Sarah Booth, Library Deputy Director said our librarians come in, our regular librarians start at \$43,500.

Councilor Bencomo asked those are folks with master's degree?

Sarah Booth said correct.

Councilor Bencomo said that is very, very low. That is embarrassingly low.

Sarah Booth said yes, it is, and we are very lucky to have such wonderful staff.

Councilor Bencomo said yes, absolutely. Staff salaries have been a longtime priority for myself, and I know for this council so I am glad that you are raising that issue, and we will certainly follow up with the City Manager about that. That is very concerning to me. Can you speak a little bit more about the Library Foundation? I am not familiar with that kind of model, and I think if said if its legal? Did you say that, or had I misunderstood you?

Brad Waters said the Library Foundation is clearly a 501(c)(3), so it would have to be formed and actually I believe when Carol was Director there was a Library Foundation of what had been formed.

Councilor Bencomo asked under the city?

Brad Waters said no. It was a nonprofit individual, independent thing.

Carol Brey said in approximately 1997/98 we formed the Library Foundation, and they were a separate 501(c)(3) organization. The Friends of the Library at that time were not as active and I forgot to mention we have our Friends present out here today. You probably noticed people wearing purple are out here. They are very active, and they have been actively raising funds, but a foundation can dig in a little deeper and look at

## Agenda Item #6.2.

longer term financial goals. Look at capital campaigns, look at what we need for long term planning and as Brad mentioned also look at the estate funds we already have and make the most of those funds. So, we don't know if somehow that organization might still exist on paper, and we are looking into that.

Councilor Bencomo asked what is the city's role in something like that?

Carol Brey said we have a similar situation with our foundation of our museums for example. The museums have a foundation now and so basically, they have a board. They meet on a monthly basis, and they report to the Deputy Director. They work with our Deputy Director for museums, and I am involved to a certain extent in working with them, but they basically work independently but in tandem with our goals and our objectives and they understand that when they come to the board.

Brad Waters said the best model is an advisory board that volunteers in the community but that they hire development personnel, development professionals. Usually, it is one individual who is a fulltime, that goes out and knows how to ask people for money especially the wealthy people or corporations, etcetera with probably a halftime or parttime clerical person as well. So, their salary is based on how well they do but they are overseen by an advisory board. Those foundations will raise in the millions of dollars in a year when they are up and running and being part of a capital campaign is a good way to start one. So, if you decide that you want a bond for a branch library and I will use this as an example then having a Library Foundation up and running and then they can piggyback on that and raise money privately and help maybe furnish or do whatever to add that capital money on that campaign.

Councilor Bencomo asked can you just repeat a little bit about what you said getting it from the national average to 85% to 95% or something like that, can you give more context to that?

Brad Waters said when we look at library funding and when we look at what comes from local government, what comes from state government, what comes from federal government, what comes from other sources. Other sources is private, mostly it's the Friends of the Library, if there is a foundation then that would be there as well. Nationally 95% of public library funding comes from local government revenue. You get state money and you get a good amount because of your population size the way it works in New Mexico but because I think you rely on the Branigan and the other endowments you have our concern is that nest egg is shrinking faster than it should and so if you are going to increase staff salaries, whatever you can raise that 85% to 95% and have a foundation that safeguards the nest egg and grows it and then that would be ideal.

Councilor Bencomo said I wanted to thank you for including the question on the raising of the GRT. I know we are having a very tough but important conversation around some of that so I appreciated you showing the support that this community would show for public libraries. I think it shows the importance and how loved they are in our community and under invested so I appreciate that as we head into that

## Agenda Item #6.2.

conversation soon and then of course and maybe this is for the City Manager, but I assume any sort of capital expansion to the public libraries would also qualify for a GO Bond question possibly? He says yes, thumbs up. I know we are two years from that I definitely want us to have that at the top of our heads as we go into the next GO Bond cycle and what that might look like for the library.

Councilor Flores asked you mentioned that there is an endowment and who controls it and how does it work and who oversees that and why is it shrinking? Is it something that can be invested?

Sarah Booth said back in 1935 Alice Branigan generously donated money to the City of Las Cruces for a library. Since that time the library has been using the money that she left for us to purchase books. I have been here a year and half, and we don't have a dedicated line item in the city budget for books. We are using the endowment left from Mrs. Branigan very generously from Mrs. Branigan for books. So, this endowment is shrinking because this is our source for materials.

Councilor Flores asked is the endowment limited?

Sarah Booth said it is limited to buying materials for the library. We could not use it for a capital outlay project.

Councilor Flores asked is there a restriction on having a fund that builds on that endowment? It seems to me that when there is money that is going to shrink, you look at how it won't shrink.

Carol Brey said what I have seen other libraries do and actually Brad may know something about this as well, he probably does. When there is an endowment like that, and many libraries do have those because if you think about the Carnegie Library as in other libraries that are in the world mostly in our country that have been established by some generous patron. There is often money that goes a long with that and it's amazing that we still have that endowment here actually. I will say that our goal would really be to build up that endowment as an investment towards the future and this is where a library foundation would come in. A library foundation could raise additional funds to allow us to get to a point where perhaps we would only use the interest off the Branigan endowment.

Councilor Flores said it does explain. My question is why hasn't that been done before? It is almost like we're running out of gasoline in our gas tank, and you passed up all these gas stations and now you are in the middle of a desert. It is not a criticism it is just an observation and a comment.

Carol Brey said I would just say that was the goal of having a library foundation originally when I was here as the Library Director. I don't know what has happened over the years since exactly. Obviously, the foundation doesn't exist anymore so for whatever reason, perhaps it was not successful, or it was not thought that it was needed but many public libraries in the country do this kind of thing, so it is pretty common.

Brad Waters said when I talk about legality, I would assume there would have to be some sort of legal transfer of that money from the city to a library foundation. That is when I mentioned the legality of the foundation. That is what I was talking about.

Councilor Mattiace asked have you looked into partnering with the Community Foundation of Southern New Mexico?

Carol Brey said that is an excellent suggestion and actually that has been suggested to me by, I still have ties with the El Paso Community Foundation when I worked there, and I am actually in a rotary club with the head of the Community Foundation here so that has been suggested. We have not looked into that yet but that would be an option I would think.

Councilor Mattiace said it would be good. They are very effective with campaigning and helping with running bond issues and like Dr. Flores mentioned help with the investment of any balance left in your endowments. I hope you do that.

Carol Brey said we appreciate that suggestion. The reason I know about the El Paso Community Foundation is because they are currently working with the Foundation of the El Paso Public Libraries to do what you are suggesting.

Councilor McClure asked going to the foundation what would like look like in terms of creating it? Would it be a resolution from our end or what is the mechanics of that?

Carol Brey said in the case of the ones I have been familiar with you bring together individuals who you know, have a strong interest in the library, have a strong financial background, have the interest in creating a foundation that would actually help build the structure for the future and we worked with an outside attorney at the time that when I was here before to get our 501(c)(3) status and that kind of thing and just go through the normal process of establishing a nonprofit corporation. Now the museum's foundation, I don't know if Rebecca wants to speak to it a little bit. The museum's foundation that we have currently in placed followed a similar procedure as I understand it.

Rebecca Slaughter, Assistant Director of Quality of Life said the Museum Foundation is more of a friends board but yes they went through the same process and they have a Memo of Understanding with city so that they can fundraise on city property and fundraise for the museums adjacently and then they use those funds either by giving them directly to the museums for a project or one of the biggest projects they have done is that they went to the state legislature and asked for funding to repair the caboose that sits next to the Railroad Museum and then they gave those funds directly to the city through city council then the city's Public Works Department then spent that money as a Public Works project to work on the caboose. So, it depends on what the project is and how that works, how those funds are spent and how they are raised but if the foundation does the fundraising at least the museums fundraising on city property the MOU covers them and they don't have to come to city council every time they do an event or go out and say that they are doing it for the museums

## Agenda Item #6.2.

and it works very well in that process and if I can speak for what I know of the Branigan Estate one of the impediments in the past or the discussion has been because there is a very strict restriction on that funding the discussion has just been about mudding that water and I think that would just be the legal issue that could be taken to Legal Department and then having that discussion about breaking that trust to change it to a different type of funding and also Alice Branigan was really awesome and actually paid for the building of the Branigan Cultural Center and building the Branigan Library, not just books but now it is just books.

Councilor McClure said I am thrilled to see the support that you have got here. What would that look like in terms of creating that bookstore? I am a big fan of seeing that, how quickly could something like that get implemented?

Brad Waters said we actually had a discussion this morning about getting a temporary space going as soon as possible maybe as early as this August. The members that used to run the bookstore before it was termed not viable, were making maybe about \$100,000 a year by selling books on a daily basis. Maybe four hours a day, four to five days a week and that is not uncommon for places that do have an ongoing operation. We have seen bookstores that rival half price books, 2000 square feet but you don't need that. Initially I think we can carve out about 500 square feet in the library now and really make a difference in the revenue stream and that could be done with shelving that we already have that is surplus.

Councilor McClure said I find it slightly horrifying that it isn't a line item because I know the cost of books are incredible especially journals and things like that are very pricey. I think people don't know necessarily all services you all offer but also what you pay for them, so I think explaining to what that is and asking for that funding. I am down to support the library as most of you all know but yea, I am looking forward to this expansion. What would that look like? How quickly can we get something like that together?

Brad Waters said I think we have a decent concept. We will share that with you in the final report. My hesitation is with current financial fiscal climate in the country. Every December Library Journal Magazine publishes a list of all the buildings that have been renovated or built new in the public libraries in the country and this last December we count the numbers and cost per foot for new library construction was about \$700 a square foot. So, if you talk about adding 21,000 square feet to Branigan now, that is just adding the new space you are looking at a \$20 to \$22 million project. That doesn't include renovating the other space that is there so a Branigan renovation and expansion would be \$25 to \$30 million. Brand new 35,000 square foot branch, prototype branch library would be about \$25 million in today's dollars and because of the inflation situation it is really hard for me to warrant those numbers as much or very far into the future. I am a licensed architect to practice in Texas and Wyoming and looking to get my license in New Mexico. I would love to design of renovation or expansion of the Branigan building. I have grown very fond of it. It is a really cool building and it was a really cool concept when it was designed but it has been kind of Frankensteined with all of the additions that have happened to it and where there was natural light coming through the building originally it has all been covered up with new

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construction so I think a timeline you would have to look at six months to a year in design and another six months to a year in construction drawings and a couple of years in construction. So, a two to four year start to finish, from design to cutting a ribbon.

Councilor McClure said the last thing I would say is if we are not fans of having Texas doing it better, think of the amount of how many are in El Paso. How many branches do we have in El Paso, 12? They are a bigger town than us but if you want to reflect what our values are in terms of the services that it provides and it is just not books, it's workforce development, it's all the things you guys mentioned. That is what we value, do you know off the top of your head?

Carol Brey said yes, I believe they are at 14 libraries. I think that is 13 branches and the main library currently.

Councilor Mattiace said we have so many local great authors. I just met Lynn Underwood, Denise Chavez. That would be a great place with the bookstore for signings and it would probably draw a lot of people to the library.

Carol Brey said thank you for that. Yes, I think that is the intent. Our library has always worked with local authors, but you are right we have some amazing ones here and showcasing them and having a place to do that is always really important.

Councilor Flores said I just want to thank you Ms. Brey and Ms. Slaughter and the Friends, I am a Friend of the Library too by the way. Libraries are just the life blood for, and I know I as a child it was really my oasis. Going to the library was probably the most wonderful thing in my life and the love of books and my mother, may she rest in peace was a reader. Just being in a library and looking at all those books and reading and reading and I think it is just the life blood of society of a community. It really opens paths, it opens your heart, it opens your eyes, and it is inspiring. So, whatever we can do as you can see, I think you have a favorable council here that is very pro-library. I think for a building we could probably get a GO Bond or capital outlay. I just really want to thank you all for the work you do.

Mayor Enriquez said I would also like to say thank you for the presentation. Thank you for the information as you can see you do have the support up here at council. This is long overdue, and this is something that we would like to see to move forward whether it is a capital outlay request or the GO Bond or as a GRT as we look into increasing, I feel this would truly be a critical infrastructure that is much needed for our community as the pin states, Strong Library Strong Community. I thank you for the pin and thank you all for being here today to show the support that you have for our library and thanks again for the presentation.

### **3.2 MEMORIAL MEDICAL CENTER OVERVIEW.**

John Harris, CEO Memorial Medical Center gave the overhead presentation.

Mary Armijo, Chief Operating Officer Memorial Medical Center continued the

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presentation.

John Harris continued the presentation.

Councilor Bencomo asked does MMC have things like Quality Score Cards that the hospitals measure certain outcomes on, whether it is patient outcomes, patient safety, patient satisfaction, staff satisfaction, and safety?

John Harris said we have a very elaborate and comprehensive cancer program at Memorial Medical Center and one throughout Lifepoint I might add.

Councilor Bencomo asked did you say a Cancer Center?

John Harris said no, a comprehensive quality program.

Dave Schmidt, Chief Nursing Officer said yes, we do. We use national standards for our Quality Programs through HCAHPS which is a measure thousands of hospitals use in the nation to measure patient experience in nursing communications, doctor communications, and so forth. We also have a national program through Lifepoint that measures our infection rates, falls, and a bunch of other quality measures as well making sure that we present a quality program to our community and our patients at Memorial.

Councilor Bencomo asked how often do you collect that data?

Dave Schmidt said it is collected monthly. We report out monthly, we report out through a whole hospital committee called Patient Quality and Safety Committee and anybody from the board is invited to appear on Teams or in person. We also post it on Units for personnel to read and also it is available for patients. These are nationally reported things through CMS and through other national quality programs that look at our reimbursements.

Councilor Bencomo asked can you share any of those with us, any of those data outcomes?

Dave Schmidt said specifically I just want to do an overview that. I have been here about a year and a half. I came in January 2023, and there are two reasons why John brought me from Pennsylvania to New Mexico. Number one was to open up the Behavioral Health Unit because I have experience doing that and working with behavioral health and also to get our Quality Program back to where we needed to be from the effects of Covid. Through Covid most hospitals around the nation saw about a 3 to 4% decline in their quality scores, Memorial is no different. So, I was brought to build our quality program back up focusing on infection rates, focusing on falls, focusing on readmissions, and then also focusing on patient experience so that when they leave our hospital, they want to return to us because we present a great program for them and also a great environment as well.



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Councilor Bencomo asked are you able to share some of those score cards with the City Manager that he can then share with us?

Dave Schmidt said yes, and we do have our monthly board meeting with our member which there are some present as well.

Councilor Bencomo asked do you have today numbers on hospital revenues for the last several years that you can share with us?

John Harris asked which specifically are you asking about?

Councilor Bencomo said I am curious about hospital revenues and more specifically on how some of those revenues are invested back into the hospital system.

John Harris said as I mentioned in my presentation, and we invested last year alone \$9 million in the facility through a variety of different technologies. The other thing that we invested in as I mentioned before I think we probably had the most aggressive physician recruitment and advance practice recruitment program in the region.

Councilor Bencomo said I think I am asking specific numbers for revenues because I don't know, you said \$8 million in capital improvement and in our asset agreement there is a specific piece in here about the hospital committing to capital expenditures, lessee shall make annual capital expenditures in the operation of the hospital which an amount shall collectively average between 4% and 5%. So, \$8 million sounds great but I don't know if that is 4 to 5% of what is agreed.

John Harris said well the national average of reinvestment in hospitals is 1 ½ %, it is not 4 times that.

Councilor Bencomo said that is what is in our lessee agreement.

John Harris said and we talked with the city and the county about that some period of time ago about what do hospitals invest and they just don't invest in equipment and buildings as they invest in bringing doctors to the community, bringing nurses to the community, bringing advanced practice practitioners and we bring about 35 to 45 practitioners at an average cost of about, when we recruit a doctor is about three quarters to one and a half million dollars each and then there is a loss thereafter maintaining those physicians in the community and we have 28 clinics of practitioners throughout this community and in the region. So, you just don't invest in equipment you invest in a variety of things including software applications, electronic medical records that are in the tens of millions of dollars.

Councilor Bencomo said I know you don't just invest in capital improvements but that is specifically in the agreement that we have with you and that is why I am asking about it.

John Harris said what was recognized at the time, I am just telling you by the City

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Manager Robert Garza and also county was that we end up investing in a variety of different things to help this community have better care. So that is very large and complex question. I would be happy to sit down on another day and discuss that with you in detail.

Councilor Bencomo said I would love that, absolutely. You know in 2020, the last time you all were here the conversation we had at that Work Session was regarding the capital improvement plan and the hospital was requesting to lessen it to 3% and I don't believe that ever came back to council for an official vote. So according to the agreement that was made many years ago that is still between 4 to 5% so I understand that it is \$8 million in investment, but I would just like to understand what that is, how much that is.

John Harris said the only thing that I would ask you to recognize is that I think between all of that is that we had a worldwide pandemic that hadn't caught our attention for four years so.

Councilor Bencomo said I think the other thing that has changed in the last few years is that MMC was also acquired by a private equity firm, Lifepoint and so it is not just the NBC article that came out recently and I did my research and there is tons of articles out there about the concerns that equity firms pose to local health care and I just wanted to read you a couple of these because I think and you said the pandemic impacted some of these quality control issues but this Journal of American Association article of 23 says, "private equity acquisition is associated to increased hospital acquired adverse events including falls central line stream blood infections along with a larger but less statistically precise in surgical site infections". That is from JAMA, the New York Times reported something similar and then Business Insider as well. So, I am curious to hear from you on what your perspective is on how hospital outcomes have been impacted since Lifepoint acquired MMC.

John Harris said I am going to tell you I have operated hospitals for 50 years in a variety of different states. I have never worked for a finer company than Lifepoint and that includes from the top to the bottom. They have never asked me to do anything that was inappropriate. They have always asked me to do the right thing for the community and you saw what the core values are. I think we would be well served by not letting outsizers cast dispersions on a hospital, an institution that has been here in operation for 70 years, we have been here for the last 20 of it and I can tell you that I have worked for less than a hand full of hospitals in this world and I have worked internationally and they don't pay me enough to tell you what I am about to tell you. This is an outstanding manager owner and operator of hospitals. Don't let anyone dissuade you from that. If you want an answer to a question about what the care is here, whether it be quality, whether it be any other aspect of this you call me because I will tell you the truth. I will not try to dissuade you in any other way. This is an outstanding hospital. It is only going to get better, believe in it, support it and you will save lives. Not only for this community but throughout this region. So, in my judgment NBC didn't do a good job, they came in here for other reasons. It was not really about Memorial Medical Center. It was an obstacle in the way and what I am telling you is the truth. This is a great hospital, and it is going to get even better. You have a person

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sitting with your City Manager and always have at that board that has input as into how that hospital is managed and does the county. Let's work together, let's believe in each other. That doesn't mean that we pass over issues or things that we are challenged by, whether it is cancer care, emergency care, or whatever, and let's bring great quality care to this community. That is what they deserve and that is what I am here to provide.

Councilor Bencomo said I appreciate that, and I am glad that you said that because I think that really means that we are on the same page about what we want for our community and I think for me that means that sometimes having to ask tough questions, right? The majority of our job as elected officials has to happen in public, right? I cannot operate privately in private meetings just with you. The things that I learn in my own research to do my job well I want to ask those things publicly because that is how change happens, right? Please don't see this as a call out but a call in. In order for us to do better work together and one of the reasons I am saying that is because I had a bit of a wakeup call when I read this other article about through private equity stakeholder project which Apollo is the Global Management System for Lifepoint, right? Apollo's stronghold on hospitals and one of the quotes in here specifically talks about Las Cruces and it says, "in August 2022, Lifepoint's Memorial Medical Center in Las Cruces, New Mexico closed its psychiatric ward citing staffing shortages. According to the hospitals lease with the city and county and the termination of psychiatric services could be grounds for termination of the lease though city officials have not yet taken any action against the hospital." This particular article calls me out. It's calling us out, right? For our inaction to ensure there is accountability in our partnership and so I feel now like perhaps the city and perhaps the county, It won't speak for the county but certainly the city maybe has been asleep at the wheel maybe just a little bit. So, I am just taking more responsibility in my role as a city councilor for our constituents because we have the same goals of providing quality care to our folks and in preparation for this meeting last time you were supposed to be here in April I took a whole Sunday afternoon and read through most of the agreement which as you know is hundreds of pages. It wasn't super exciting, and it wasn't super sexy reading, but I went through it and I made certain notes on here that I think that are really important for us to remember and some of those specific ones are about indigent care. In volume one, part one on page 13 specifically it talks about the policies for treatment of indigent patients comparable to those presently in effect in the hospital. I just basically talks about the commitment that the hospital is making to indigent care and I hear you say today that we will not turn anyone away and you at the top level are saying that we won't do that however at the community level and I am not talking about outsiders I am talking about residents and not just one or two but continuously residents that have said I have been turned away. I have been turned away for my status as an insured person and so whatever the reason and so what do you think the discrepancy is between the information that you are sharing with us today and the information that we are hearing from our residents.

John Harris said I talked about earlier about the complexities of health care. I can assure you. Lynn Fletcher for example, most of this discussion is around cancer care. Lynn Fletcher has won every humanitarian award there is to earn locally and earn nationally. In terms of her professionalism and how she runs that cancer center. She goes through great length to try and qualify anyone who comes to our door. There are

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always stories behind the stories, and I would say to you that we have researched every one of these that have come to our door. We only know of maybe two or three that are even questionable. We have had inside parties, outside parties research these but if anyone in this community has a complaint, a legitimate argument for something we have done or not done we apologize. If we have not done the right thing, we are always interested in talking with you. Again, what I am telling you today is that we go to great lengths to serve the population not just in Las Cruces but throughout the region and sometimes that is at the cost of a great deal of money. But you want the same thing I want and that is what this company is based on quality safe care because the way I view this, anyone of us could be the next patient that comes in to the that ER with a heart attack or some other major problem, so I want you to know who runs this hospital, it's me. It is not Apollo. Local operations are run by me, and I am always available to each and every one of you. Chief Story knows this, and we met each other when I was at the chamber meeting and others of you know this. So, the point being is that we are available to each other. We don't need an NBC reporter or anyone else in this country outside of this community to come to us and talk about our health care system. If you know something, a friend, or someone else that has had a problem with Memorial Medical Center, I can't answer for three crosses or MountainView but the buck stops at my desk so you call me, and I will give you my cell phone number. I am not going to state it publicly but I am going to give each of you my cell phone number so you can text me, you can call me and if you want a meeting with me all you have to do is call and I will come over to your office.

Mary Armijo said so for all the quality reports that you are asking for we will go ahead and provide the information that you need. We also obviously work with Ikani so we can filter that through. Ikani, if you would like we will send them to you directly.

Councilor Bencomo said thank you I would appreciate that follow up and I hear you sir. I also cannot discount that the Journal of American Medical Association is a trusted source for information regarding our health care system and when they are publicizing information regarding equity firms and the serious decline of care, quality care for our patients that these acquisitions have brought, I hope that you understand that they raise justifiable red flags for me and that is important for me to talk about here. Again, I think this is an important next step. I understand that these are tough questions, but I don't often have the chance to have you in front of me so when you are I want to ask them. There have also been narratives in our community regarding staff concerns. Staffing concerns and the quality of safety for staff and I want to make sure, and I hope that those score cards also include staff surveys that we might get. I think one of the pieces that Ms. Armijo presented at the end was about specialty care. I am curious if you have any response to the concern that even though you are bringing this very specialized care that some of these services further jeopardize our community by subjecting them to inappropriate procedures at high costs when not necessary. Additionally, I am wondering if any of these services are at the expense of providing a central services like general surgeries, behavioral health services, primary care OBGYN, emergency care, or cancer care?

John Harris said we don't do that. We are a highly professional organization. We are not unethical, and I know there isn't anyone, there are people that are trying to this whole PE discussion trying to convince people that somehow or another or these PE

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firms run these hospitals. Believe me Apollo that owns Lifepoint does not run Memorial. You are looking at who runs Memorial, it's me. I don't do things like you described and those are irresponsible comments being made to you in the community and they all deserve reputation on a fact-based basis, none of that is true. I wouldn't associate with an organization that does that.

Mary Armijo said like I said when I got here and I did an assessment on the community and looking at just cardiology alone when you look at the data for example just out of our own hospital there was over 1,800 patients diagnosed with AFib, which means irregularities of the heart and heartbeat and so when you don't have an electrophysiologist here at your hospital able to take care of it what was happening is most people were either having to leave Las Cruces to get care or go to El Paso or not get care at all. The majority of patients in this area do not get the care that they need that is why we built the program that we have today so when you look at other specialties such as general surgery, oncology, and you know we have a full line of general surgeons at our hospital that continue to see patients. Medical oncologists are very difficult to recruit. We have lost a couple of our medical oncologist over the years but that is very high specialty, they are very hard to find and so having to recruit to Las Cruces is difficult. We have talked a little bit, I have spoken to the Mayor before we want to be able to sell Las Cruces as a destination to come here but we need to be able to show that we have schools that are able to support their children. We talk about all the things about Las Cruces and why you want to come here, low crime rate, it is a great place to live. The cost of living isn't expensive but then again with the item that I talked about earlier with Med Mal Capitation, that is going to be extremely difficult to recruit those high need specialist. So, another example is ear, nose, and throat for this population of 300,000 people we have 3 EMT's in this community. That is also another high specialized area, it is very difficult to recruit, and it goes on to GI, radiation oncology, and that is why as John had stated before we need to work together to make sure that we are able to recruit to our hospitals. So, it is not that we don't want to provide services and we are very fortunate actually to have the doctors that we do in cardiology. It took me 16 months to recruit our medical director over to this program and when he realized when he got to Las Cruces and I did I showed him all of the data because we were so under served and what he realized is that people take it for granted that when you are in metropolitan area that you have the specialists that you need at your fingertips but in a community like Las Cruces you do not and so as difficult as it is do you want to continue to provide the services that we offer.

Councilor Bencomo said tension like this builds when there is a lack of communication and lack of transparency and so this is just an invitation to have more of those conversations. Like I said I have talked to our new City Manager about making this a priority and so I will make sure that I am no longer asleep at the wheel when it comes to the partnership of, such an important partnership of our community and so this is just an invitation for us to have some tough and courageous conversations but certainly to keep having them so that we can address some of these community concerns that I believe are very valid and better ways to address them.

John Harris said one of the things you have to appreciate that we like most hospitals really locked down during the Covid pandemic. We were doing all that we could to keep up with that. Our entire focus was on that. Prior to that there was a lot more

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communication between the parties. You referenced earlier a meeting you invited us to we immediately said to the County Clerk that we were unable to attend that meeting at that time which is how this meeting got set up. So, there was never a meeting scheduled that we did not show up for that we agreed to be at. We are always available to you for the most part it is just that we have busy schedules just like you do. So, we are happy to accommodate you in any way that we can but these kinds of irresponsible dispersions that are being passed in this community, there is no truth to these. We stand for quality safe care. This hospital earned the highest award that Lifepoint has to offer in Las Cruces. For first and foremost quality, how it treats its employees, how it works with its doctors, how it integrates with its community and lastly that it is financially viable. Apollo does not run this hospital, I do and I run it with everyone that is sitting here before you and many other dedicated people that live in Las Cruces, respect Las Cruces. They take care of their friends, their neighbors here. That is what we are about. We have our antenna up for any type of procedure done by any type of specialist that is here and if it's not appropriate we are talking to them. Believe me that is policed in any well managed hospital which Memorial Medical Center is. That kind of thing is not going to go on under my watch but what Mary referenced is what we are trying to do is that there are patients that have gone on without being diagnosed properly and there have been issues in this region but what we are doing is we are taking health care from here to here and the individual for example in cardiology, he is boarded in six different areas of cardiology practice. He is our Medical Director, that is who you have got that is at our side when we are looking at cardiology. We are going to do the same thing in every major specialty for this community. So, take the time, call me, make an appointment, you want to talk we can sit in the board room at the hospital, and we will answer any of the questions that you have about any aspect of how Memorial is run. It is a hospital you should be proud of, believe me I am.

Councilor Corran said I appreciate you all presenting today and I am really interested and a lot of what you said was trust me and talk with me and I am really just here to ask for the receipts because that is what we are asked for and so typically I think Mayor Pro Tem eluded to some of your safety reports and I think frankly these need to be presented at a public meeting. So, I'm going to not accept your invitation, but we would invite you back for a formal. I think I am interested in a number of the things Councilor Bencomo mentioned so specifically I would ask that we have another public meeting. I would like to schedule you all to come and present some actual data and information for us and I have a few specific asks I am hoping that you can do that, and I don't know how many months it might take you to develop that, but we can hopefully schedule another Work Session, specifically safety related data as Councilor Bencomo mentioned. I would also like to know of the charity care, I would like to see that broken down in two ways. One, the types of things being compensated for charity care and the demographics of folks who are receiving that charity care. So both of those facets of the \$53 million that you eluded to and then the last part is related to specifically to continuity of care and not just moving forward and we will have to speak to the City Manager in terms of how this is presented or if this is presented at the board meetings but I would like to see the continuity of the types of care that are being provided for instance, basic surgery, coverage, how often are folks being referred out of town because of the lack of staffing or some of the staffing issues that Councilor Bencomo eluded to. I would like to see some specific data about that as

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well because I think it sounds like you have really beefed up your cardiology and acute care for cardiac patients and that's great but of course we know that there are a number of other things that are sort of expected especially as part of our lease agreement. My first ask is that we plan another meeting, and my second ask is for those specific data points that we can share them with the community again and not be asleep at the wheel in terms of paying attention to what kinds of services you all are providing.

Councilor Flores said I want you to understand that this is not an attack on you. It has to do with the fact that as city councilors we are the frontliners for everything. We get it all, but this particular issue is disturbing to me because we used to have a Health Policy Review Committee and we would have people come in and one of the councilors I believe who started it Jack Eakman and he was a hospital administrator and he was in the audience and I don't see him, he's gone. The concern right now is that patients who are indigent are not being treated humanely. People who don't have insurance aren't being treated humanely. I know that when I broke my ankle a year ago it was like my world fell apart. I couldn't get around. I was incapacitated and then I think if I found out I have cancer and I didn't have coverage and the stories we are getting from different people, different sources. I went to Medical Memorial, say my coverage Humana, whatever I have wasn't good enough what would I do? And adding insult to injury not having the hospital say well look you are indigent, or you don't have insurance, or we don't take that insurance or whatever, but this is what we will do, we will work with you. I haven't heard that from Mary, Ms. Armijo, or you. What do you do in terms of someone coming and you can't provide the service and in this case, we have a lot of people in our community with cancer which is probably a fall out of the trinity bombing, so what do you do?

Laura Thomas said I oversee our eligibility team. We have a very large eligibility team. I have six people that dedicate their workday only to ensuring that we have eligibility.

Councilor Flores asked if you could just go through the process?

Laura Thomas said one of the things that I felt was most unfair about the article was that it portrayed our teams that work very hard and work with people who get the C diagnosis.

Councilor Flores said I did not read the article, I am talking from experience of people who have come to us.

Laura Thomas said what happens is that someone is going to come to our door, and they are going to say I don't have insurance. I don't have a means to pay. The only way that they are going to get to our door is because they have a referral from a primary care practitioner. So that is how we get referrals to the Cancer Center. We also get referrals out of the Emergency Department. That is why I was talking about that other group of people, the six people that I was talking about because we actually place them in the Emergency Department to see which patients are coming to the Emergency Department and do not have a primary care service provider. So, we can figure out how can we provide a primary care practitioner to that population.

Councilor Flores asked what if they don't have any insurance?

Laura Thomas said we also pretty much hold their hand trying to help them get into some type of insurance plan. For people who are part of Better US citizens they can go through the expanded Medicaid process, so we provide them with education and application processes and resources to do that.

Councilor Flores asked you have to be a US citizen to receive medical care?

Laura Thomas said no, I am talking about getting a resource for insurance. So, there is also an option for undocumented noncitizens called the New Mexico Insurance Pool. We worked really hard to become members of that insurance pool so that we could provide care for those patients that needed insurance through that insurance option or resource.

Councilor Flores asked the behavioral unit on the fifth floor was closed down because of Covid but I was closed down for a long time, why is that?

Dave Schmidt said when I arrived at Memorial in January and the department was closed since November and we had closed down because we had lost providers not so much staffing. We did not have doctors, nurse practitioners to provide medical care and the psychiatric for these patients that they needed. We had some staff that stayed in the hospital that were then kind of moved to other units to keep them employed at Memorial if they wanted to be there. Other behavioral health nurses decided to leave because they were not sure when we would open it up again. Trying to recruit like Mary talked about a psychiatrist care to New Mexico or just try to recruit a psychiatrist to a hospital is very difficult. There is a very small pool to try and pull psychiatrists in the United States and like they talked about it takes at least six months to get a doctor licensed, their DEA certificate from a different state in New Mexico that is why when we went down that route and had some roadblocks and get psychiatrists to come to New Mexico. That is when we reached out to the PEAK and Mesilla Valley to see if there was anyway to partner with that already established provider pool. Which the PEAK came out. We talked about two or three months we had to do a contract with them which again takes time between both the facilities and the PEAK and our facility as well and then have that provider come in and train our EMR credentialed, making sure that when they go through credentialing, all of their paperwork, their medical checks, make sure they went through the right school and have the right abilities to provide care, the hospital is there and that takes about two months in itself. So again, it was a process that we were working on every single day to make sure we were helping this unit as much as possible and then we found the providers we had to make sure we had enough staffing to do this as well which we started conjunction the last three months of that conjunctioning process.

Councilor Flores said we are all aware that there is a shortage of doctors, physicians in the state of New Mexico. Apropos of that do you have a lobbyist that goes up to the Capital, Santa Fe to ask them why they are raising, I know Dr. Devastali, is and I know there are other doctors to who have just decided to retire because as good as



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they are and as wonderful as they are if you don't have medical malpractice it is impossible to practice. So does your organization, does Lifepoint, Apollo, they are pretty powerful you would think there would be a lobby that would work with the legislators of our respective states?

Dave Schmidt said we do have a lobbyist that goes up and State Bill 75 is something we would like you to take a look at and offer your support to that to the round house. When we talk about lobbyist also there is a lobbyist for plaintiff attorneys as well. In the state for malpractice cases. Again, that is a very strong lobby as well so any support we can get from the county and city council we would really appreciate that.

Councilor Flores said that is an issue to, but you didn't mention that as a factor and to the shortage of doctors. I know two of my doctors have gone to El Paso and two of my other doctors were already in El Paso we because we didn't have them here.

Mary Armijo said if you look in the packet that we gave you we actually included the actual bill so that way you guys can familiarize yourself with the bill because the medical mal caps are high. It factors only two insurance companies now that are willing to ensure physicians in the state of New Mexico and so when we talked about some of our specialty services, another area is urology. There is an independent urology group here in Las Cruces and we actually had four urologists that were practicing at Memorial. One has elected to leave Las Cruces and go to El Paso fulltime and which we are down to three which two of the three are down to retirement age and so we will then be down to one and she is contemplating whether to stay here or not because of medical malpractice because they have to pay for that out of pocket. We have the ability as a larger corporation to cover medical malpractice for our employed physicians which is a benefit for this community but not every physician who practices here in the state of New Mexico has that. We just wanted to make sure you guys are very well aware.

Councilor Flores said it is interesting though that to me that is an obvious factor in providing services and again I want to state that it has a lot to do with caring for people and the people we hear from feel that they are being pushed aside so just keep that in mind in terms of how you and I am not criticizing you I am just saying that those are definitely bonified concerns.

Mary Armijo said access to health care is just going to become more difficult in the state of New Mexico because of physicians leaving the state so we are not only impacted here in Southern New Mexico but also in Northern New Mexico it is the same case because they are a very overwhelmed system there so our goal is to continue to recruit in physicians and specialist and you know we have a team of recruiters that helps us with that but again it is really selling them to come to New Mexico to practice but that is a barrier for us is medical mal.

Councilor Flores asked being part of Lifepoint, being part of Apollo do they work with local hospitals and doctors to make sure that medical mal isn't prohibited?

Mary Armijo said yes ma'am. We have a team that works with us that will help us with

## Agenda Item #6.2.

all of the assistance that we need with medical malpractice and getting physicians here however you know with like I said there is only two now insurance companies that will provide medical malpractice insurance for the state of New Mexico it is becoming a little bit more narrow but it's very expensive.

Laura Thomas said I just want to make sure that everyone knows that it is just for hospital services center with Lifepoint. Apollo has no operational responsibility for our site. That name keeps getting brought up. That is a funding source that is not an actual operational company.

Councilor McClure said I guess I am echoing some of the sentiments that have already been expressed out here. I was hoping there would be a little more specificity to how your strategy is with some of your economically disadvantaged population, our heavy uninsured population and I look forward to hearing more about that specifically in the next Work Session. What I would like to hear a little bit more about is strategy in terms of care, Medicare is ranking you 2 out of 5. Tell me how you are aiming to change that rating?

Dave Schmidt said in reference to our quality scores and what is publicly reported and the time frame that they are reporting that is usually lagging by about a year, year and a half in some with some of these scores. So, for example with the CMS scores most of the scores are drawn from 22 to probably the first part of 23 just because of the amount of information that comes into Medicare and also to another organization called Leapfrog which looks at a rating from A to F. A lot of information that we are viewing online on hospitalcompare.gov is old data and what we present in our board meetings and PCCQ is the running 12-month data because that is data that we really want to see as we improve our scores from back in June of last year to May of this year.

Councilor McClure said that means that you had a strategy to change that. I have not seen any reporting from any of the offices so at that point how have you lifted yourself up from that rating?

Dave Schmidt said one of the first things I did when I got there was an assessment of the hospital and the culture and what we call the culture of safety. How safe do the nurses feel when they come to work because that translates into safe care of the bedside and we do an internal survey called a Cozy Score which just looks at that survey of culture in our hospital. When I first arrived, we were at 82% of our staff taking that survey which is a fantastic number for a large hospital like ourselves. This year we actually raised it to 83% of our staff members. So just over 1,000 staff members told us how they feel about working at the hospital about our safety program which is really important because then they give us specific information about how they feel working, what we can improve upon, and also what we are doing good on. So, I took that information and really looked at what can give us the best bang for our buck in a very short time frame and that is what we call a harms reduction or something that happens to a patient we don't want that to happen, infections, falls, urinary tract infections, and so forth that we deal with on a daily basis and also patient experience. What I focused on was those harms. This is process driven. That was the

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first year that we really increased those numbers. We decreased falls, we decreased infections, and now we are turning that attention to patient experience, nursing communication, doctor communication, that is more culture. As over the last year we have seen our harm's number go down and those infections go down we are now seeing in the last four months, Ikani will see that in our presentation those patient experience scores starting to come up because there is different sense in the nursing staff, in the staff that are non-nurses, and have a lot to do with that patient experience. The dietary folks, the EVS folks, facilities folks, the radiology folks but have interaction and have a big impact on the patient so when that patient leaves, they want to come back to our hospital because of the experience. We look at best practices and local hospitals in our environment and also we talk to our sister hospitals. There are 50 some other hospitals that we can then share ideas throughout the country and do what is best for our patients.

Councilor Bencomo said I hope that we walk away here knowing what the NBC story was lifting up wasn't a criticism on your front line staff which I am sure are doing their best under what they believe the rules are, what they believe procedures are that they have to follow when they are having their interactions and so I don't want it to be a walk away that there was a criticism. I did not receive it as a criticism of your staff. I received it as a criticism of a much larger system in place and I think I just also lastly want to say that I understand that it is difficult to receive criticism, trust me. I understand how difficult it is to receive criticism and sometimes you have to swift through a lot of noise to get to the core of why people are really frustrated and right now there is a very legitimate conversation for us to be had about frankly the system we live in which is for profit health care in this country and that is having a very serious and real impact on the people in our community and that is the conversation that I hope we continue to have in good faith because this is a good and important partnership and we want to make it better and stronger and I hope that is what we walk away with here today.

Mayor Enriquez said I just want to say thank you John for attending and delivering the presentation today. I want to mention to council if there is any additional questions, data information, please relay that to the City Manager. Ikani will then get with MMC and see about a future Work Session with some of those items. I think we are definitely all on the same page of what we want here in this community is the best health care that can be offered to our residents, and I know you are working at it. All the staff in front line to everyone and so continue and that there are a lot of partnerships that you do in the community. Just a week or two weeks ago sponsoring the Superintendent with his State of the District Address, those type of things as we talk about what we can do to better this community so that we can get better health care. I look forward to seeing you again.

### **3.3 A LAS CRUCES INNOVATION AND INDUSTRIAL PARK (LCIIP) UPDATE AND PROPOSED CHANGES TO THE INDUSTRIAL PARK OVERLAY ZONE.**

Elizabeth Teeters, Economic Development Director gave the overhead presentation.

Sara Gonzales, Economic Development Project Manager continued the overhead presentation.

Councilor Flores said it makes a lot of sense in terms of the types of businesses and everything. So, when it comes to the sidewalks to the businesses would they be responsible for paying just the way developers do when they are building homes? Who would absorb that cost, would it be the city, or would it be the business?

Sara Gonzales said currently right now the way the code is written it is up to the developer to install and so unless a waiver is approved by city council for an applicant to come in and not do sidewalks into a development that is up to the city to basically to say yes or no to. Code does require for every developer just like in any subdivision would come in and install sidewalks. With that also being said though there is also the provision that if the sidewalks are now installed and have gaps, we have to look at maintenance as well as the cost because once the sidewalk is installed then the city is to maintain it because it is now part of our right-of-way.

Councilor Flores asked so depending on how the parcels are sold it may be a patch work of sidewalks and no sidewalks, gap?

Sara Gonzales said that is correct. Right now, we see sidewalk gaps because we do have several parcels that are already developed and so that portion of those parcels would not be complete that would be up to essentially the city would have to come in and do those improvements.

Councilor McClure said if we are trying to draw in perhaps international connections are you considering how industrial parks look over there? Just as sort of a side, a couple of years ago I went to Nuevo Leon in one of their industrial parks and it was very walkable actually. There were a lot of people who were walking to get food, our hotel was in the industrial park. So, if there was consideration of looking at what international customers might be interested in too that is just side note more so then anything else.

Sara Gonzales said that is something that we can look into. I did not research that as part of the research and just knowing of what we have in our environment as far as when we look at landscaping, the irrigation. If we want to install the sidewalks, we definitely need to be looking at the landscaping that is going along with those sidewalks because we don't want it to be where you are walking and it's just natural vegetation, we would want to see the tree canopy extended as well.

Councilor Bencomo asked regarding the sidewalks on the southside we had recently a request for some sort of appeal from Loves so is the recommendation that we, I am assuming that we are coming back with that appeal that we say no and the conversation that I heard at least the last time that we talked about Loves that at least the part of the inside of the park that we did want to see sidewalks? I think we wanted to see the park developed so that it met the needs of the people who work out there, who probably don't have the luxury to come into downtown for lunch during their lunchbreak because it is so far away and so the desire was to develop that and certainly with the understanding that it is an industrial park but that it also has people there and so I am just curious about if I had heard that right or if we are sort of making

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that assumption about Loves and the request that they had made from us earlier.

Sara Gonzales said our main resource is to give you more information to decide what is going to be better developed for our park and so we are providing recommendations based on studies that have been provided, the actual traffic that works through there. We are also currently working with the business owners. We had started reaching out to them to see if the sidewalk is something that they wanted to see in the park. Second of all is it something that they would be willing to install if the city were to maintain it. So that we would understand what kind of cost we would be looking at because of course if it doesn't get installed now then that does come down to the city installing it and the cost coming down to the city and so those have to be those recommendations. We are looking at the park from a design of the north side and south part are two different ideas as to what is being developed but overall, it is if we have all this information what do we want to see as a city. We can understand and basically installing that on that northside because you will have that walkable space where you are walking to something, and not necessarily will I be and personally me am I going to be walk across the highway or am I going to stay on the southside. It depends on how far yes people want to walk, what are going to be the services provided for them to walk. On the south side we only have a limited amount of commercial and that is what I think changes the actual property. Based on our zoning map these are our commercial parcels right here. Everything else is considered industrial at some point and so most of our commercial is going to be that north side so this may still end up being that heavy truck traffic that is going through there. In speaking with one of the actual business owners out there they actually referred to not having sidewalks. They would actually rather have stop lights on the corners due to truck traffic right now and so we are learning a little bit more I think from our business owners who have actually been in the facility and have had to work out there and see what their needs are and so those may be some of the infrastructure needs that we need to start looking at.

Councilor Mattiace asked the money that we are going to be spending for sidewalks, that would be from the companies that come in and the reason I bring this up is that you mentioned wastewater gaps, electrical gaps, would it be better to concentrate on those gaps? In reading the New Mexico Border Inc., I was down in Santa Teresa for eight and half years, I noticed Grants, New Mexico is getting a 7 million square foot manufacturing company. I noticed Albuquerque and Rio Rancho and Roswell are getting huge manufacturing companies. Is there a possibility that if we provide and fix the gaps for water and wastewater, electrical, and build the platforms, the foundations for the factory to go up right away would that be advantageous to actually recruit more businesses to the industrial park?

Elizabeth Teeters said yes. So, our focus actually has been on those infrastructure gaps and so the congressional earmarks if they come through or if we get the EDA Grant that is where we would like to use the funds because that is what is actually going to bring the business in. The overlay zone is for when they actually decide to locate here and to start working on their facility and it is going to be whether these businesses are coming in have to build those sidewalks or not or whether we feel they need to. That is kind of two different conversations. It is getting them here which is the infrastructure gaps and then once they are here what do we want to require that they

have to put in when they locate here.

Mayor Enriquez said I agree with staff's recommendations that the sidewalks be used on one side and then it varies depending on the businesses on what is coming in and how it is going to be used but thank you for the presentation.

4. ADJOURNMENT

4.1

Councilor Johana Bencomo moved, seconded by Councilor Yvonne Flores, to Adjourn at 3:57 p.m.

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

\_\_\_\_\_  
Mayor

\_\_\_\_\_  
City Clerk



25-001

# City Council Action and Executive Summary

Type of Action:  
☒ Resolution  
☐ Ordinance  
☐ TIDD Resolution

|              |                                                                                                                                                                                                           |                   |                    |
|--------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------|--------------------|
| District:    | <input type="checkbox"/> 1 <input type="checkbox"/> 2 <input type="checkbox"/> 3 <input type="checkbox"/> 4 <input type="checkbox"/> 5 <input type="checkbox"/> 6 <input checked="" type="checkbox"/> N/A |                   |                    |
| 1st Reading: | Adopted: July 1, 2024                                                                                                                                                                                     |                   |                    |
| Drafter:     | Crystal Silva                                                                                                                                                                                             | Department:       | Financial Services |
| Program:     | Grants Administration Program                                                                                                                                                                             | Line of Business: | Fiscal Management  |
| Title:       | A RESOLUTION AUTHORIZING THE CITY OF LAS CRUCES (CITY) TO ACCEPT TWO (2) GRANT AWARDS FROM THE NEW MEXICO DEPARTMENT OF TRANSPORTATION (NMDOT).                                                           |                   |                    |

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

**PURPOSE(S) OF ACTION:**  
To accept and execute the offered grant awards.

**BACKGROUND / KEY ISSUES / CONTRIBUTING FACTORS:**  
The City of Las Cruces (City) was awarded the following New Mexico Department of Transportation (NMDOT) grant awards:  
2024-2025 Local Government Road Fund (LGRF) Program - Control No. HW2 L100595  
The City proposed a Pavement Rehabilitation Project for its 2024/2025 Coop Project to the NMDOT Program. The total cost of the project is estimated to be \$399,829.03. The scope of the project is to mill and inlay new pavement, install roadway striping, and adjust manhole and valves on West Amador Ave with the beginning of Project (BOP) being immediately east of the intersection of Pioneer Place and W. Amador Avenue and the end of project (EOP) being immediately west of the intersection of S. Archuleta Road and W. Amador Avenue.  
  
The project area was selected based on the City's Pavement Management Program, the Arterial classification of the roadway, the connection to other major roadways, the heavy truck use, and fulfilling multimodal MPO goals.  
  
The City has been offered a grant in the amount of \$193,650.00 from the NMDOT LGRF Program for this project (Attachment "A"). Acceptance of this grant requires the City to contribute a 25% match in the amount of \$64,550.00 for a total project grant amount of \$258,200.00. The match and the project cost in excess of the grant amount to construct the project will be funded through the Drainage & Flood Control expense account.

The City further certifies that the proposed work is on a public highway, street, and is necessary for the public good and convenience and to serve the public within the municipality, county, and school district.

2024-2025 Municipal Arterial Program (MAP) - Control No. L100618  
The City applied to the NMDOT 2024/2025 MAP. The total cost of the project is estimated to be \$613,802.56. The scope of the project is to improve the intersections of East Lohman Avenue and South Walnut Street. This includes a geometric modification, traffic signal replacement, sidewalk/ramp modification to be compliant with

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the Americans with Disabilities Act (ADA), and signage and striping which will increase system efficiency by building and maintaining a coordinated transportation system that operates in an efficient and cost-effective manner for traffic volumes of more than 20,000 vehicles per day.

These improvements are a continuation of City initiatives to increase safety, improve efficiency and travel times along the E. Lohman Avenue corridor. The Lohman corridor (previously Highway (Hwy) 342) connecting Interstate 25 to Valley Drive (Hwy 185) and to the I-10 access at Motel Blvd. carries more than 20,000 vehicles daily. These improvements to the signal operations are expected to reduce multi-modal crashes and decrease wait times along this busy corridor.

The City has been offered a grant in the amount of \$400,000.00 from the NMDOT Municipal Arterial Program for this project (Attachment "B"). Acceptance of this grant requires the City to contribute a 25% match in the amount of \$133,333.00 for a total project grant amount of \$533,333.00. The match and the project cost in excess of the grant amount to implement the project will be funded through the Roads and Streets Construction expense account.

The City is required to match 25% of the grant amount and is responsible for 100% of the project costs in excess of the grant amount.

The acceptance process requires the City to pass a Resolution referencing the scope of work, monetary amounts awarded, control number, and to adopt the project as a priority before processing the agreements between the NMDOT and the City. NMDOT requires this Resolution to be passed as soon as possible, in order to process grant agreements in a timely manner.

### **SUPPORT INFORMATION:**

[ATTACHMENT "A" City of Las Cruces - LGRF FY 2025 Agreement Unsigned](#)

[ATTACHMENT "B" City of Las Cruces - MAP FY 2025 Agreement Unsigned](#)

### **PLAN(S):**

Elevate Las Cruces

### **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 the two (2) NMDOT grant awards.

2. Vote "No"; this will not approve the Resolution to accept the two (2) NMDOT grant awards and result in a loss of funds.



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3. Vote to "Amend"; this will require further direction from staff.
4. Vote to "Table"; this will result in a loss of funds needed to complete City projects.

**RESOLUTION 25-001**

**A RESOLUTION AUTHORIZING THE CITY OF LAS CRUCES (CITY) TO ACCEPT TWO (2) GRANT AWARDS 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 \$193,650.00 from the NMDOT LGRF Program for this project (Attachment "A") and acceptance of the LGRF grant requires the City to contribute a 25% match in the amount of \$64,500.00 for a total project grant amount of \$258,200.00; and

**WHEREAS**, the City has been offered a grant in the amount of \$400,000.00 from the NMDOT Municipal Arterial Program for this project (Attachment "B") and acceptance of this grant requires the City to contribute a 25% match in the amount of \$133,333.00 for a total project grant amount of \$533,333.00; and

**WHEREAS**, the City is required to match 25% of the grant amount and is responsible for 100% of the project costs in excess of the grant amount; and

**WHEREAS**, the acceptance process requires the City to pass a Resolution referencing the scope of work, monetary amounts awarded, control number, and to adopt the project as a priority before processing the agreements between the NMDOT and the City.

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

**(I)**

**THAT** the City will accept the grant award through NMDOT Agreement Control No. HW2 L100595 for \$193,650.00 with a City match of \$64,500.00.

**(II)**

**THAT** the City will accept the grant award through NMDOT Agreement Control No. HW2 L100618 for \$400,000.00 with a City match of \$133,333.00.

**(III)**

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

**(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

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APPROVED

\_\_\_\_\_

ATTEST:

\_\_\_\_\_

**Moved by:**

**Seconded by:**

**AYES**

**NAYS**

Contract No. \_\_\_\_\_  
Vendor No. 0000054342  
Control No. HW2L100595

**LOCAL GOVERNMENT ROAD FUND  
COOPERATIVE AGREEMENT**

**This Agreement** is between the **New Mexico Department of Transportation** (Department) and **City of Las Cruces** (Public Entity), collectively referred as the “parties.” This Agreement is effective as of the date of the last party to sign it on the signature page below.

Pursuant to NMSA 1978, Sections 67-3-28 and 67-3-28.2, and State Transportation Commission Policy No. 44, and

Pursuant to the Public Entity’s resolution that assumes ownership, liability, and maintenance responsibility for the project scope, or related amenities, and required funding to support the Project identified herein, the parties agree as follows:

**1. Purpose.**

The purpose of this Agreement is to provide Local Government Road Funds to the Public Entity for the Project, as described in Control No. L100595, and the Public Entity’s resolution attached as **Exhibit C**. See:

Pavement Rehabilitation/Improvements, Reconstruction, Construction Management

The Project is a joint and coordinated effort for which the parties each have authority or jurisdiction. This Agreement specifies and delineates the rights and duties of the parties.

**2. Project Funding.**

- a. The estimated total cost for the Project is **Two Hundred Fifty Eight Thousand Two Hundred Dollars and No Cents (\$258,200)** to be funded in proportional share by the parties as follows:

| Project Funding                                   | Department Share | Public Entity Share | Total Project Cost |
|---------------------------------------------------|------------------|---------------------|--------------------|
| <b>Funding Source 1</b>                           | <b>75%</b>       | <b>25%</b>          |                    |
| <b><u>FY 2025 Local Government Road Fund</u></b>  | <b>\$193,650</b> | <b>\$64,550</b>     | <b>\$258,200</b>   |
| <b>For the purpose stated above in Section 1.</b> |                  |                     |                    |
| <b>Total Project Cost \$258,200</b>               |                  |                     |                    |

- b. The Public Entity shall pay all Project costs, which exceed the Total Project Cost.
- c. Any costs incurred by the Public Entity prior to this Agreement are not eligible for reimbursement and are not included in the amount listed in this Section 2.

**3. The Department Shall:**

Pay the Department's Share of Project Funding identified in Section 2, Paragraph a, to the Public Entity in a single lump sum payment after:

- a. Receipt of a cover letter requesting funds;
- b. Receipt of a Notice of Award and Notice to Proceed;
- c. Receipt of Estimated Summary of Costs and Quantities;
- d. Verification of available Local Government Road Funds and Public Entity's local matching funds identified in Section 2, Paragraph a; and
- e. All required documents must include Department Project and Control Number.

**4. The Public Entity Shall:**

- a. Act in the capacity of lead agency for the Project described in Section 1.
- b. Submit an estimate of the Project, including work to be performed and cost to the District Engineer within thirty (30) calendar days of execution of this Agreement, or as otherwise agreed to in writing by the parties.
- c. Be solely responsible for all proportional matching funds identified in Section 2. Certify that these matching funds have been appropriated, budgeted, and approved for expenditure prior to execution of this Agreement.
- d. Pay all costs, and perform and supply or contract for all labor and material, for the purpose as described in Section 1 and the Project estimate approved by the District Engineer.
- e. Procure and award any contract in accordance with applicable procurement law, rules, regulations and ordinances.
- f. In accordance with project parameters, assume the lead planning and implementation role and sole responsibility for environmental, archaeological, utility clearances; railroad and Intelligent Transportation System (ITS) clearances; right-of-way acquisition; project development and design; and project construction and management.
- g. Cause all designs and plans to be performed under the direct supervision of a Registered New Mexico Professional Engineer, when applicable, as approved by the Department.
- h. Obtain all required written agreements or permits, as applicable, from all public and private entities.
- i. Allow the Department to inspect the Project to confirm that the Project is constructed in accordance with the provisions of this Agreement. Disclosures of any failure to meet such requirements and standards as identified by the Department, will result in termination for default, including without limitation the Public Entity's costs for funding, labor, equipment and materials.
- j. Complete the project within eighteen (18) months of approval of funding by the State Transportation Commission.
- k. Within thirty (30) calendar days of completion, provide written certification that all work under this Agreement was performed in accordance with either the New Mexico Department of Transportation's Standard Specification, Current Edition; American Public Works Association (APWA) Specifications; Department approved Public Entity

established Specifications; or Department Specifications established for Local Government Road Fund projects, by submitting the **Project Certification of Design, Construction, and Cost form**, attached as **Exhibit B**.

- l. Within thirty (30) calendar days of completion, furnish the Department an **AS BUILT Summary of Costs and Quantities** form, attached as **Exhibit C**. The report should reflect the total cost of the Project as stated in the **Project Certification of Design, Construction, and Cost** form.
- m. Failure to provide the **Project Certification of Design, Construction, and Cost** form and an **AS BUILT Summary of Costs and Quantities** report within thirty (30) calendar days of Project completion is a material breach of this Agreement and Public Entity shall reimburse to the Department all funds disbursed in accordance with this Agreement.
- n. Upon completion, maintain all Public Entity facilities that were constructed or reconstructed under this Agreement.

**5. Both Parties Agree:**

- a. Upon termination of this Agreement any remaining property, materials, or equipment belonging to the Department will be accounted for and disposed of by the Public Entity as directed by the Department.
- b. Any unexpended or unencumbered balance from the Local Government Road Fund appropriated for this Project reverts to the Department. These balances, if any, must be reimbursed to the Department within thirty (30) calendar days of project completion or expiration of this Agreement, whichever occurs first.
- c. This Project is not being incorporated into the State Highway System and the Department is not assuming maintenance responsibility or liability.
- d. Pursuant to NMSA 1978, Section 67-3-28.2, Local Government Road Funds granted under this provision cannot be used by the Public Entity to meet a required match under any other program.
- e. As applicable for state-funded projects, the provisions of the Tribal/Local Public Agency (T/LPA) State Funding Handbook (Current Edition), and for projects with federal funds, the provisions of the Tribal/Local Public Agency (T/LPA) Federal Funding Handbook (Current Edition), are incorporated by reference and control the contractual rights and obligations of the parties unless in conflict with the specific terms expressed in this Agreement or any amendments.

**6. Term.**

This Agreement becomes effective upon signature of all Parties. The effective date is the date when the last party signed the Agreement on the signature page below. This Agreement terminates on **12/31/2025**. In the event an extension to the term is needed, the Public Entity shall provide through a duly authorized agent written notice along with detailed justification to the Department sixty (60) calendar days prior to the expiration date to ensure timely processing of an Amendment.

**7. Termination.**

- a. If the Public Entity fails to comply with any provision of this Agreement, the Department may terminate this Agreement by providing thirty (30) calendar days written notice.
- b. The Department may terminate this Agreement if the funds identified in Section 2 have not been contractually committed within one year from the effective date of this Agreement.

- c. If sufficient appropriations and authorizations are not made, this Agreement will terminate immediately upon written notice of the Department to the Public Entity.
- d. Neither party has any obligation after termination, except as stated in Sections 4, 5, and 16.

**8. Third Party Beneficiary.**

It is not intended by any of the provisions of this Agreement to create in the public or any member of the public a third party beneficiary or to authorize anyone not a party to the Agreement to maintain suit for wrongful death(s), bodily and/or personal injury(ies) to person(s), damage(s) to property(ies), and/or any other claim(s) whatsoever pursuant to the provisions of this Agreement.

**9. Liability.**

As between the Department and Public Entity, 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 the immunities and limitations of the New Mexico Tort Claims Act, NMSA 1978, Sections 41-4-1, *et seq.*, and other applicable law.

**10. Contractors Insurance Requirements.**

The Public Entity shall require contractors and subcontractors hired for the Project to have a general liability insurance policy, with limits of liability of at least \$1,000,000 per occurrence. The Department is to be named as an additional insured on the contractors and subcontractor's policy and a certificate of insurance and endorsements listing the Department as an additional insured must be provided to the Department and must state that coverage provided under the policy is primary over any other valid insurance.

To the fullest extent permitted by law, the Public Entity shall require the contractor and subcontractors to defend, indemnify and hold harmless the Department from and against any liability, claims, damages, losses or expenses (including but not limited to attorney's fees, court costs, and the cost of appellate proceedings) arising out of or resulting from the negligence, act, error, or omission of the contractor and subcontractor in the performance of the Project, or anyone directly or indirectly employed by the contractor or anyone for whose acts they are liable in the performance of the Project.

**11. Scope of Agreement.**

This Agreement incorporates agreements, covenants, and understandings between the parties concerning the subject matter. All such covenants, agreements, and understandings have been merged into this Agreement. No prior agreement or understandings, verbal or otherwise, of the parties or their agents are valid or enforceable unless included in this Agreement.

**12. Terms of this Agreement.**

The terms of this Agreement are lawful. Performance of all duties and obligations must conform with and not contravene any state, local, or federal statutes, regulations, rules, or ordinances.

**13. Legal Compliance.**

The Public Entity shall comply with all applicable federal, state, and local laws, and Department regulations and policies in the performance of this Agreement, including, but not limited to laws governing civil rights, equal opportunity compliance, environmental issues, workplace safety, employer-employee relations and all other laws governing operations of the workplace. The Public Entity shall include the requirements of this Section 13 in each contract and subcontract at all tiers.

**14. Equal Opportunity Compliance.**

The parties agree to abide by all federal and state laws and rules and regulations, and executive orders of the Governor of the State of New Mexico, pertaining to equal employment opportunity. In accordance with all such laws and rules and regulations, and executive orders of the Governor of the State of New Mexico, the parties agree to assure that no person in the United States will, on the grounds of race, color, national origin, ancestry, sex, sexual preference, age, disability, or other protected class, be excluded from employment with, or participation in, any program or activity performed under this Agreement. If the Public Entity is found to not comply with these requirements during the term of this Agreement, the parties agree to take appropriate steps to correct these deficiencies, subject to Section 7 above.

**15. Appropriations and Authorizations.**

The terms of this Agreement are contingent upon sufficient appropriations and authorizations being made by the governing board of the Public Entity, the Legislature of New Mexico, or the Congress of the United States if federal funds are involved, for performance of the Agreement. If sufficient appropriations and authorizations are not made by the Public Entity, Legislature of New Mexico, or the Congress of the United States if federal funds are involved, this Agreement will terminate upon written notice being given by one party to the other. The Department and Public Entity are expressly not committed to expenditure of any funds until such time as they are programmed, budgeted, encumbered, and approved for expenditure.

**16. Accountability of Receipts and Disbursements.**

There shall be strict accountability for all receipts and disbursements relating to this Agreement. The Public Entity shall maintain all records and documents relative to the Project for a minimum of five years after completion of the Project. The Public Entity shall furnish the Department and State Auditor, upon demand, any and all such records relevant to this Agreement. If documentation is insufficient to support an audit by customarily accepted accounting practices, the expense supported by such insufficient documentation must be reimbursed to the Department within thirty (30) calendar days. If an audit finding determines that specific funding was inappropriate or not related to the Project, the Public Entity shall reimburse that portion to the Department within thirty (30) calendar days of written notification.

**17. Severability.**

In the event that any portion of this Agreement is determined to be void, unconstitutional or otherwise unenforceable, the remainder of this Agreement will remain in full force and effect.



**18. Applicable Law.**

The laws of the State of New Mexico shall govern this Agreement, without giving effect to its choice of law provisions. Venue is proper in a New Mexico Court of competent jurisdiction in accordance with NMSA 1978, Section 38-3-1(G).

**19. Amendment.**

This Agreement may be altered, modified, or amended only by an instrument in writing executed by the parties.

**The remainder of this page is intentionally left blank.**

**In witness whereof**, each party is signing this Agreement on the date stated opposite that party’s signature.

**NEW MEXICO DEPARTMENT OF TRANSPORTATION**

By: \_\_\_\_\_ Date: \_\_\_\_\_  
Cabinet Secretary or Designee

Approved as to form and legal sufficiency by the New Mexico Department of Transportation’s Office of General Counsel

By: \_\_\_\_\_ Date: \_\_\_\_\_  
Assistant General Counsel

**City of Las Cruces**

By: \_\_\_\_\_ Ikani Taumoepeau Date: \_\_\_\_\_  
Title: \_\_\_\_\_ City Manager

APPROVED AS TO FORM:

Attest: \_\_\_\_\_ City Attorney \_\_\_\_\_ Date \_\_\_\_\_  
City of Las Cruces Clerk or Designee

**EXHIBIT A**  
**PROJECT CERTIFICATION OF**  
**DESIGN, CONSTRUCTION, AND COST**

TO: New Mexico Department of Transportation  
District \_\_\_\_\_ LGRF Coordinator

Cooperative Agreement No. \_\_\_\_\_ Control No. \_\_\_\_\_  
Joint Powers Agreement No. \_\_\_\_\_ Control No. \_\_\_\_\_

Entity: \_\_\_\_\_

Scope of Work (Including Routes and Termini):  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

I, the undersigned, in my capacity as \_\_\_\_\_ of \_\_\_\_\_ state  
that:

1. The design is in compliance with all state laws, rules, regulations, and local ordinances and was performed in accordance with the provisions set forth in this Agreement and in the Tribal/Local Public Agency State Funding Handbook (Current Edition);

2. Construction of the project was performed in accordance with standards and specifications set forth in:

\_\_\_\_\_ and completed on \_\_\_\_\_, 20\_\_\_\_; and

3. That the total project cost of \_\_\_\_\_, with New Mexico Department of Transportation 75% share of \_\_\_\_\_ and the Public Entity share of \_\_\_\_\_ (as submitted in attached “As Built Summary of Costs and Quantities”) is accurate, legitimate, and appropriate for the project.

\_\_\_\_\_  
Name Date

\_\_\_\_\_  
Print Name

\_\_\_\_\_  
Title

**EXHIBIT B**  
**AS BUILT SUMMARY**  
**OF COSTS AND QUANTITIES**  
**CONTRACT**

ENTITY: \_\_\_\_\_ No.: \_\_\_\_\_ CN: \_\_\_\_\_

PROJECT No.: \_\_\_\_\_

TERMINI: \_\_\_\_\_

SCOPE OF  
WORK: \_\_\_\_\_

[illegible]

**EXHIBIT C**  
**City of Las Cruces RESOLUTION**

**PARTICIPATION IN LOCAL GOVERNMENT ROAD FUND PROGRAM ADMINISTERED BY  
NEW MEXICO DEPARTMENT OF TRANSPORTATION**

WHEREAS, the **City of Las Cruces** and the New Mexico Department of Transportation have entered into a cooperative grant agreement under the Local Government Road Fund Program for a local road project.

WHEREAS, the total cost of the project will be **\$258,200** to be funded in proportional share by the parties hereto as follows:

| <b>CN L100595<br/>Project Funding</b>                                            | <b>Department<br/>Share</b> | <b>Public Entity<br/>Share</b> | <b>Total Project<br/>Cost</b> |
|----------------------------------------------------------------------------------|-----------------------------|--------------------------------|-------------------------------|
| <b>Funding Source 1</b>                                                          | <b>75%</b>                  | <b>25%</b>                     | <b>100%</b>                   |
| <b><u>FY 2025 Local Government Road Fund</u></b>                                 | <b>\$193,650</b>            | <b>\$64,550</b>                | <b>\$258,200</b>              |
| Pavement Rehabilitation/Improvements,<br>Reconstruction, Construction Management |                             |                                |                               |

WHEREAS, the **City of Las Cruces** shall pay all costs, which exceed the total project cost of **\$258,200**.

NOW THEREFORE, be it resolved in official session that **City of Las Cruces** determines, resolves, and orders as follows:

- a. The project for this Cooperative Agreement is adopted and has a priority standing.
- b. The Cooperative Agreement terminates on **12/31/2025** and the **City of Las Cruces** incorporates all the agreements, covenants, and understandings between the parties hereto concerning the subject matter hereof, and all such covenants, agreements and understandings have been merged into the written agreement.
- c. The agent of the **City of Las Cruces**, Ikani Taumoepeau, City Manager (name or title), shall have signature authority to bind the **City of Las Cruces** to the terms and conditions of this Cooperative Agreement, and shall have authority to request in writing and secure extensions to the Cooperative Agreement on behalf of the **City of Las Cruces** in the manner set forth by the Cooperative Agreement.

NOW THEREFORE, be it resolved by the **City of Las Cruces** to enter into Cooperative Agreement for Project Control Number **L100595** with the New Mexico Department of Transportation for the LGRF Program for fiscal year **2025** for **W. Amador Ave. - Pavement Rehabilitation/Improvements, Reconstruction, Construction Management** within the control of **City of Las Cruces** in the State of New Mexico.

(Appropriate Signatures below (Council, Commission, School Board, Tribe, Pueblo, Nation, etc.)

\_\_\_\_\_  
**(PRINTED NAME, POSITION)**

\_\_\_\_\_  
DATE

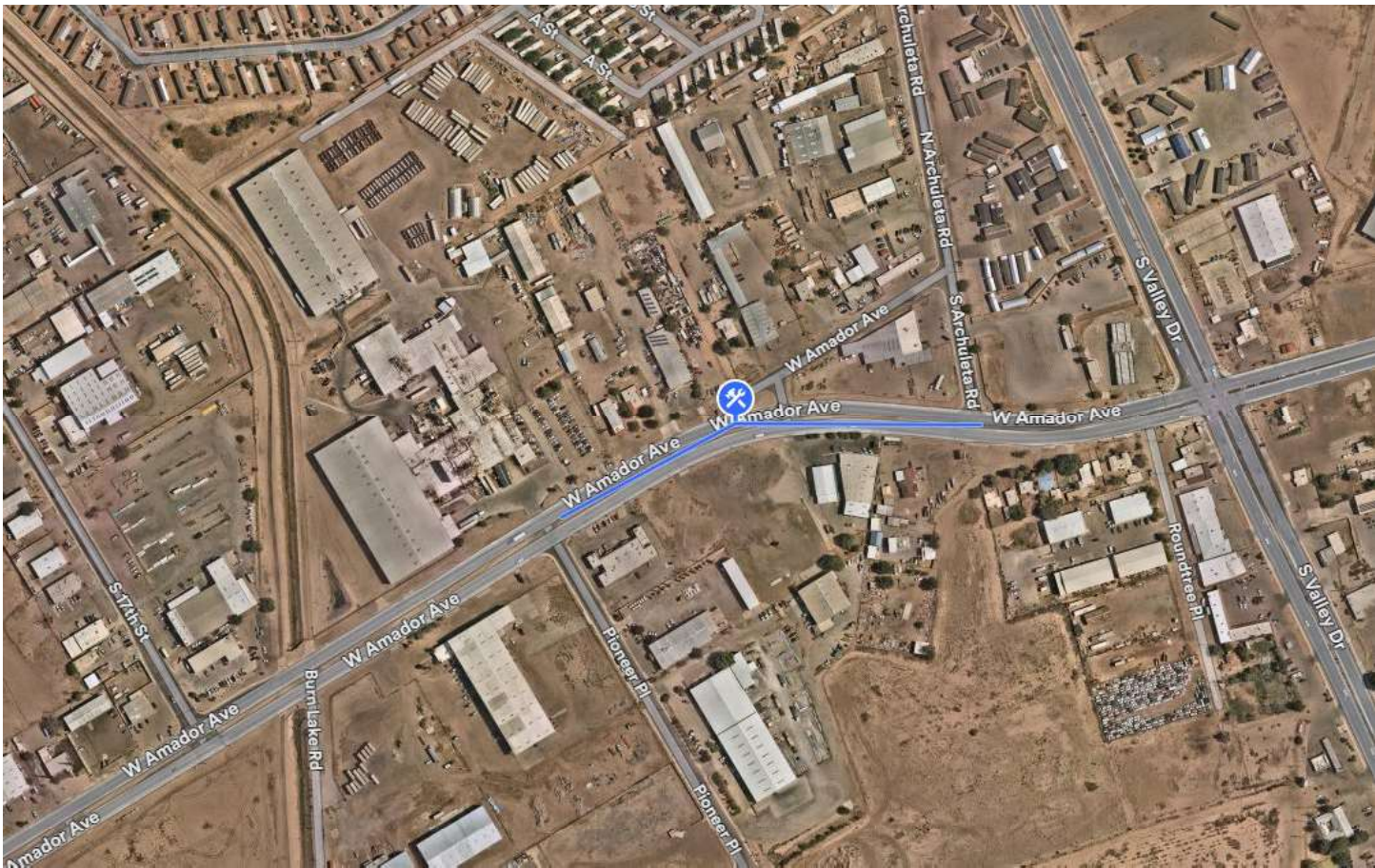
\_\_\_\_\_  
**(PRINTED NAME, POSITION)**

\_\_\_\_\_  
DATE

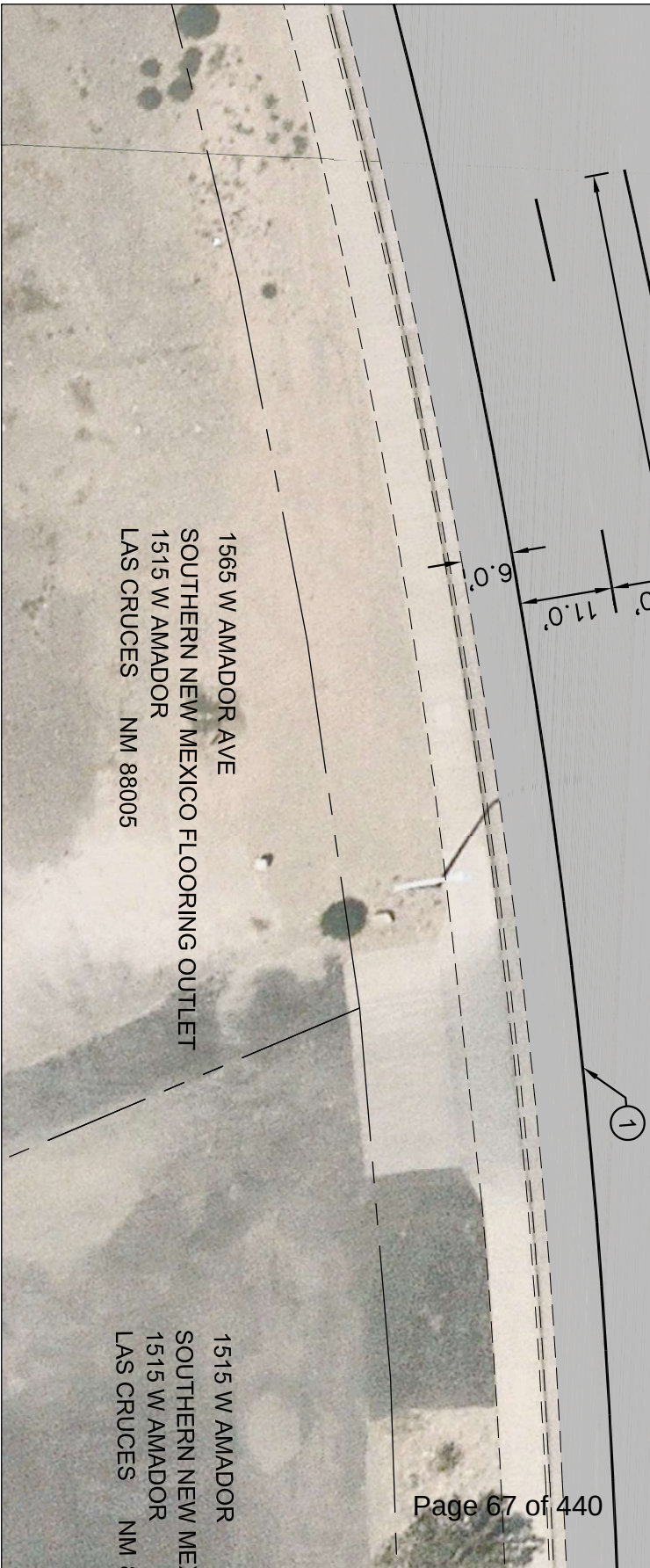
\_\_\_\_\_  
**(PRINTED NAME, POSITION)**

\_\_\_\_\_  
DATE

Pavement Maintenance on West Amador Ave (South Archuleta Road to P







| STRIPING LEGEND |                                                                         |
|-----------------|-------------------------------------------------------------------------|
| ①               | HOT THERMOPLASTIC PAVEMENT MARKING, 4" WIDE WHITE (SOLID)               |
| ②               | HOT THERMOPLASTIC PAVEMENT MARKING, 4" WIDE WHITE (10' STRIPE/ 30' GAP) |
| ③               | HOT THERMOPLASTIC PAVEMENT MARKING, 4" WIDE WHITE (2' STRIPE/ 6' GAP)   |
| ④               | HOT THERMOPLASTIC PAVEMENT MARKING, 4" WIDE WHITE (3' STRIPE/ 9' GAP)   |
| ⑤               | HOT THERMOPLASTIC PAVEMENT MARKING, 24" WHITE (STOP BAR)                |
| ⑥               | HOT THERMOPLASTIC PAVEMENT MARKING, 24" WHITE (CONTINENTAL CROSSWALK)   |
| ⑦               | HOT THERMOPLASTIC PAVEMENT MARKING, 4" YELLOW (SOLID)                   |
| ⑧               | HOT THERMOPLASTIC PAVEMENT MARKING (LEFT ARROW)                         |
| ⑨               | HOT THERMOPLASTIC PAVEMENT MARKING (RIGHT ARROW)                        |
| ⑩               | HOT THERMOPLASTIC PAVEMENT MARKING (ONLY)                               |
| ⑪               | HOT THERMOPLASTIC PAVEMENT MARKING (BIKE LANE)                          |
| ⑫               | REFILL PAINTED CURB TOP AND FACE                                        |

Contract No.

Vendor No. 0000054342

Control No. HW2L100618

MUNICIPAL ARTERIAL PROGRAM  
COOPERATIVE AGREEMENT

**This Agreement** is between the **New Mexico Department of Transportation** (Department) and **City of Las Cruces** (Public Entity), collectively referred to as the “parties.” This Agreement is effective as of the date of the last party to sign it on the signature page below.

Pursuant to NMSA 1978, Sections 67-3-28 and 67-3-28.2, and State Transportation Commission Policy No. 44, and

Pursuant to the Public Entity’s resolution that assumes ownership, liability, and maintenance responsibility for the project scope, or related amenities, and required funding to support the Project identified herein, the parties agree as follows:

1. Purpose.

The purpose of this Agreement is to provide Local Government Road Funds to the Public Entity for the Project, as described on Control No. **L100618**, and the Public Entity’s resolution attached as **Exhibit C**. See:

**Planning, Design, Construction, Reconstruction, Pavement Rehabilitation, Construction Management, Drainage, Traffic Signal Improvements, and Misc. Improvements**

The Project is a joint and coordinated effort for which the parties each have authority or jurisdiction. This Agreement specifies and delineates the rights and duties of the parties.

2. Project Funding.

- a. The estimated total cost for the Project is Five Hundred Thirty Three Thousand Three Hundred Thirty Three Dollars and No Cents (**\$533,333**) to be funded in proportional share by the parties as follows:

| Project Funding                            | Department Share | Public Entity Share | Total Project Cost |
|--------------------------------------------|------------------|---------------------|--------------------|
| Funding Source 1                           | 75%              | 25%                 |                    |
| <u>FY 2025 Local Government Road Fund</u>  | \$400,000        | \$133,333           | \$533,333          |
| For the purpose stated above in Section 1. |                  |                     |                    |
| Total Project Cost                         |                  |                     | \$533,333          |



- b. The Public Entity shall pay all Project costs, which exceed the Total Project Cost.
- c. Any costs incurred by the Public Entity prior to this Agreement are not eligible for reimbursement and are not included in the amount listed in this Section 2.

**3. The Department Shall:**

Pay the Department's Share of Project Funding, as identified in Section 2, Paragraph a, to the Public Entity in a single lump sum payment after:

- a. Receipt of a cover letter requesting funds;
- b. Receipt of a Notice of Award (or Work Order) and Notice to Proceed;
- c. Receipt of Estimated Summary of Costs and Quantities;
- d. Verification of available Local Government Road Funds and Public Entity's local matching funds identified in Section 2, Paragraph a; and
- e. All required documents must include Department Project and Control Number.

**4. The Public Entity Shall:**

- a. Act in the capacity of lead agency for the Project described in Section 1.
- b. Be solely responsible for all proportional matching funds identified in Section 2. Certify that these matching funds have been appropriated, budgeted, and approved for expenditure prior to execution of this Agreement.
- c. Pay all costs, and perform and supply or contract for all labor and material, for the purpose as described in Section 1 and the construction work specified in the Project's plans.
- d. Advertise, let, and supervise Project construction, including to procure and award any contract in accordance with applicable procurement law, rules, regulations and ordinances.
- e. In accordance with project parameters, assume the lead planning and implementation role and sole responsibility for environmental, archaeological, utility clearances; railroad and Intelligent Transportation System (ITS) clearances; right-of-way acquisition; project development and design; and project construction and management.
- f. Cause all designs and PS&Es to be performed under the direct supervision of a Registered New Mexico Professional Engineer.
- g. Obtain all required written agreements or permits relating to any realignment of Public Entity's roads, when applicable, from all public and private entities.
- h. Initiate the preliminary engineering, survey, and all design activities, and coordinate Project construction.
- i. Consider provisions for pedestrian, bicycle and equestrian facilities in the Project design in accordance with NMSA 1978, Section 67-3-62.
- j. Initiate and cause to be prepared the necessary Plans, Specifications, and Estimates (PS&E) for this Project.
- k. Design the Project in accordance with **Exhibit A, "Minimum Design Standards"**, which is incorporated into this Agreement.
- l. Adhere to **Exhibit B, "Minimum Survey and Right of Way Acquisition Requirements"**, which is incorporated into this Agreement.
- m. Comply with **Exhibit D, "Construction Phase Duties and Obligations"**, which is incorporated into this Agreement.
- n. Make no changes in design or scope of work, unless for safety reasons and with documented approval of the Department.
- o. Allow the Department to inspect the Project to confirm that the Project is constructed in

accordance with the provisions of this Agreement. Disclosures of any failure to meet such requirements and standards, as identified by the Department, will result in termination of this Agreement, for default, including without limitation its costs for funding, labor, equipment, and materials.

- p. Complete the project within twenty-four (24) months of approval of funding by the State Transportation Commission.
- q. Prior to Project construction, furnish the Department's District 1 Office the "**Certification of the Pre-Construction Contract Phase**" form, attached as **Certification No. 1**.
- r. Within thirty (30) calendar days of completion, furnish the Department's District 1 Office the "**Certification of Construction Phase**" form, attached as **Certification No. 2**.
- s. Within thirty (30) calendar days of completion, furnish the Department's District 1 Office the "**AS BUILT Summary of Costs and Quantities**" form, attached as **Certification No. 3**. The report should reflect the total cost of project as stated in "**Certification of Construction Phase**" form.
- t. Failure to timely provide **Certification Nos. 1, 2 and 3**, listed above, will be considered a material breach of this Agreement and Public Entity shall reimburse to the Department all funds disbursed in accordance with this Agreement.
- u. Upon completion, maintain all the Public Entity's facilities constructed or reconstructed under this Agreement.

**5. Both Parties Agree:**

- a. Upon termination of this Agreement any remaining property, materials, or equipment belonging to the Department will be accounted for and disposed of by the Public Entity as directed by the Department.
- b. Any unexpended or unencumbered balance from the Local Government Road Fund appropriated for this project reverts to the Department. These balances, if any, must be reimbursed to the Department within thirty (30) calendar days of project completion or expiration of this Agreement, whichever occurs first.
- c. This Project is not being incorporated into the State Highway System and the Department is not assuming maintenance responsibility or liability.
- d. Pursuant to NMSA 1978, Section 67-3-28.2, Local Government Road Funds granted under this provision cannot be used by the Public Entity to meet a required match under any other program.
- e. As applicable for state-funded projects, the provisions of the Tribal/Public Agency (T/LPA) State Funding Handbook (Current Edition), and for projects with federal funds, the provisions of the Tribal/Local Public Agency (T/LPA) Federal Funding Handbook (Current Edition), are incorporated by reference and control the contractual rights and obligations of the parties unless in conflict with the specific terms expressed in this Agreement or any amendments.

**6. Term.**

This Agreement becomes effective upon signature of all Parties. The effective date is the date when the last party signed the Agreement on the signature page below. This Agreement terminates on **June 30, 2026**. In the event an extension to the term is needed, the Public Entity shall provide through a duly authorized agent written notice along with detailed justification

to the Department sixty (60) calendar days prior to the expiration date to ensure timely processing of an Amendment.

**7. Termination.**

- a. If the Public Entity fails to comply with any provision of this Agreement, the Department may terminate this Agreement by providing thirty (30) calendar days written notice.
- b. The Department may terminate this Agreement if the funds identified in Section 2 have not been contractually committed within one year from the effective date of this Agreement.
- c. If sufficient appropriations and authorizations are not made, this Agreement will terminate immediately upon written notice of the Department to the Public Entity.
- d. Neither party has any obligation after termination, except as stated in Sections 4, 5, and 16.

**8. Third Party Beneficiary.**

It is not intended by any of the provisions of this Agreement to create in the public or any member of the public a third party beneficiary or to authorize anyone not a party to the Agreement to maintain suit for wrongful death(s), bodily and/or personal injury(ies) to person(s), damage(s) to property(ies), and/or any other claim(s) whatsoever pursuant to the provisions of this Agreement.

**9. Liability.**

As between the Department and Public Entity, 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 the immunities and limitations of the New Mexico Tort Claims Act, NMSA 1978, Section 41-4-1, *et seq.*, and other applicable law.

**10. Contractors Insurance Requirements.**

The Public Entity shall require contractors and subcontractors hired for the Project to have a general liability insurance policy, with limits of liability of at least \$1,000,000 per occurrence. The Department is to be named as an additional insured on the contractors and subcontractor's policy and a certificate of insurance and endorsements listing the Department as an additional insured must be provided to the Department and must state that coverage provided under the policy is primary over any other valid insurance.

To the fullest extent permitted by law, the Public Entity shall require the contractor and subcontractors to defend, indemnify and hold harmless the Department from and against any liability, claims, damages, losses or expenses (including but not limited to attorney's fees, court costs, and the cost of appellate proceedings) arising out of or resulting from the negligence, act, error, or omission of the contractor and subcontractor in the performance of the Project, or anyone directly or indirectly employed by the contractor or anyone for whose acts they are liable in the performance of the Project.

**11. Scope of Agreement.**

This Agreement incorporates all agreements, covenants, and understandings between the parties concerning the subject matter. All such covenants, agreements, and understandings have been merged into this Agreement. No prior Agreement or understandings, verbal or

otherwise, of the parties or their agents are valid or enforceable unless included in this Agreement.

**12. Terms of this Agreement.**

The terms of this Agreement are lawful. Performance of all duties and obligations must conform with and not contravene any state, local, or federal statutes, regulations, rules, or ordinances.

**13. Legal Compliance.**

The Public Entity shall comply with all applicable federal, state, and local laws, and Department regulations and policies in the performance of this Agreement, including, but not limited to laws governing civil rights, equal opportunity compliance, environmental issues, workplace safety, employer-employee relations and all other laws governing operations of the workplace. The Public Entity shall include the requirements of this Section 13 in each contract and subcontract at all tiers.

**14. Equal Opportunity Compliance.**

The parties agree to abide by all federal and state laws and rules and regulations, and executive orders of the Governor of the State of New Mexico, pertaining to equal employment opportunity. In accordance with all such laws and rules and regulations, and executive orders of the Governor of the State of New Mexico, the parties agree to assure that no person in the United States will, on the grounds of race, color, national origin, ancestry, sex, sexual preference, age, disability, or other protected class, be excluded from employment with, or participation in, any program or activity performed under this Agreement. If the Public Entity is found to not comply with these requirements during the term of this Agreement, the parties agree to take appropriate steps to correct these deficiencies, subject to Section 7 above.

**15. Appropriations and Authorizations.**

The terms of this Agreement are contingent upon sufficient appropriations and authorizations being made by the governing board of the Public Entity, the Legislature of New Mexico, or the Congress of the United States, if federal funds are involved, for performance of the Agreement. If sufficient appropriations and authorizations are not made by the Public Entity, Legislature of New Mexico, or the Congress of the United States if federal funds are involved, this Agreement will terminate upon written notice being given by one party to the other. The Department and Public Entity are expressly not committed to expenditure of any funds until such time as they are programmed, budgeted, encumbered, and approved for expenditure.

**16. Accountability of Receipts and Disbursements.**

There shall be strict accountability for all receipts and disbursements relating to this Agreement. The Public Entity shall maintain all records and documents relative to the Project for a minimum of five years after completion of the Project. The Public Entity shall furnish the Department and State Auditor, upon demand, any and all such records relevant to this Agreement. If documentation is insufficient to support an audit by customarily accepted accounting practices, the expense supported by such insufficient documentation must be reimbursed to the Department within thirty (30) calendar days. If an audit finding determines that specific funding was inappropriate or not related to the Project, the Public Entity shall

reimburse that portion to the Department within thirty (30) calendar days of written notification.

**17. Severability.**

In the event that any portion of this Agreement is determined to be void, unconstitutional or otherwise unenforceable, the remainder of this Agreement will remain in full force and effect.

**18. Applicable Law.**

The laws of the State of New Mexico shall govern this Agreement, without giving effect to its choice of law provisions. Venue is proper in a New Mexico Court of competent jurisdiction in accordance with NMSA 1978, Section 38-3-1(G).

**19. Amendment.**

This Agreement may be altered, modified, or amended only by an instrument in writing executed by the parties.

**The remainder of this page is intentionally left blank.**

**In witness whereof**, each party is signing this Agreement on the date stated opposite that party’s signature.

**NEW MEXICO DEPARTMENT OF TRANSPORTATION**

By: \_\_\_\_\_ Date: \_\_\_\_\_  
Cabinet Secretary or Designee

Recommended By District 1

By: \_\_\_\_\_ Date: \_\_\_\_\_  
District Engineer

Approved as to form and legal sufficiency by the New Mexico Department of Transportation’s Office of General Counsel

By: \_\_\_\_\_ Date: \_\_\_\_\_  
Assistant General Counsel

**City of Las Cruces**

By: \_\_\_\_\_ Ikani Taumoepeau Date: \_\_\_\_\_  
Title: \_\_\_\_\_ City Manager

Attest: \_\_\_\_\_  
**Name and Title**

APPROVED AS TO FORM:

\_\_\_\_\_  
City Attorney Date

**EXHIBIT A**  
**Minimum Design Standards**

1. The design shall provide for all facilities as required by law (ADA compliance, bicycle paths, etc.).
2. The pavement shall be designed for a 20-year life as a minimum for new construction or reconstruction, or for a 10-year life as a minimum for rehabilitation.
3. The following documents shall be used as a minimum in the design of this Project:
  - a. FHWA Manual of Uniform Traffic Control Devices, Current Edition as amended;
  - b. AASHTO A Policy on Geometric Design of Highways and Streets, Current Edition ("Green Book");
  - c. AASHTO Guide for the Development of Bicycle Facilities, Current Edition;
  - d. **DEPARTMENT'S** Regulations for Driveway and Median Opening on Non-Access Controlled Highways, Current Update;
  - e. **DEPARTMENT'S** Urban Drainage Design Criteria;
  - f. **DEPARTMENT'S** Geotechnical Manual, Current Update;
  - g. **DEPARTMENT'S** Action Plan;
  - h. **DEPARTMENT'S** Tribal/Public Agency State Funding Handbook; Current Edition;
  - i. **DEPARTMENT'S** Handbook of Hazardous Waste Management, Current Edition;
  - j. **DEPARTMENT'S** Location Study Procedures;
  - k. AASHTO Guide to Design of Pavement Structures, Current Edition, and;
  - l. Other design publications as outlined in the **DEPARTMENT'S** Tribal/Public Agency State Funding Handbook.
  - m. The **Public Entity** may use **Public Entity** established local design standards if approved by the District Engineer, for each Project.

## EXHIBIT B

### Minimum Survey and Right of Way Acquisition Requirements

1. Establish and permanently reference stations and monuments.
2. Determine and record sufficient topography to assure all relevant landmarks are shown.  
Include items such as buildings, sidewalks, driveways, walls, trees, etc.
3. Obtain and plot existing profile grade and cross-sections where necessary. Plot curb profiles as needed.
4. All utilities above and below ground and their owners shall be shown.
5. The surveyor shall verify, ascertain, and certify the right-of-way design plans.
6. All surveying and right-of-way mapping is to be performed in accordance with the **DEPARTMENT'S** Surveying Requirements, Current Edition, and Minimum Standards for Surveying, NMSA 1978, Sections 61-23-1 to 61-23-32.
7. All **DEPARTMENT** Right of Way Handbooks, particularly Right of Way Handbook (Current Edition, Local Public Agencies), shall be adhered to for all R/W operations, including Title Search, Property Survey, Right of Way Mapping, Appraisal, Appraisal Review, Acquisition (including donations), Relocation, and Right of Way Certification. Only qualified personnel may undertake Right of Way functions. **Public Entity** staff or consultants may not be used to perform any R/W functions unless the **Public Entity** certifies that each individual is qualified to perform each individual right of way activity, such as Title search, property survey, mapping, appraisal, etc. Right of Way operations shall conform to State statutes and Federal regulations. Future Federal funding for Project shall be jeopardized if right of way operations do not conform to State statutes and Federal regulations.
8. Obtain and prepare Title Reports that meet **DEPARTMENT** format and standards, for all affected R/W parcels.
9. Right of Way mapping shall be done in accordance with the "Attachment 2" checklist of the **DEPARTMENT'S** Right of Way Mapping Development Procedures Current Update. The surveyor shall verify and certify the checklist and the Right of Way maps.
10. Appraisals shall not begin until the **Public Entity** has 100% complete R/W maps. **Public Entity** or contracted (fee) appraisers shall not be used unless fully qualified.
11. Appraisal Reports shall be prepared in conformance with Federal and Statutes and regulations.



In no event shall the appraisal review function be contracted to a consultant. One purpose of appraisal review is to assure that the appraisal meets **DEPARTMENT** requirements prior to the initiation of acquisition.

12. **Public Entity** or contracted (fee) negotiators shall not be used unless fully qualified.
13. The **Public Entity** shall maintain all records and documents relating to the Right of Way acquisition for a minimum of five (5) years, and shall record all transfer of ownership documents with the County Clerk. **DEPARTMENT** personnel shall be provided access to Project R/W files upon reasonable notice.
14. The **Public Entity** shall furnish the **DEPARTMENT** with a written certification (R/W Certification) stating that Right of Way acquisition (and relocations, if applicable) has been performed in compliance with Federal and State laws and regulations.

**EXHIBIT C**  
**City of Las Cruces RESOLUTION**

PARTICIPATION IN LOCAL GOVERNMENT ROAD FUND PROGRAM ADMINISTERED BY NEW MEXICO DEPARTMENT OF TRANSPORTATION

WHEREAS, the **City of Las Cruces** and the New Mexico Department of Transportation have entered into a cooperative grant agreement under the Local Government Road Fund Program for a local road project.

WHEREAS, the total cost of the project will be **\$533,333** to be funded in proportional share by the parties hereto as follows:

| CN L100618<br>Project Funding                                                                                                                                                                                                | Department<br>Share | Public Entity<br>Share | Total Project<br>Cost |
|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------|------------------------|-----------------------|
| Funding Source 1                                                                                                                                                                                                             | 75%                 | 25%                    | 100%                  |
| <b><u>FY 2025 Local Government Road Fund</u></b><br>Planning, Design, Construction,<br>Reconstruction, Pavement Rehabilitation,<br>Construction Management, Drainage, Traffic<br>Signal Improvements, and Misc. Improvements | <b>\$400,000</b>    | <b>\$133,333</b>       | <b>\$533,333</b>      |

WHEREAS, the **City of Las Cruces** shall pay all costs, which exceed the total project cost of **\$533,333**.

NOW THEREFORE, be it resolved in official session that **City of Las Cruces** determines, resolves, and orders as follows:

- a. The project for this Cooperative Agreement is adopted and has a priority standing.
- b. The Cooperative Agreement terminates on **6/30/2026** and the **City of Las Cruces** incorporates all the agreements, covenants, and understandings between the parties hereto concerning the subject matter hereof, and all such covenants, agreements and understandings have been merged into the written agreement.
- c. The agent of the **City of Las Cruces**, Ikani Taumoepeau, City Manager (name or title), shall have signature authority to bind the **City of Las Cruces** to the terms and conditions of this Cooperative Agreement, and shall have authority to request in writing and secure extensions to the Cooperative Agreement on behalf of the **City of Las Cruces** in the manner set forth by the Cooperative Agreement.

NOW THEREFORE, be it resolved by the **City of Las Cruces** to enter into Cooperative Agreement for Project Control Number **L100618** with the New Mexico Department of Transportation for the LGRF Program for fiscal year **2025** for **E. Lohman Ave/ S. Walnut Signal Improvement - Planning, Design, Construction, Reconstruction, Pavement Rehabilitation, Construction Management, Drainage, Traffic Signal Improvements, and Misc. Improvements** within the control of **City of Las Cruces** in the State of New Mexico.

(Appropriate Signatures below (Council, Commission, School Board, Tribe, Pueblo, Nation, etc.))

**(PRINTED NAME, POSITION)**

DATE \_\_\_\_\_

***(PRINTED NAME, POSITION)***

DATE \_\_\_\_\_

***(PRINTED NAME, POSITION)***

DATE \_\_\_\_\_

## **EXHIBIT D**

### **Construction Phase Duties and Obligations**

1. The **Public Entity** shall be responsible for all construction engineering, including Project supervision, surveying, inspection and testing when surveying and testing are not contracting items.
2. The **Public Entity's** general conditions, standard drawings and specifications may be used if approved by the **DEPARTMENT'S** District Engineer.

**CERTIFICATION NO. 1**  
**CERTIFICATION OF THE PRE-CONSTRUCTION CONTRACT PHASE**

**Control No. L100618**

I, \_\_\_\_\_, in my capacity as \_\_\_\_\_ of  
\_\_\_\_\_ do hereby certify with reference to the aforementioned  
Project Control Number as follows:

1. That the **Public Entity** has complied with the terms and conditions of the pre-construction phase requirements set forth in this Agreement.
2. That the design for this Project is in compliance with all state laws, rules, regulations, and local ordinances and in the rules and regulations of the **DEPARTMENT**.
3. The **Public Entity** (including, but not limited to, Temporary Construction Permits and Construction Maintenance Easements) has acquired that all necessary right(s)-of -way for the construction or reconstruction of this Project in compliance with the **DEPARTMENT'S Right of Way Handbook (Current Edition) Local Public Agencies**, and Exhibit B.
4. That all utilities within the location of this construction Project (check one or both of the following conditions):  
\_\_\_\_ a. have been relocated  
\_\_\_\_ b. are scheduled for relocation prior to or concurrent with construction of this Project and have been coordinated with the appropriate utility.
5. That the **Public Entity** has encumbered the necessary funds to complete the Project.
6. That the **Public Entity** has fully complied with the requirements of NMSA 67-3-62.
7. That roadway(s) and intersection(s) shall operate at a minimum Level of Service of C or D (LOS C or D) for the Projected 20 year design traffic volumes as specified in A Policy on Geometric Design of Highways and Streets, (Current Edition).
8. That traffic data collection, traffic projections, and traffic impact studies on this Project have been developed in conformance with the **DEPARTMENT'S New Mexico Traffic Survey and Standards** (Current Edition).
9. That no angle parking has been provided in this Project.

10. That the **Public Entity** has completed a (check, which of the following conditions exists):  
       a. 20 year pavement design; or  
       b. 10 year pavement design with provision for extending the pavement life to 20 years, and has incorporated it in the plans and specifications for this Project.
11. That the **Public Entity** has completed a Project drainage report, which meets the **DEPARTMENT'S** minimum drainage criteria as referenced in the **DEPARTMENT'S Drainage Manual**.
12. All drainage costs have been prorated between the **DEPARTMENT** and the **Public Entity** if applicable, according to the **DEPARTMENT'S Drainage Policy and Administrative Memorandum** (Current Update) and prorated calculations have been approved in writing by the **DEPARTMENT'S** Drainage Section.
13. That the **Public Entity** has completed all required Environmental Documentation and clearances for this Project using guidance contained in the **DEPARTMENT'S Action Plan**, (Current Edition).
14. That the **Public Entity** has completed all required Archaeological Documentation and clearances for this Project using guidance contained in the **DEPARTMENT'S Action Plan**, (Current Edition).
15. That the following attached Agreement(s) have been executed, when required, for construction or reconstruction of this Project (attach copies to this certification):
  - a. Lighting;
  - b. signalization;
  - c. storm sewer and lift station;
  - d. landscape;
  - e. road exchange; and
  - f. any other applicable agreements.
16. That the **Public Entity** has complied with and certifies compliance with all applicable provisions of Exhibit A.
17. That this certification procedure has been executed prior to advertisements for contract bids or commencement of this Project.

IN WITNESS WHEREOF, \_\_\_\_\_ in his/her capacity as \_\_\_\_\_ of \_\_\_\_\_ does hereby certify that the aforementioned matters stated herein are true to his/her knowledge and belief and does hereby set his/her hand and seal this day and year specified below:

**City of Las Cruces**

By: \_\_\_\_\_ Date: \_\_\_\_\_  
Mayor

**ATTEST:**

By: \_\_\_\_\_ Date: \_\_\_\_\_  
Public Entity Clerk

When completed, send Certification No. 1 to:

**District LGRF Coordinator**  
**Department of Transportation**

CERTIFICATION NO. 2

CERTIFICATION OF THE CONSTRUCTION PHASE

Control No. L100618

I, \_\_\_\_\_, in my capacity as \_\_\_\_\_ of \_\_\_\_\_ do hereby certify with reference to the aforementioned Project Control Number as follows:

- 1. That the **Public Entity** has complied with the terms and conditions of the construction phase requirements under this Agreement.
- 2. That the **Public Entity** has complied with and certifies that the Project plan complies with all publications identified in Exhibit A.
- 3. That all work in Control No. **L100618** was performed in accordance with the Agreement.
- 4. That the total Project cost of \_\_\_\_\_, with New Mexico Department of Transportation “**DEPARTMENT**” 75% share of \_\_\_\_\_ and the **Public Entity** share of \_\_\_\_\_ (as submitted in attached “As Built Summary of Costs and Quantities”) is accurate, legitimate, and appropriate for the Project.
- 5. That the construction of the Project was completed on \_\_\_\_\_ of \_\_\_\_\_, 20[#]

**IN WITNESS WHEREOF**, \_\_\_\_\_ in his/her capacity as \_\_\_\_\_ of \_\_\_\_\_ does hereby certify the aforementioned matters stated herein are true to his/her knowledge and belief and does hereby set his/her hand and seal this day and year specified below:

**City of Las Cruces**

By: \_\_\_\_\_ Date: \_\_\_\_\_  
Mayor

**ATTEST:**

By: \_\_\_\_\_ Date: \_\_\_\_\_  
**Public Entity Clerk**

When completed, send Certification No. 2 to:  
**District LGRF Coordinator, Department of Transportation**

**CERTIFICATION NO. 3**  
**AS BUILT SUMMARY**  
**OF COSTS AND QUANTITIES**  
**CONTRACT**

ENTITY: \_\_\_\_\_ No.: \_\_\_\_\_ CN: \_\_\_\_\_

PROJECT No.: \_\_\_\_\_

TERMINI: \_\_\_\_\_

SCOPE OF  
WORK:

[illegible]





# City Council Action and Executive Summary

25-002

Type of Action:  
☒ Resolution  
☐ Ordinance  
☐ TIDD Resolution

|              |                                                                                                                                                                                                                    |                   |                    |
|--------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------|--------------------|
| District:    | <input type="checkbox"/> 1 <input type="checkbox"/> 2 <input type="checkbox"/> 3 <input type="checkbox"/> 4 <input type="checkbox"/> 5 <input type="checkbox"/> 6 <input checked="" type="checkbox"/> N/A          |                   |                    |
| 1st Reading: | Adopted: July 1, 2024                                                                                                                                                                                              |                   |                    |
| Drafter:     | Charlie Fierro                                                                                                                                                                                                     | Department:       | Financial Services |
| Program:     | Budget                                                                                                                                                                                                             | Line of Business: | Fiscal Management  |
| Title:       | A RESOLUTION AUTHORIZING THE CITY OF LAS CRUCES (CITY) TO ACCEPT GRANT AWARDS FOR VARIOUS CITY DEPARTMENTS AND AN AMENDMENT TO THE CITY'S ADOPTED FY2024 BUDGET AND THE FY2024 CAPITAL IMPROVEMENTS PROGRAM (CIP). |                   |                    |

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

**PURPOSE(S) OF ACTION:**  
To accept awarded grants and a budget adjustment through an amendment to the FY24 budget and FY24 CIP.

**BACKGROUND / KEY ISSUES / CONTRIBUTING FACTORS:**  
The City of Las Cruces (City) relies on grant funding for many of the critical programs provided each year for the residents of Las Cruces. Grant funding awards are received throughout the fiscal year and are not budgeted during the normal fiscal year budgeting process. Funds are not budgeted until the City has received a grant award agreement due to the unpredictable nature of funding levels and timing.

Per the City's Grants Administration Program Policy, the City Manager, or his designee, may execute grant agreements with funding agencies. Upon receipt of the fully executed agreement from the funding agency, the Council may adjust the budget.

The request for the City Council is to accept the budget adjustments to be used by the departments for the scope of work as defined by each grant agreement.

City staff has also prepared budget adjustments for the fiscal year starting July 1, 2023, through June 30, 2024. The adjustments consist of funding for various City projects to meet the demands of a growing community and align budgets for effective and efficient City of Las Cruces operations.

The budget adjustments proposed within this Resolution will not deplete the City's 2/12ths reserve requirement for the General Fund.

- SUPPORT INFORMATION:**  
[Exhibit "A" - Fund Summaries \(Grants\)](#)  
[Exhibit "B" - FY2024-2029 CIP](#)  
[Exhibit "C" Fund Summary \(Budget Adjustment\)](#)  
[Attachment "A" Grant Listing Summary](#)  
[Attachment "B" Trails+ Agreement](#)

Agenda Item #7.2.

- [Attachment "C" 2022 GO Bond](#)
- [Attachment "D" PW - HW2L100518 Picacho HAWK](#)
- [Attachment "E" Latino Poetry](#)
- [Attachment "F" QOL-S - NM Grown](#)
- [Attachment "E" PD Youth Leadership Academy](#)

**PLAN(S):**

None

**COMMITTEE/BOARD REVIEW:**

None

**DOES THIS AMEND THE BUDGET?:**

- ☒ Yes
- ☐ No

**BUDGET / FISCAL IMPACT:**

|                         |                          |                            |
|-------------------------|--------------------------|----------------------------|
| <b>BUDGETED AMOUNT:</b> | <b>AVAILABLE AMOUNT:</b> | <b>EXPENDITURE AMOUNT:</b> |
| VARIOUS                 | VARIOUS                  | VARIOUS                    |

**Funding Source(s):**

Various

**Overall Budget Impact:**

Please refer to Exhibit "A" and Exhibit "C" for the Fund Summaries.

**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 various grant awards and the budget adjustments as presented and amend the City's FY2024 Budget, and FY2024 CIP.
2. Vote "No"; this will not approve the Resolution to accept various grant awards and adjust the FY2024 Budget, and FY2024 CIP as presented and return the funds to the granting agency.
3. Vote to "Amend"; this could delay the Resolution and the process of spending the grant funds within the predetermined grant schedule and require direction to staff.
4. Vote to "Table"; this will delay the Resolution and will impact the implementation of the grant agreement, the City department's ability to utilize the funds and return the grant funds to the granting agency.

**RESOLUTION 25-002**

**A RESOLUTION AUTHORIZING THE CITY OF LAS CRUCES (CITY) TO ACCEPT GRANT AWARDS FOR VARIOUS CITY DEPARTMENTS AND AN AMENDMENT TO THE CITY'S ADOPTED FY2024 BUDGET AND THE FY2024 CAPITAL IMPROVEMENTS PROGRAM (CIP).**

The City Council is informed that:

**WHEREAS**, the City has received notice of grant awards for various City departments; and

**WHEREAS**, the grants will be used as designated in the scope of work and within the specified time period as shown in the grant agreements executed by the City Manager, or his designee; and

**WHEREAS**, the grant agreements that are the subject of this budget adjustment will be attached to the Resolution with a Summary, as Attachment "A"; and each agreement will be attached as subsequent attachments; and

**WHEREAS**, City staff members have prepared a budget adjustment for the fiscal year starting July 1, 2023, through June 30, 2024; and

**WHEREAS**, the budget adjustments amend the City's FY2024 budget to meet the demands of a growing community and to align budgets for effective and efficient City of Las Cruces operations.

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

**(I)**

**THAT** the City hereby amends the FY2024 City Budget and accepts all grant awards as shown in the Fund Summary, Exhibit "A", attached hereto and made part of this Resolution, are hereby approved.

**(II)**

**THAT** the FY2024 CIP, is hereby amended as outlined in Exhibit "B", attached hereto and made a part of this Resolution, are hereby approved.

**(III)**

**THAT** the FY2024 budget adjustments as indicated in both Exhibits "A" and "C", attached hereto and made a part of this Resolution, are hereby approved.

**(III)**

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

**DONE AND APPROVED** this day of

APPROVED

\_\_\_\_\_  
Mayor

ATTEST:

\_\_\_\_\_  
City Clerk

**Moved by:**

**Seconded by:**

**AYES**

**NAYS**

CITY OF LAS CRUCES

BUDGET ADJUSTMENT REQUEST

BUDGET FISCAL YEAR 2023-24

Exhibit "A"

|                                         | 2100<br>SPECIAL REVENUE REIMB GRANTS |                   |                 |                   |
|-----------------------------------------|--------------------------------------|-------------------|-----------------|-------------------|
|                                         | 2023-24                              |                   |                 |                   |
|                                         | Original Budget                      | Amended Budget    | Req. Adjustment | Adjusted Budget   |
| <b>RESOURCES</b>                        |                                      |                   |                 |                   |
| Beginning Balance                       | \$ 698,496                           | 0                 | 0               | 0                 |
| <b>Revenues</b>                         |                                      |                   |                 |                   |
| Municipal Gross Receipts Tax            | 0                                    | 0                 | 0               | 0                 |
| Public Safety Gross Receipts Tax        | 0                                    | 0                 | 0               | 0                 |
| Hold Harmless Replacement GRT           | 0                                    | 0                 | 0               | 0                 |
| State-Shared Gross Receipts Tax         | 0                                    | 0                 | 0               | 0                 |
| Environmental Gross Receipts Tax        | 0                                    | 0                 | 0               | 0                 |
| County Environmental Gross Receipts Tax | 0                                    | 0                 | 0               | 0                 |
| Internet Sales Gross Receipts Tax       | 0                                    | 0                 | 0               | 0                 |
| Gasoline Tax                            | 0                                    | 0                 | 0               | 0                 |
| Cannabis Excise Tax                     | 0                                    | 0                 | 0               | 0                 |
| Lodgers Tax                             | 0                                    | 0                 | 0               | 0                 |
| Property Taxes                          | 0                                    | 0                 | 0               | 0                 |
| Payment In Lieu of Property Tax         | 0                                    | 0                 | 0               | 0                 |
| Franchise Fees                          | 0                                    | 0                 | 0               | 0                 |
| Payment In Lieu of Franchise Fees       | 0                                    | 0                 | 0               | 0                 |
| Licenses, Fees & Permits                | 0                                    | 0                 | 0               | 0                 |
| Convention Center Fee                   | 0                                    | 0                 | 0               | 0                 |
| Auto License - State Shared             | 0                                    | 0                 | 0               | 0                 |
| Fines & Forfeitures                     | 0                                    | 0                 | 0               | 0                 |
| Charges For Services                    | 0                                    | 1,538             | 8,000           | 9,538             |
| Natural Gas Sales - Commodity           | 0                                    | 0                 | 0               | 0                 |
| Motor Pool Maintenances Charges         | 0                                    | 0                 | 0               | 0                 |
| Fuel Charges                            | 0                                    | 0                 | 0               | 0                 |
| Intergovernmental                       | 0                                    | 0                 | 0               | 0                 |
| Investment Income                       | 0                                    | 0                 | 0               | 0                 |
| Miscellaneous Revenues                  | 247,000                              | 185,500           | 0               | 185,500           |
| Federal Grants                          | 14,620,646                           | 19,109,011        | 0               | 19,109,011        |
| State Grants                            | 5,898,088                            | 14,462,736        | 592,897         | 15,055,633        |
| Local Grants                            | 26,066                               | 34,983            | 1,200           | 36,183            |
| Debt Service                            | 0                                    | 0                 | 0               | 0                 |
| <b>Total Revenues</b>                   | <b>20,791,800</b>                    | <b>33,793,768</b> | <b>602,097</b>  | <b>34,395,865</b> |
| <b>TOTAL RESOURCES</b>                  | <b>\$ 21,490,296</b>                 | <b>33,793,768</b> | <b>602,097</b>  | <b>34,395,865</b> |
| <b>Expenditures</b>                     |                                      |                   |                 |                   |
| General Government                      | 0                                    | 0                 | 0               | 0                 |
| Legislative                             | 0                                    | 0                 | 0               | 0                 |
| Municipal Court                         | 0                                    | 0                 | 0               | 0                 |
| Chief Administrative Officer            | 0                                    | 0                 | 0               | 0                 |
| City Manager                            | 10,000,000                           | 13,854,440        | 0               | 13,854,440        |
| Legal                                   | 0                                    | 0                 | 0               | 0                 |
| Las Cruces Police Department            | 2,707,818                            | 6,774,718         | 8,000           | 6,782,718         |
| Las Cruces Fire Department              | 1,314,070                            | 1,776,957         | 0               | 1,776,957         |
| Utilities                               | 875,000                              | 1,253,926         | 0               | 1,253,926         |
| Economic Development                    | 2,497,596                            | 5,647,596         | 0               | 5,647,596         |
| Internal Audit                          | 0                                    | 0                 | 0               | 0                 |
| Assistant City Manager-400              | 501,795                              | 629,477           | 0               | 629,477           |
| Human Resources                         | 0                                    | 0                 | 0               | 0                 |
| Financial Services                      | 412,656                              | 375,097           | 0               | 375,097           |
| Information Technology                  | 0                                    | 0                 | 0               | 0                 |
| Fleet                                   | 0                                    | 0                 | 0               | 0                 |
| Assistant City Manger-500               | 0                                    | 300,000           | 0               | 300,000           |
| Parks & Recreation                      | 9,793                                | 384,334           | 0               | 384,334           |
| Community Development                   | 338,931                              | 268,750           | 0               | 268,750           |
| Quality of Life                         | 1,769,141                            | 2,179,578         | 594,097         | 2,773,675         |
| Public Works                            | 365,000                              | 348,895           | 0               | 348,895           |
| Legislative Reserve                     | 0                                    | 0                 | 0               | 0                 |
| <b>Total Expenditures</b>               | <b>\$ 20,791,800</b>                 | <b>33,793,768</b> | <b>602,097</b>  | <b>34,395,865</b> |
| <b>Other Resources</b>                  |                                      |                   |                 |                   |
| Operating Transfers In                  | 0                                    | 0                 | 0               | 0                 |
| Operating Transfers Out                 | 0                                    | 0                 | 0               | 0                 |
| <b>Total Other Resources</b>            | <b>\$ 0</b>                          | <b>0</b>          | <b>0</b>        | <b>0</b>          |
| Accrual Adjustments                     | 0                                    | 0                 | 0               | 0                 |
| <b>ENDING BALANCE</b>                   | <b>\$ 698,496</b>                    | <b>0</b>          | <b>0</b>        | <b>0</b>          |

CITY OF LAS CRUCES

BUDGET ADJUSTMENT REQUEST

BUDGET FISCAL YEAR 2023-24

Exhibit "A"

|                                         | 4100<br>CAPITAL PROJECTS REIMB GRANTS |                |                 |                 |
|-----------------------------------------|---------------------------------------|----------------|-----------------|-----------------|
|                                         | 2023-24                               |                |                 |                 |
|                                         | Original Budget                       | Amended Budget | Req. Adjustment | Adjusted Budget |
| RESOURCES                               |                                       |                |                 |                 |
| Beginning Balance                       | \$ (0)                                | 0              | 0               | 0               |
| Revenues                                |                                       |                |                 |                 |
| Municipal Gross Receipts Tax            | 0                                     | 0              | 0               | 0               |
| Public Safety Gross Receipts Tax        | 0                                     | 0              | 0               | 0               |
| Hold Harmless Replacement GRT           | 0                                     | 0              | 0               | 0               |
| State-Shared Gross Receipts Tax         | 0                                     | 0              | 0               | 0               |
| Environmental Gross Receipts Tax        | 0                                     | 0              | 0               | 0               |
| County Environmental Gross Receipts Tax | 0                                     | 0              | 0               | 0               |
| Internet Sales Gross Receipts Tax       | 0                                     | 0              | 0               | 0               |
| Gasoline Tax                            | 0                                     | 0              | 0               | 0               |
| Cannabis Excise Tax                     | 0                                     | 0              | 0               | 0               |
| Lodgers Tax                             | 0                                     | 0              | 0               | 0               |
| Property Taxes                          | 0                                     | 0              | 0               | 0               |
| Payment In Lieu of Property Tax         | 0                                     | 0              | 0               | 0               |
| Franchise Fees                          | 0                                     | 0              | 0               | 0               |
| Payment In Lieu of Franchise Fees       | 0                                     | 0              | 0               | 0               |
| Licenses, Fees & Permits                | 0                                     | 0              | 0               | 0               |
| Convention Center Fee                   | 0                                     | 0              | 0               | 0               |
| Auto License - State Shared             | 0                                     | 0              | 0               | 0               |
| Fines & Forfeitures                     | 0                                     | 0              | 0               | 0               |
| Charges For Services                    | 0                                     | 0              | 0               | 0               |
| Natural Gas Sales - Commodity           | 0                                     | 0              | 0               | 0               |
| Motor Pool Maintenances Charges         | 0                                     | 0              | 0               | 0               |
| Fuel Charges                            | 0                                     | 0              | 0               | 0               |
| Intergovernmental                       | 0                                     | 0              | 0               | 0               |
| Investment Income                       | 0                                     | 0              | 0               | 0               |
| Miscellaneous Revenues                  | 0                                     | 0              | 0               | 0               |
| Federal Grants                          | 7,108,138                             | 6,417,825      | 500,000         | 6,917,825       |
| State Grants                            | 12,716,645                            | 25,330,106     | (29,809)        | 25,300,297      |
| Local Grants                            | 851,264                               | 861,264        | 0               | 861,264         |
| Debt Service                            | 0                                     | 0              | 0               | 0               |
| Total Revenues                          | 20,676,047                            | 32,609,195     | 470,191         | 33,079,386      |
| TOTAL RESOURCES                         | \$ 20,676,047                         | 32,609,195     | 470,191         | 33,079,386      |
| Expenditures                            |                                       |                |                 |                 |
| General Government                      | 0                                     | 0              | 0               | 0               |
| Legislative                             | 0                                     | 0              | 0               | 0               |
| Municipal Court                         | 0                                     | 0              | 0               | 0               |
| Chief Administrative Officer            | 0                                     | 0              | 0               | 0               |
| City Manager                            | 0                                     | 0              | 0               | 0               |
| Legal                                   | 0                                     | 0              | 0               | 0               |
| Las Cruces Police Department            | 0                                     | 0              | 0               | 0               |
| Las Cruces Fire Department              | 330,000                               | 732,730        | 0               | 732,730         |
| Utilities                               | 0                                     | 0              | 0               | 0               |
| Economic Development                    | 876,147                               | 3,597,861      | 0               | 3,597,861       |
| Internal Audit                          | 0                                     | 0              | 0               | 0               |
| Assistant City Manager-400              | 0                                     | 0              | 0               | 0               |
| Human Resources                         | 0                                     | 0              | 0               | 0               |
| Financial Services                      | 0                                     | 0              | 0               | 0               |
| Information Technology                  | 370,000                               | 370,000        | 0               | 370,000         |
| Fleet                                   | 0                                     | 0              | 0               | 0               |
| Assistant City Manger-500               | 0                                     | 0              | 0               | 0               |
| Parks & Recreation                      | 3,323,869                             | 5,842,094      | 500,000         | 6,342,094       |
| Community Development                   | 0                                     | 0              | 0               | 0               |
| Quality of Life                         | 0                                     | 690,746        | 0               | 690,746         |
| Public Works                            | 15,776,031                            | 21,375,764     | (29,809)        | 21,345,955      |
| Legislative Reserve                     | 0                                     | 0              | 0               | 0               |
| Total Expenditures                      | \$ 20,676,047                         | 32,609,195     | 470,191         | 33,079,386      |
| Other Resources                         |                                       |                |                 |                 |
| Operating Transfers In                  | 0                                     | 0              | 0               | 0               |
| Operating Transfers Out                 | 0                                     | 0              | 0               | 0               |
| Total Other Resources                   | \$ 0                                  | 0              | 0               | 0               |
| Accrual Adjustments                     | 0                                     | 0              | 0               | 0               |
| ENDING BALANCE                          | \$ (0)                                | 0              | 0               | 0               |

CITY OF LAS CRUCES
BUDGET ADJUSTMENT REQUEST
BUDGET FISCAL YEAR 2023-24

Exhibit "A"

|                                         | 4202<br>GRT STREET MAINTENANCE |                |                 |                 |
|-----------------------------------------|--------------------------------|----------------|-----------------|-----------------|
|                                         | 2023-24                        |                |                 |                 |
|                                         | Original Budget                | Amended Budget | Req. Adjustment | Adjusted Budget |
| RESOURCES                               |                                |                |                 |                 |
| Beginning Balance                       | \$ 10,903,812                  | 9,045,358      | 0               | 9,045,358       |
| Revenues                                |                                |                |                 |                 |
| Municipal Gross Receipts Tax            | 0                              | 0              | 0               | 0               |
| Public Safety Gross Receipts Tax        | 0                              | 0              | 0               | 0               |
| Hold Harmless Replacement GRT           | 0                              | 0              | 0               | 0               |
| State-Shared Gross Receipts Tax         | 0                              | 0              | 0               | 0               |
| Environmental Gross Receipts Tax        | 0                              | 0              | 0               | 0               |
| County Environmental Gross Receipts Tax | 0                              | 0              | 0               | 0               |
| Internet Sales Gross Receipts Tax       | 0                              | 0              | 0               | 0               |
| Gasoline Tax                            | 0                              | 0              | 0               | 0               |
| Cannabis Excise Tax                     | 0                              | 0              | 0               | 0               |
| Lodgers Tax                             | 0                              | 0              | 0               | 0               |
| Property Taxes                          | 0                              | 0              | 0               | 0               |
| Payment In Lieu of Property Tax         | 0                              | 0              | 0               | 0               |
| Franchise Fees                          | 0                              | 0              | 0               | 0               |
| Payment In Lieu of Franchise Fees       | 0                              | 0              | 0               | 0               |
| Licenses, Fees & Permits                | 0                              | 0              | 0               | 0               |
| Convention Center Fee                   | 0                              | 0              | 0               | 0               |
| Auto License - State Shared             | 0                              | 0              | 0               | 0               |
| Fines & Forfeitures                     | 0                              | 0              | 0               | 0               |
| Charges For Services                    | 300,000                        | 2,138,243      | 0               | 2,138,243       |
| Natural Gas Sales - Commodity           | 0                              | 0              | 0               | 0               |
| Motor Pool Maintenances Charges         | 0                              | 0              | 0               | 0               |
| Fuel Charges                            | 0                              | 0              | 0               | 0               |
| Intergovernmental                       | 0                              | 0              | 0               | 0               |
| Investment Income                       | 60,000                         | 60,000         | 0               | 60,000          |
| Miscellaneous Revenues                  | 0                              | 0              | 0               | 0               |
| Federal Grants                          | 0                              | 0              | 0               | 0               |
| State Grants                            | 0                              | 0              | 0               | 0               |
| Local Grants                            | 0                              | 0              | 0               | 0               |
| Debt Service                            | 0                              | 0              | 0               | 0               |
| Total Revenues                          | 360,000                        | 2,198,243      | 0               | 2,198,243       |
| TOTAL RESOURCES                         | \$ 11,263,812                  | 11,243,601     | 0               | 11,243,601      |
| Expenditures                            |                                |                |                 |                 |
| General Government                      | 0                              | 0              | 0               | 0               |
| Legislative                             | 0                              | 0              | 0               | 0               |
| Municipal Court                         | 0                              | 0              | 0               | 0               |
| Chief Administrative Officer            | 0                              | 0              | 0               | 0               |
| City Manager                            | 0                              | 0              | 0               | 0               |
| Legal                                   | 0                              | 0              | 0               | 0               |
| Las Cruces Police Department            | 0                              | 0              | 0               | 0               |
| Las Cruces Fire Department              | 0                              | 0              | 0               | 0               |
| Utilities                               | 0                              | 0              | 0               | 0               |
| Economic Development                    | 0                              | 0              | 0               | 0               |
| Internal Audit                          | 0                              | 0              | 0               | 0               |
| Assistant City Manager-400              | 0                              | 0              | 0               | 0               |
| Human Resources                         | 0                              | 0              | 0               | 0               |
| Financial Services                      | 0                              | 0              | 0               | 0               |
| Information Technology                  | 0                              | 0              | 0               | 0               |
| Fleet                                   | 0                              | 0              | 0               | 0               |
| Assistant City Manger-500               | 0                              | 0              | 0               | 0               |
| Parks & Recreation                      | 0                              | 0              | 0               | 0               |
| Community Development                   | 0                              | 0              | 0               | 0               |
| Quality of Life                         | 0                              | 0              | 0               | 0               |
| Public Works                            | 17,724,253                     | 17,743,601     | (9,937)         | 17,733,664      |
| Legislative Reserve                     | 0                              | 0              | 0               | 0               |
| Total Expenditures                      | \$ 17,724,253                  | 17,743,601     | (9,937)         | 17,733,664      |
| Other Resources                         |                                |                |                 |                 |
| Operating Transfers In                  | 6,500,000                      | 6,500,000      | 0               | 6,500,000       |
| Operating Transfers Out                 | 0                              | 0              | 0               | 0               |
| Total Other Resources                   | \$ 6,500,000                   | 6,500,000      | 0               | 6,500,000       |
| Accrual Adjustments                     | 0                              | 0              | 0               | 0               |
| ENDING BALANCE                          | \$ 39,559                      | 0              | 9,937           | 9,937           |



**City of Las Cruces  
Capital Improvements Program  
FY 2024-2029**

Exhibit "B"

Amended 7/1/2024

Agenda Item #7.2.

| Project Title                                             | Funded<br>FY2024    | Infrastructure Capital Improvement Plan (Unfunded) |                      |                     |                   |                   | Funding Source(s)    |
|-----------------------------------------------------------|---------------------|----------------------------------------------------|----------------------|---------------------|-------------------|-------------------|----------------------|
|                                                           |                     | FY 2025                                            | FY 2026              | FY 2027             | FY 2028           | FY 2029           |                      |
| <b>ECONOMIC DEVELOPMENT</b>                               |                     |                                                    |                      |                     |                   |                   |                      |
| <b>Economic Development - Newly Funded Projects</b>       |                     |                                                    |                      |                     |                   |                   |                      |
| Downtown Video Security                                   | 100,000             |                                                    |                      |                     |                   |                   | TIDD                 |
| <b>Economic Development - Total Newly Funded Projects</b> | <b>\$ 100,000</b>   | <b>\$ -</b>                                        | <b>\$ -</b>          | <b>\$ -</b>         | <b>\$ -</b>       | <b>\$ -</b>       |                      |
| <b>Economic Development - Carryover Projects</b>          |                     |                                                    |                      |                     |                   |                   |                      |
| Downtown Plaza Shade Structures                           | 643,400             |                                                    |                      |                     |                   |                   | Taxes                |
| Downtown Callecitas Shade Structure                       | 100,000             | 400,000                                            |                      |                     |                   |                   | TIDD                 |
| Gateway Entry Points Improvements                         | 250,000             | 230,000                                            | 25,000               | 25,000              | 25,000            | 25,000            | Bonds, Grants, Taxes |
| 1 - LCIIIP Signage                                        |                     |                                                    |                      |                     |                   |                   |                      |
| 2 - LCIIIP Pocket Park                                    |                     |                                                    |                      |                     |                   |                   |                      |
| 3 - Gateway Signage                                       |                     |                                                    |                      |                     |                   |                   |                      |
| Parking Lot 7 and Bathrooms                               | 99,404              |                                                    |                      |                     |                   |                   | TIDD                 |
| <b>Economic Development - Total Carryover Projects</b>    | <b>\$ 1,092,804</b> | <b>\$ 630,000</b>                                  | <b>\$ 25,000</b>     | <b>\$ 25,000</b>    | <b>\$ 25,000</b>  | <b>\$ 25,000</b>  |                      |
| <b>Economic Development - Annual Projects</b>             |                     |                                                    |                      |                     |                   |                   |                      |
| Downtown Parking Lots Renovation                          | 2,100,000           | 255,000                                            | 255,000              | 255,000             | 255,000           | 255,000           | Grants, TIDD         |
| 1 - Parking Lot 9/10                                      |                     |                                                    |                      |                     |                   |                   |                      |
| 2 - Parking Lot at Campo & Hadley                         |                     |                                                    |                      |                     |                   |                   |                      |
| <b>Economic Development - Total Annual Projects</b>       | <b>\$ 2,100,000</b> | <b>\$ 255,000</b>                                  | <b>\$ 255,000</b>    | <b>\$ 255,000</b>   | <b>\$ 255,000</b> | <b>\$ 255,000</b> |                      |
| <b>Economic Development - Future Projects</b>             |                     |                                                    |                      |                     |                   |                   |                      |
| Rocket Drive Expansion                                    |                     | 820,000                                            | 7,173,000            |                     |                   |                   | Grants, Taxes        |
| Transit Loop Road                                         |                     | 1,661,000                                          | 7,800,000            | 7,800,000           |                   |                   | Grants, Taxes        |
| <b>Economic Development - Total Future Projects</b>       | <b>\$ -</b>         | <b>\$ 2,481,000</b>                                | <b>\$ 14,973,000</b> | <b>\$ 7,800,000</b> | <b>\$ -</b>       | <b>\$ -</b>       |                      |
| <b>Total Economic Development</b>                         | <b>\$ 3,292,804</b> | <b>\$ 3,366,000</b>                                | <b>\$ 15,253,000</b> | <b>\$ 8,080,000</b> | <b>\$ 280,000</b> | <b>\$ 280,000</b> |                      |
| <b>FACILITIES MANAGEMENT</b>                              |                     |                                                    |                      |                     |                   |                   |                      |
| <b>Facilities Management - Carryover Projects</b>         |                     |                                                    |                      |                     |                   |                   |                      |
| Energy Efficiency Program - IGA                           | 1,690,501           |                                                    |                      |                     |                   |                   | Bonds, Taxes         |
| Facility Parking Lot Program                              | 82,003              | 250,000                                            | 250,000              | 250,000             | 250,000           | 250,000           | Taxes                |
| 1 - Munson Center                                         |                     |                                                    |                      |                     |                   |                   |                      |
| 2 - Henry R Benavidez Community Center                    |                     |                                                    |                      |                     |                   |                   |                      |
| 3 - Train Depot                                           |                     |                                                    |                      |                     |                   |                   |                      |
| Gateway Entry Points Signage Maintenance                  | 7,000               | 50,000                                             | 50,000               | 50,000              | 50,000            | 50,000            | Taxes                |
| <b>Facilities Management - Total Carryover Projects</b>   | <b>\$ 1,779,504</b> | <b>\$ 300,000</b>                                  | <b>\$ 300,000</b>    | <b>\$ 300,000</b>   | <b>\$ 300,000</b> | <b>\$ 300,000</b> |                      |
| <b>Facilities Management - Annual Projects</b>            |                     |                                                    |                      |                     |                   |                   |                      |
| General Facilities Improvements                           | 410,485             | 500,000                                            | 500,000              | 500,000             | 500,000           | 500,000           | Taxes                |
| 1 - Communication and Cashier Offices Construction        |                     |                                                    |                      |                     |                   |                   |                      |
| 2 - Jardin de Esperanzas                                  |                     |                                                    |                      |                     |                   |                   |                      |
| 3 - WIA Rehabilitation                                    |                     |                                                    |                      |                     |                   |                   |                      |
| 4 - Arc Flash Plan                                        |                     |                                                    |                      |                     |                   |                   |                      |
| 5 - City Hall Furnishings                                 |                     |                                                    |                      |                     |                   |                   |                      |
| 6 - Surveillance Camera Upgrades                          |                     |                                                    |                      |                     |                   |                   |                      |
| 7 - Records Center Improvements                           |                     |                                                    |                      |                     |                   |                   |                      |
| 8 - Branigan Library Exterior Re-Stucco                   |                     |                                                    |                      |                     |                   |                   |                      |
| 9 - Frank O'Brien Papen Community Center                  |                     |                                                    |                      |                     |                   |                   |                      |
| 10 - City Hall Building Operations Storage                |                     |                                                    |                      |                     |                   |                   |                      |



**City of Las Cruces  
Capital Improvements Program  
FY 2024-2029**

Amended 7/1/2024

Agenda Item #7.2.

| Project Title                                                                                                                                                                                                                                                                                                      | Funded<br>FY2024    | Infrastructure Capital Improvement Plan (Unfunded) |                     |                     |                      |                     | Funding Source(s)    |
|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------|----------------------------------------------------|---------------------|---------------------|----------------------|---------------------|----------------------|
|                                                                                                                                                                                                                                                                                                                    |                     | FY 2025                                            | FY 2026             | FY 2027             | FY 2028              | FY 2029             |                      |
| Roof Replacement Program<br>1 - Police Department Main Building<br>2 - WIA Building<br>3 - Municipal Court<br>4 - Meerscheidt Rec Center<br>5 - Rio Grande Theater<br>6 - Museum of Fine Arts<br>7 - Museum of Nature and Science<br>8 - Railroad Museum<br>9 - Police Department Academy<br>10 - Roof Inspections | 2,312,166           | 375,000                                            | 375,000             | 375,000             | 375,000              | 375,000             | Taxes, TIDD, Bonds   |
| Safety, Health, Environmental & Emergency<br>1 - City Hall Security Upgrades<br>2 - Parks Sidewalk Replacement<br>3 - Pool Hoist<br>4 - Fire Alarm & Security Upgrades<br>5 - Pigeon Abatement                                                                                                                     | 8,448               |                                                    |                     |                     |                      |                     | Taxes                |
| <b>Facilities Management - Total Annual Projects</b>                                                                                                                                                                                                                                                               | <b>\$ 2,731,099</b> | <b>\$ 875,000</b>                                  | <b>\$ 875,000</b>   | <b>\$ 875,000</b>   | <b>\$ 875,000</b>    | <b>\$ 875,000</b>   |                      |
| <b>Facilities Management - Future Projects</b>                                                                                                                                                                                                                                                                     |                     |                                                    |                     |                     |                      |                     |                      |
| HVAC Upgrade Program                                                                                                                                                                                                                                                                                               |                     | 200,000                                            | 200,000             | 200,000             | 200,000              | 200,000             | Taxes                |
| Generator Buffer Program<br>Fire Stations                                                                                                                                                                                                                                                                          |                     | 50,000                                             | 50,000              | 50,000              | 50,000               | 50,000              | Taxes                |
| Refuse & Recycling Buffer Program<br>Henry R Benavidez Community Center                                                                                                                                                                                                                                            |                     | 50,000                                             | 50,000              | 50,000              | 50,000               | 50,000              | Taxes                |
| Generator Replacement Program                                                                                                                                                                                                                                                                                      |                     | 35,000                                             | 35,000              | 35,000              | 35,000               | 35,000              | Taxes                |
| ADA Compliance                                                                                                                                                                                                                                                                                                     |                     | 25,000                                             | 25,000              | 25,000              | 25,000               | 25,000              | Taxes                |
| <b>Facilities Management - Total Future Projects</b>                                                                                                                                                                                                                                                               | <b>\$ -</b>         | <b>\$ 360,000</b>                                  | <b>\$ 360,000</b>   | <b>\$ 360,000</b>   | <b>\$ 360,000</b>    | <b>\$ 360,000</b>   |                      |
| <b>Total Facilities Management</b>                                                                                                                                                                                                                                                                                 | <b>\$ 4,510,603</b> | <b>\$ 1,535,000</b>                                | <b>\$ 1,535,000</b> | <b>\$ 1,535,000</b> | <b>\$ 1,535,000</b>  | <b>\$ 1,535,000</b> |                      |
| <b>LAS CRUCES AIRPORT</b>                                                                                                                                                                                                                                                                                          |                     |                                                    |                     |                     |                      |                     |                      |
| <b>Las Cruces Airport - Newly Funded Projects</b>                                                                                                                                                                                                                                                                  |                     |                                                    |                     |                     |                      |                     |                      |
| LRU Runway 4/22 Rehabilitation                                                                                                                                                                                                                                                                                     | 2,710,000           | 455,000                                            |                     |                     |                      |                     | Grants, Taxes, Other |
| <b>Las Cruces Airport - Total Newly Funded Projects</b>                                                                                                                                                                                                                                                            | <b>\$ 2,710,000</b> | <b>\$ 455,000</b>                                  | <b>\$ -</b>         | <b>\$ -</b>         | <b>\$ -</b>          | <b>\$ -</b>         |                      |
| <b>Las Cruces Airport - Carryover Projects</b>                                                                                                                                                                                                                                                                     |                     |                                                    |                     |                     |                      |                     |                      |
| LRU Airport Infrastructure Improvements                                                                                                                                                                                                                                                                            | 519,354             |                                                    |                     |                     |                      |                     | Grants, Taxes, Other |
| LRU Equipment and Vehicles                                                                                                                                                                                                                                                                                         | 450,000             |                                                    |                     |                     |                      |                     |                      |
| LRU Passenger Terminal                                                                                                                                                                                                                                                                                             | 191,037             |                                                    | 8,608,963           |                     |                      |                     | Grants, Taxes, Other |
| LRU Runway 8/26 Extension<br>1 - Environmental Assessment<br>2 - Design<br>3 - Construction                                                                                                                                                                                                                        | 219,417             |                                                    |                     |                     | 4,200,000            | 8,400,000           | Grants, Taxes, Other |
| LRU Runway 12/30 Extension<br>1 - Environmental Assessment<br>2 - Design<br>3 - Construction                                                                                                                                                                                                                       | 262,902             |                                                    |                     |                     | 13,500,000           |                     | Grants, Taxes, Other |
| LRU Taxilane Improvements                                                                                                                                                                                                                                                                                          | 130,982             | 170,000                                            |                     |                     |                      |                     | Grants, Taxes, Other |
| <b>Las Cruces Airport - Total Carryover Projects</b>                                                                                                                                                                                                                                                               | <b>\$ 1,773,692</b> | <b>\$ 170,000</b>                                  | <b>\$ 8,608,963</b> | <b>\$ -</b>         | <b>\$ 17,700,000</b> | <b>\$ 8,400,000</b> |                      |
| <b>Las Cruces Airport - Annual Projects</b>                                                                                                                                                                                                                                                                        |                     |                                                    |                     |                     |                      |                     |                      |
| LRU Striping and Marking Maintenance Program                                                                                                                                                                                                                                                                       | 150,000             | 75,000                                             | 75,000              | 75,000              | 75,000               | 75,000              | Taxes, Other         |
| <b>Las Cruces Airport - Total Annual Projects</b>                                                                                                                                                                                                                                                                  | <b>\$ 150,000</b>   | <b>\$ 75,000</b>                                   | <b>\$ 75,000</b>    | <b>\$ 75,000</b>    | <b>\$ 75,000</b>     | <b>\$ 75,000</b>    |                      |

**City of Las Cruces  
Capital Improvements Program  
FY 2024-2029**

Amended 7/1/2024

Agenda Item #7.2.

| Project Title                                                    | Funded<br>FY2024     | Infrastructure Capital Improvement Plan (Unfunded) |                      |                      |                      |                      | Funding Source(s)           |
|------------------------------------------------------------------|----------------------|----------------------------------------------------|----------------------|----------------------|----------------------|----------------------|-----------------------------|
|                                                                  |                      | FY 2025                                            | FY 2026              | FY 2027              | FY 2028              | FY 2029              |                             |
| <b>Las Cruces Airport - Future Projects</b>                      |                      |                                                    |                      |                      |                      |                      |                             |
| LRU Utility Infrastructure Improvements                          |                      | 4,500,000                                          |                      |                      |                      |                      | Bonds, Grants, Taxes, Other |
| LRU Commercial Hangar Design and Construct                       |                      | 2,800,000                                          |                      |                      |                      |                      | Grants, Taxes, Other        |
| LRU Maintenance Facility Design-Construct                        |                      |                                                    | 650,000              |                      |                      |                      | Grants, Taxes, Other        |
| LRU Airport Maintenance Equipment                                |                      | 850,000                                            |                      |                      |                      |                      | Bonds, Grants, Taxes, Other |
| LRU Airport Automated Weather Observation System (AWOS)          |                      | 412,460                                            |                      |                      |                      |                      | Grants                      |
| LRU Airport Rotating Beacon                                      |                      | 170,520                                            |                      |                      |                      |                      | Bonds, Grants, Taxes, Other |
| LRU Runways 8/26 and 12/30 Blast Pads                            |                      | 166,667                                            |                      |                      |                      |                      | Grants                      |
| LRU Pavement Maintenance Program                                 |                      | 125,000                                            | 125,000              | 125,000              | 125,000              | 125,000              | Taxes, Other                |
| LRU Passenger Air Service Infrastructure Revitalization          |                      |                                                    | 15,200,000           |                      |                      |                      | Grants, Taxes, Other        |
| LRU Fuel Farm Relocation & Expansion                             |                      |                                                    | 1,900,000            |                      |                      |                      | Grants, Taxes, Other        |
| LRU ARFF Index B Equipment Upgrades                              |                      |                                                    | 1,600,000            |                      |                      |                      | Grants, Taxes, Other        |
| LRU Passenger Terminal Parking                                   |                      |                                                    | 1,200,000            |                      |                      |                      | Grants, Taxes, Other        |
| LRU Airline Ground Support Equipment Facilities                  |                      |                                                    |                      | 750,000              |                      |                      | Grants, Taxes, Other        |
| LRU Taxilane Extensions                                          |                      |                                                    |                      | 3,400,000            |                      |                      | Grants, Taxes, Other        |
| LRU Multi-Modal Public Passenger Transit Facility                |                      |                                                    |                      |                      | 2,500,000            |                      | Grants, Taxes, Other        |
| LRU East Perimeter Road                                          |                      |                                                    |                      |                      |                      | 11,200,000           | Grants, Taxes, Other        |
| LRU Apron West Hangar Rehabilitation                             |                      |                                                    |                      |                      |                      | 70,000               | Grants, Taxes, Other        |
| LRU Apron West Rehabilitation                                    |                      |                                                    |                      |                      |                      | 70,000               | Grants, Taxes, Other        |
| <b>Las Cruces Airport - Total Future Projects</b>                | <b>\$ -</b>          | <b>\$ 9,024,647</b>                                | <b>\$ 20,675,000</b> | <b>\$ 4,275,000</b>  | <b>\$ 2,625,000</b>  | <b>\$ 11,465,000</b> |                             |
| <b>Total Las Cruces Airport</b>                                  | <b>\$ 4,633,692</b>  | <b>\$ 9,724,647</b>                                | <b>\$ 29,358,963</b> | <b>\$ 4,350,000</b>  | <b>\$ 20,400,000</b> | <b>\$ 19,940,000</b> |                             |
| <b>NON-PROFIT ORGANIZATIONS</b>                                  |                      |                                                    |                      |                      |                      |                      |                             |
| <b>Non-Profit Organizations - Newly Funded Projects</b>          |                      |                                                    |                      |                      |                      |                      |                             |
| Children's Museum Facility                                       | 690,746              | 100,000                                            | 400,000              | 5,500,000            |                      |                      | Bonds, Grants               |
| MV Community of Hope - Campus Extension (Amador Crossing)        | 2,500,000            | 5,000,000                                          |                      |                      |                      |                      | Grants                      |
| MV Community of Hope - The Kitchens                              | 1,866,500            | 1,125,000                                          | 7,000,000            | 2,700,000            |                      |                      | Grants                      |
| MV Community of Hope - Flooring                                  | 10,317               |                                                    |                      |                      |                      |                      | Grants                      |
| MV Community of Hope - Jardin de los Niños Re-Roof               | 250,000              |                                                    |                      |                      |                      |                      | Grants                      |
| <b>Non-Profit Organizations - Total Newly Funded Projects</b>    | <b>\$ 5,317,563</b>  | <b>\$ 6,225,000</b>                                | <b>\$ 7,400,000</b>  | <b>\$ 8,200,000</b>  | <b>\$ -</b>          | <b>\$ -</b>          |                             |
| <b>Non-Profit Organizations - Carryover Projects</b>             |                      |                                                    |                      |                      |                      |                      |                             |
| Arts and Cultural District Improvements                          | 2,572,861            |                                                    |                      |                      |                      |                      | Grants                      |
| MV Community of Hope - Solar Project                             | 400,000              |                                                    |                      | 600,000              |                      |                      | Grants                      |
| MV Community of Hope - Casa de Peregrinos Food Rescue Whse       | 651,942              | 1,847,000                                          |                      |                      |                      |                      | Grants, Other               |
| MV Community of Hope - Expansion Remodel                         | 1,188,500            |                                                    |                      |                      |                      |                      | Grants                      |
| 330                                                              | 1,853,922            |                                                    |                      |                      |                      |                      | Grants                      |
| <b>Non-Profit Organizations - Total Carryover Projects</b>       | <b>\$ 6,667,226</b>  | <b>\$ 1,847,000</b>                                | <b>\$ -</b>          | <b>\$ 600,000</b>    | <b>\$ -</b>          | <b>\$ -</b>          |                             |
| <b>Non-Profit Organizations - Future Projects</b>                |                      |                                                    |                      |                      |                      |                      |                             |
| MV Community of Hope - Master Plan Implementation                |                      | 2,000,000                                          | 2,000,000            | 2,000,000            | 2,000,000            | 2,000,000            | Grants                      |
| Paseos Verdes                                                    |                      | 2,000,000                                          | 2,000,000            | 2,000,000            | 2,000,000            | 2,000,000            | Grants                      |
| La Clínica de Familia - Behavioral Health Facility               |                      |                                                    |                      |                      |                      |                      | Grants                      |
| 2023 Legislative Appropriation                                   |                      | 922,349                                            |                      |                      |                      |                      |                             |
| MV Community of Hope - El Caldito Upgrade                        |                      |                                                    | 150,000              |                      |                      |                      | Grants                      |
| MV Community of Hope - Patio to Office Remodel                   |                      |                                                    |                      | 1,000,000            |                      |                      | Grants                      |
| MV Community of Hope - Jardin de los Niños Security Improvements |                      |                                                    |                      | 200,000              |                      |                      | Grants                      |
| <b>Non-Profit Organizations - Total Future Projects</b>          | <b>\$ -</b>          | <b>\$ 4,922,349</b>                                | <b>\$ 4,150,000</b>  | <b>\$ 5,200,000</b>  | <b>\$ 4,000,000</b>  | <b>\$ 4,000,000</b>  |                             |
| <b>Total Non-Profit Organizations</b>                            | <b>\$ 11,984,789</b> | <b>\$ 12,994,349</b>                               | <b>\$ 11,550,000</b> | <b>\$ 14,000,000</b> | <b>\$ 4,000,000</b>  | <b>\$ 4,000,000</b>  |                             |

**City of Las Cruces  
Capital Improvements Program  
FY 2024-2029**

Amended 7/1/2024

Agenda Item #7.2.

| Project Title                                                     | Funded<br>FY2024     | Infrastructure Capital Improvement Plan (Unfunded) |                     |                     |                     |                     | Funding Source(s)    |
|-------------------------------------------------------------------|----------------------|----------------------------------------------------|---------------------|---------------------|---------------------|---------------------|----------------------|
|                                                                   |                      | FY 2025                                            | FY 2026             | FY 2027             | FY 2028             | FY 2029             |                      |
| <b>PARKS &amp; RECREATION</b>                                     |                      |                                                    |                     |                     |                     |                     |                      |
| <b>Parks &amp; Recreation - Newly Funded Projects</b>             |                      |                                                    |                     |                     |                     |                     |                      |
| Klein Park Improvements                                           | 210,000              | 590,000                                            |                     |                     |                     |                     | Grants, Taxes        |
| Light Poles at Hadley Fields                                      | 177,000              |                                                    |                     |                     |                     |                     | Taxes                |
| Parks and Recreational Facilities Structural Renovations          | 300,000              | 399,000                                            | 125,000             |                     |                     |                     | Grants, Taxes        |
| Trails +                                                          | 500,000              |                                                    |                     |                     |                     |                     | Grants               |
| Trail Renovations                                                 | 100,000              | 400,000                                            | 500,000             | 500,000             | 500,000             | 500,000             | Bonds, Grants        |
| Various Park Restroom Replacement/Repairs & Upgrades              | 435,417              | 360,000                                            |                     |                     |                     |                     | Grants, PIF          |
| Veterans' Memorial Park Enhancements                              | 247,500              | 412,500                                            | 662,500             | 662,500             | 662,500             | 662,500             | Bonds, Grants        |
| <b>Parks &amp; Recreation - Total Newly Funded Projects</b>       | <b>\$ 1,969,917</b>  | <b>\$ 2,161,500</b>                                | <b>\$ 1,287,500</b> | <b>\$ 1,162,500</b> | <b>\$ 1,162,500</b> | <b>\$ 1,162,500</b> |                      |
| <b>Parks &amp; Recreation - Carryover Projects</b>                |                      |                                                    |                     |                     |                     |                     |                      |
| A. Fielder Memorial Safe Haven Renovations                        | 353,635              |                                                    |                     |                     |                     |                     | Taxes                |
| Apodaca Park Aquatic Playground and Multi-Use Path                | 2,364,000            |                                                    |                     |                     |                     |                     | PIF, Taxes           |
| Ballfield/Soccer Field Renovations & Upgrades                     | 820,236              | 834,600                                            | 144,000             | 3,200,000           |                     |                     | Grants               |
| Chandler Tank Park                                                | 1,082,035            |                                                    |                     |                     |                     |                     | Bonds, Taxes         |
| Dona Ana Move Trail                                               | 690,000              |                                                    |                     |                     |                     |                     | Grants, Taxes        |
| East Mesa Public Safety Area Park                                 | 100,000              | 100,000                                            |                     | 100,000             |                     | 100,000             | Grants, PIF          |
| Gallagher Park Improvements                                       | 149,189              |                                                    |                     |                     |                     |                     | Taxes                |
| Highland Park                                                     | 2,028,552            | 510,850                                            |                     |                     |                     |                     | Grants, PIF, Taxes   |
| JCP Learning Center Exterior Repairs                              | 257,015              |                                                    |                     |                     |                     |                     | Grants, Taxes        |
| Las Cruces Lateral RTP Trail                                      | 489,011              |                                                    |                     |                     |                     |                     | Grants               |
| Las Cruces Regional Aquatic Center HVAC & Dehumidifier            | -                    |                                                    |                     |                     |                     |                     | Taxes                |
| Meerscheidt Recreation Center - Remodel/Expansion                 | 2,000,000            |                                                    |                     |                     |                     |                     | Bonds, Grants        |
| Meerscheidt Recreation Center Improvements                        | 19,362               | 312,638                                            |                     |                     |                     |                     | Grants, Taxes        |
| New Skate Park - Plan & Design                                    | 550,000              | 800,000                                            |                     |                     |                     |                     | Grants               |
| Park Drinking Fountains                                           | 279,325              |                                                    |                     |                     |                     |                     | Grants, PIF, Taxes   |
| Parks Smart Controllers & Pumps                                   | 150,001              |                                                    |                     |                     |                     |                     | Grants, Taxes        |
| Pioneer Women's Park Gazebo Improvements                          | 835,699              | 600,000                                            | 600,000             | 600,000             | 600,000             | 600,000             | Grants               |
| Regional Rec & Aquatic Cntr - Ph II - Community Pool Construction | 476,026              |                                                    |                     |                     |                     |                     | Bonds, PIF, Taxes    |
| Skate Park Renovation & Improvements                              | 1,070,000            | 836,500                                            | 1,650,000           | 500,000             |                     |                     | Grants, PIF          |
| Tortugas Trail                                                    | 75,000               |                                                    |                     |                     |                     |                     | Grants               |
| Wayfinding Signage                                                | 1,183                |                                                    |                     |                     |                     |                     | Grants, PIF          |
| <b>Parks &amp; Recreation - Total Carryover Projects</b>          | <b>\$ 13,790,269</b> | <b>\$ 3,994,588</b>                                | <b>\$ 2,394,000</b> | <b>\$ 4,400,000</b> | <b>\$ 600,000</b>   | <b>\$ 700,000</b>   |                      |
| <b>Parks &amp; Recreation - Annual Projects</b>                   |                      |                                                    |                     |                     |                     |                     |                      |
| Land Acquisition, Planning, and Design for Parks                  | 1,300,000            | 500,000                                            | 500,000             | 500,000             | 500,000             | 500,000             | PIF                  |
| Median Landscaping                                                | 1,221,610            | 200,000                                            | 200,000             | 200,000             | 200,000             | 200,000             | Grants, Loans, Taxes |
| Metro Verde Neighborhood Parks                                    | 619,814              | 500,000                                            | 500,000             | 500,000             | 500,000             | 500,000             | PIF, Grants          |
| Neighborhood Parks                                                | 972,835              | 500,000                                            | 500,000             | 500,000             | 500,000             | 500,000             | PIF, Taxes           |
| Parks Parking Lots                                                | 2,640,881            | 907,500                                            | 252,500             | 272,700             | 272,700             | 272,700             | Bonds, Grants, Taxes |
| Veterans' Park Parking Lot                                        |                      |                                                    |                     |                     |                     |                     |                      |
| BMX Track Parking Lot & ADA Improvements                          |                      |                                                    |                     |                     |                     |                     |                      |
| Paz Ball Field Parking Lot Improvements                           |                      |                                                    |                     |                     |                     |                     |                      |
| Tony Gomez Park Parking Lot Improvements                          |                      |                                                    |                     |                     |                     |                     |                      |
| Apodaca Park                                                      |                      |                                                    |                     |                     |                     |                     |                      |
| East Mesa Recreation Center                                       |                      |                                                    |                     |                     |                     |                     |                      |
| Maag Ball Park                                                    |                      |                                                    |                     |                     |                     |                     |                      |
| Skate Park                                                        |                      |                                                    |                     |                     |                     |                     |                      |
| Parks Shade Structures                                            | 24,000               | 24,000                                             | 24,000              | 24,000              | 24,000              | 24,000              | Taxes                |
| <b>Parks &amp; Recreation - Total Annual Projects</b>             | <b>\$ 6,779,140</b>  | <b>\$ 2,631,500</b>                                | <b>\$ 1,976,500</b> | <b>\$ 1,996,700</b> | <b>\$ 1,996,700</b> | <b>\$ 1,996,700</b> |                      |

**City of Las Cruces  
Capital Improvements Program  
FY 2024-2029**

Amended 7/1/2024

Agenda Item #7.2.

| Project Title                                                  | Funded<br>FY2024     | Infrastructure Capital Improvement Plan (Unfunded) |                     |                      |                     |                     | Funding Source(s)           |
|----------------------------------------------------------------|----------------------|----------------------------------------------------|---------------------|----------------------|---------------------|---------------------|-----------------------------|
|                                                                |                      | FY 2025                                            | FY 2026             | FY 2027              | FY 2028             | FY 2029             |                             |
| <b>Parks &amp; Recreation - Future Projects</b>                |                      |                                                    |                     |                      |                     |                     |                             |
| Multi-Use Recreation Center                                    |                      | 60,000,000                                         |                     |                      |                     |                     | Bonds, Grants               |
| Indoor/Outdoor Aquatic Amenities                               |                      | 195,000                                            |                     |                      |                     |                     | Grants, Taxes               |
| East Mesa Bataan Memorial Pool - HVAC Replacement              |                      | 78,000                                             |                     |                      |                     |                     | Grants                      |
| Albert Johnson Park Electrical Improvements                    |                      | 70,000                                             |                     |                      |                     |                     | Grants, Taxes               |
| Benavidez Park                                                 |                      |                                                    | 500,000             |                      |                     |                     | Grants                      |
| Veterans' Memorial Park Restroom Plumbing Repairs and Upgrades |                      |                                                    | 134,000             |                      |                     |                     | Grants, PIF                 |
| Valley View Park - Heske Garden Lighting Replacement           |                      |                                                    | 80,000              |                      |                     |                     | Grants, Taxes               |
| Laabs Pool - HVAC Replacement                                  |                      |                                                    | 78,000              |                      |                     |                     | Grants, Taxes               |
| Hadley Complex Recreation Rehabilitation                       |                      |                                                    | 31,500              | 318,500              |                     |                     | Grants, Taxes               |
| Four Field Baseball/Softball Complex                           |                      |                                                    |                     | 5,995,500            |                     |                     | Bonds, Grants, PIF          |
| Laabs Pool - Shade Structures                                  |                      |                                                    |                     | 97,500               |                     |                     | Bonds, Grants, PIF          |
| New Sand Volleyball Courts                                     |                      |                                                    |                     |                      | 40,000              |                     | Grants, PIF                 |
| Waterfalls Park                                                |                      |                                                    |                     |                      |                     | 1,200,000           | Grants, PIF                 |
| <b>Parks &amp; Recreation - Total Future Projects</b>          | <b>\$ -</b>          | <b>\$ 60,343,000</b>                               | <b>\$ 823,500</b>   | <b>\$ 6,411,500</b>  | <b>\$ 40,000</b>    | <b>\$ 1,200,000</b> |                             |
| <b>Total Parks &amp; Recreation</b>                            | <b>\$ 22,539,326</b> | <b>\$ 69,130,588</b>                               | <b>\$ 6,481,500</b> | <b>\$ 13,970,700</b> | <b>\$ 3,799,200</b> | <b>\$ 5,059,200</b> |                             |
| <b>PUBLIC SAFETY</b>                                           |                      |                                                    |                     |                      |                     |                     |                             |
| <b>Public Safety - Newly Funded Projects</b>                   |                      |                                                    |                     |                      |                     |                     |                             |
| Fire Station Alerting System                                   | 434,492              |                                                    |                     |                      |                     |                     | Taxes                       |
| Fire Station 2 Bay Remodel                                     | 100,000              |                                                    |                     |                      |                     |                     | Grants                      |
| Fire Station 5                                                 | 100,000              | 214,000                                            | 230,000             |                      |                     |                     | Bonds, Grants, Taxes, Other |
| 1 - North/South Aprons                                         |                      |                                                    |                     |                      |                     |                     |                             |
| 2 - Parking Lot                                                |                      |                                                    |                     |                      |                     |                     |                             |
| 3 - Improvements                                               |                      |                                                    |                     |                      |                     |                     |                             |
| Fire Station 6 Repairs                                         | 100,000              |                                                    |                     |                      |                     |                     | Grants                      |
| Fire Department Training tower                                 | 99,000               | 120,000                                            |                     |                      |                     |                     | Grants, Taxes               |
| Real Time Crime Center (RTCC)                                  | 1,100,000            | 250,000                                            |                     |                      |                     |                     | Grants, Taxes               |
| <i>2024 Legislative Appropriations</i>                         |                      | 650,000                                            |                     |                      |                     |                     |                             |
| <b>Public Safety - Total Newly Funded Projects</b>             | <b>\$ 833,492</b>    | <b>\$ 334,000</b>                                  | <b>\$ 230,000</b>   | <b>\$ -</b>          | <b>\$ -</b>         | <b>\$ -</b>         |                             |
| <b>Public Safety - Carryover Projects</b>                      |                      |                                                    |                     |                      |                     |                     |                             |
| Fire Dept. Administration Building Lobby Remodel               | 199,026              | 350,000                                            | 193,400             |                      |                     |                     | Grants, Other               |
| Fire Department CIT and MIH Building                           | 348,895              | 3,420,315                                          |                     |                      |                     |                     | ARPA, Grants, Taxes, Other  |
| Police Department Building Renovations                         | 37,598               | 400,000                                            |                     |                      |                     |                     | Grants, Taxes               |
| Public Safety Regional Radio Communication System              | 468,000              | 500,000                                            | 25,000              | 25,000               | 25,000              | 25,000              | Grants, Taxes               |
| <b>Public Safety - Total Carryover Projects</b>                | <b>\$ 1,053,519</b>  | <b>\$ 4,670,315</b>                                | <b>\$ 218,400</b>   | <b>\$ 25,000</b>     | <b>\$ 25,000</b>    | <b>\$ 25,000</b>    |                             |
| <b>Public Safety - Annual Projects</b>                         |                      |                                                    |                     |                      |                     |                     |                             |
| Fire Department Equipment                                      | 330,000              | 720,000                                            | 500,000             | 500,000              | 500,000             |                     | Grants                      |
| <b>Public Safety - Total Annual Projects</b>                   | <b>\$ 330,000</b>    | <b>\$ 720,000</b>                                  | <b>\$ 500,000</b>   | <b>\$ 500,000</b>    | <b>\$ 500,000</b>   | <b>\$ -</b>         |                             |
| <b>Public Safety - Future Projects</b>                         |                      |                                                    |                     |                      |                     |                     |                             |
| Fire Department Station 9                                      |                      | 5,165,000                                          |                     |                      |                     |                     | Bonds, Grants, Taxes        |
| Police Department Mobile Operations Command Vehicle            |                      |                                                    |                     |                      |                     |                     | Grants                      |
| <i>2023 Legislative Appropriation</i>                          |                      | 750,000                                            |                     |                      |                     |                     |                             |
| Public Safety Vehicles - Bearcat                               |                      |                                                    |                     |                      |                     |                     | Grants                      |
| <i>2023 Legislative Appropriation</i>                          |                      | 500,000                                            |                     |                      |                     |                     |                             |
| Public Safety Vehicles - Rook                                  |                      |                                                    |                     |                      |                     |                     | Grants                      |
| <i>2023 Legislative Appropriation</i>                          |                      | 500,000                                            |                     |                      |                     |                     |                             |

**City of Las Cruces  
Capital Improvements Program  
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Agenda Item #7.2.

| Project Title                                                                                                 | Funded<br>FY2024     | Infrastructure Capital Improvement Plan (Unfunded) |                     |                     |                     |                      | Funding Source(s)    |
|---------------------------------------------------------------------------------------------------------------|----------------------|----------------------------------------------------|---------------------|---------------------|---------------------|----------------------|----------------------|
|                                                                                                               |                      | FY 2025                                            | FY 2026             | FY 2027             | FY 2028             | FY 2029              |                      |
| Police Department Equipment<br>Technology Equipment<br><i>2023 Legislative Appropriation</i>                  |                      | 450,000                                            |                     |                     |                     |                      | Grants               |
| Police Parking Lot Resurfacing                                                                                |                      | 276,000                                            |                     |                     |                     |                      | Grants, Taxes        |
| Fire Stations 4 & 5 Security Fencing and Gates                                                                |                      | 130,000                                            |                     |                     |                     |                      | Grants, Taxes        |
| Public Safety Vehicles - Critical Incident Command Vehicle                                                    |                      | 100,000                                            |                     |                     |                     |                      | Grants               |
| Fire Station 4 Restroom Remodel                                                                               |                      | 90,000                                             |                     |                     |                     |                      | Grants, Taxes        |
| Police North Parking Lot Fencing                                                                              |                      | 20,000                                             |                     |                     |                     |                      | Grants               |
| Fire-Energy Efficiency and Sustainability                                                                     |                      |                                                    |                     | 334,000             | 330,000             | 270,000              | Grants               |
| Fire Station 2 Replacement<br>1 - Land Acquisition<br>2 - Plan, Design, Construct, and FF&E<br>3 - Demolition |                      |                                                    |                     |                     | 5,165,000           |                      | Taxes, Grants        |
| Downtown Public Safety Complex                                                                                |                      |                                                    |                     |                     |                     | 57,000,000           | Bonds, Grants        |
| Police/Fire Training Facility - Design & Construct                                                            |                      |                                                    |                     |                     |                     | 6,900,000            | Grants               |
| Police/Fire Training Facility - Furniture, Fixtures, & Equipment                                              |                      |                                                    |                     |                     |                     | 2,100,000            | Grants               |
| <b>Public Safety - Total Future Projects</b>                                                                  | <b>\$ -</b>          | <b>\$ 7,981,000</b>                                | <b>\$ -</b>         | <b>\$ 334,000</b>   | <b>\$ 5,495,000</b> | <b>\$ 66,270,000</b> |                      |
| <b>Total Public Safety</b>                                                                                    | <b>\$ 3,317,011</b>  | <b>\$ 14,605,315</b>                               | <b>\$ 948,400</b>   | <b>\$ 859,000</b>   | <b>\$ 6,020,000</b> | <b>\$ 66,295,000</b> |                      |
| <b>PUBLIC WORKS</b>                                                                                           |                      |                                                    |                     |                     |                     |                      |                      |
| <b>Public Works - Newly Funded Projects</b>                                                                   |                      |                                                    |                     |                     |                     |                      |                      |
| Complete Streets<br>University Ave. Complete Street Improvements<br>El Paseo Rd.<br>Idaho Ave                 | 7,660,000            | 1,750,000                                          | 1,750,000           | 1,500,000           | 1,750,000           | 1,750,000            | Bonds                |
| GO Bond 2024 - Affordable Housing Development                                                                 | 6,000,000            |                                                    |                     |                     |                     |                      | Bonds                |
| Lift Up Las Cruces - Street Improvements                                                                      | 595,000              | 600,000                                            | 600,000             | 600,000             | 600,000             | 600,000              | Grants               |
| Mesquite Historical District Renovations                                                                      | 1,025,000            |                                                    |                     |                     |                     |                      | Grants               |
| Resiliency                                                                                                    | 3,000,000            | 1,250,000                                          | 1,250,000           | 1,000,000           | 1,250,000           | 1,250,000            | Bonds                |
| University Ave. Complete Street Improvements-Design                                                           | 520,000              | 480,000                                            |                     |                     |                     |                      | Grants, Bonds, Taxes |
| <b>Public Works - Total Newly Funded Projects</b>                                                             | <b>\$ 18,280,000</b> | <b>\$ 3,600,000</b>                                | <b>\$ 3,600,000</b> | <b>\$ 3,100,000</b> | <b>\$ 3,600,000</b> | <b>\$ 3,600,000</b>  |                      |
| <b>Public Works - Carryover Projects</b>                                                                      |                      |                                                    |                     |                     |                     |                      |                      |
| Amador Hotel                                                                                                  | 3,086,723            | 2,950,000                                          | 2,950,000           | 2,950,000           |                     |                      | Grants, TIDD         |
| Bellamah Drive - Lees Drive to Luna Street                                                                    | 2,676,899            |                                                    |                     |                     |                     |                      | Bonds, Taxes         |
| Campo Street Design and Reconstruct<br>Hadley Ave.<br>Organ Ave.                                              | 1,401,103            | 4,815,197                                          |                     |                     |                     |                      | TIDD, Taxes          |
| Casa Linda Acres Reconstruction                                                                               | 3,634,760            |                                                    |                     |                     |                     |                      | ARPA, Taxes          |
| Del Rey Blvd Signal Improvements                                                                              | 177,390              |                                                    |                     |                     |                     |                      | Grants, Taxes        |
| East Mesa Recreation Complex                                                                                  | 2,000,000            |                                                    |                     |                     |                     |                      | Bonds                |
| East Mesa Recreation Complex Roads                                                                            | 567,698              | 637,906                                            |                     |                     |                     |                      | Bonds, Taxes         |
| East Mesa Roads and Drainage                                                                                  | 2,337,088            | 500,000                                            | 500,000             | 500,000             | 500,000             | 500,000              | Grants, Taxes        |
| GO Bonds - ARPA Funding                                                                                       | 2,506,687            |                                                    |                     |                     |                     |                      | ARPA                 |
| GO Bond 2022 - New Fire Station                                                                               | 9,800,000            |                                                    |                     |                     |                     |                      | Bond                 |
| GO Bond 2022 - Parks Improvements                                                                             | 1,960,000            |                                                    |                     |                     |                     |                      | Bond                 |
| GO Bond 2022 - East Mesa Recreation Complex                                                                   | 4,900,000            |                                                    |                     |                     |                     |                      | Bond                 |

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|-----------------------------------------------------------------------|----------------------|----------------------------------------------------|---------------------|---------------------|-------------------|-------------------|-------------------|
|                                                                       |                      | FY 2025                                            | FY 2026             | FY 2027             | FY 2028           | FY 2029           |                   |
| GO Bond Q1 - Park & Sport Field Improvements & Additions              | 45,517               |                                                    |                     |                     |                   |                   | GO Bonds, PIF     |
| GO Bond Q2 - New Animal Shelter Facility                              | 49,997               |                                                    |                     |                     |                   |                   | GO Bonds          |
| GO Bond Q3 - New Fire Station No. 3 Building                          | 29,164               |                                                    |                     |                     |                   |                   | GO Bonds          |
| GO Bond Q4 - Walking, Jogging, Biking Trails Improvements & Additions | 7,065                |                                                    |                     |                     |                   |                   | GO Bonds          |
| Madrid Ave Extension - Martha Dr to N Triviz Dr                       | 2,864,997            | 1,000,000                                          |                     |                     |                   |                   | Grants, Taxes     |
| Midway Ave - Gas Line Rd to Mesa Dr                                   | 600,000              |                                                    |                     |                     |                   |                   | Taxes, Grants     |
| Picacho Ave HAWK System                                               | 39,746               |                                                    |                     |                     |                   |                   | Grants, Taxes     |
| South Main St - Avenida de Mesilla to Boutz                           | 3,308,139            |                                                    |                     |                     |                   |                   | Bonds             |
| Storm Water System Mapping                                            | 100,000              | 100,000                                            |                     |                     |                   |                   | Taxes             |
| Traffic Signals                                                       | 1,010,523            |                                                    |                     |                     |                   |                   | Bonds             |
| Hoagland Rd & N Alameda Blvd                                          |                      |                                                    |                     |                     |                   |                   |                   |
| Roadrunner Parkway & Sonora Springs                                   |                      |                                                    |                     |                     |                   |                   |                   |
| Sonoma Ranch Blvd & Northrise                                         |                      |                                                    |                     |                     |                   |                   |                   |
| Telshor ADA Improvements Phase VI                                     | 316,659              |                                                    |                     |                     |                   |                   | Grants, Taxes     |
| Telshor Spruce Intersection Improvements                              | 1,236,959            | 850,000                                            |                     |                     |                   |                   | Grants            |
| Voluntary Assessment District Phase I                                 | 69,808               |                                                    |                     |                     |                   |                   | Bonds             |
| Sanitary Sewer Infrastructure                                         |                      |                                                    |                     |                     |                   |                   |                   |
| Sonoma Ranch Blvd Mile 2: Peachtree to Arroyo                         |                      |                                                    |                     |                     |                   |                   |                   |
| Red Hawk Golf Rd: N.Bound Metro Verde S.P1E to Arroyo Rd              |                      |                                                    |                     |                     |                   |                   |                   |
| Regional Drainage Phase 1                                             |                      |                                                    |                     |                     |                   |                   |                   |
| Voluntary Assessment District Phase II                                | 3,196,542            |                                                    |                     |                     |                   |                   | Bonds             |
| Peachtree Hills Rd. East & West                                       |                      |                                                    |                     |                     |                   |                   |                   |
| Regional Drainage                                                     |                      |                                                    |                     |                     |                   |                   |                   |
| Sonoma Ranch Blvd to Engler, Mile 1, Mile 2, Mile 3, & Roundabout     |                      |                                                    |                     |                     |                   |                   |                   |
| Sonoma Ranch Blvd Landscaping to Engler, Mile 1, Mile 2, & Mile 3     |                      |                                                    |                     |                     |                   |                   |                   |
| Villa Mora Dam Park Study                                             | 612,588              |                                                    |                     |                     |                   |                   | Grants, Taxes     |
| Walnut-Madrid TAP Bike/Pedestrian Improvements                        | 982,250              |                                                    |                     |                     |                   |                   | Bonds, Grants     |
| <b>Public Works - Total Carryover Projects</b>                        | <b>\$ 49,518,301</b> | <b>\$ 10,853,103</b>                               | <b>\$ 3,450,000</b> | <b>\$ 3,450,000</b> | <b>\$ 500,000</b> | <b>\$ 500,000</b> |                   |
| <b>Public Works - Annual Projects</b>                                 |                      |                                                    |                     |                     |                   |                   |                   |
| Active Transportation                                                 | 5,115,779            | 350,000                                            | 350,000             | 350,000             | 350,000           | 350,000           | Bonds, Taxes      |
| Bicycle Facilities                                                    |                      |                                                    |                     |                     |                   |                   |                   |
| Pedestrian Safety Improvements                                        |                      |                                                    |                     |                     |                   |                   |                   |
| ADA                                                                   |                      |                                                    |                     |                     |                   |                   |                   |
| Sidewalk Gap                                                          |                      |                                                    |                     |                     |                   |                   |                   |
| Chip Seal Program                                                     | 200,000              | 200,000                                            | 200,000             | 200,000             | 200,000           | 200,000           | Taxes             |
| CO-OP Match                                                           | 80,000               | 80,000                                             | 80,000              | 80,000              | 80,000            | 80,000            | Taxes             |
| Drainage Infrastructure Improvements                                  | 3,068,122            | 500,000                                            | 500,000             | 500,000             | 500,000           | 500,000           | Bonds, Taxes      |
| EBID Drains & Laterals                                                |                      |                                                    |                     |                     |                   |                   |                   |
| Land Acquisition                                                      |                      |                                                    |                     |                     |                   |                   |                   |
| Other Improvements                                                    |                      |                                                    |                     |                     |                   |                   |                   |
| Land Acquisition - Public Works                                       | 200,000              | 250,000                                            | 250,000             | 250,000             | 250,000           | 250,000           | Taxes             |
| Flood Control                                                         |                      |                                                    |                     |                     |                   |                   |                   |
| Rights of Way                                                         |                      |                                                    |                     |                     |                   |                   |                   |
| East Mesa                                                             |                      |                                                    |                     |                     |                   |                   |                   |
| Other                                                                 |                      |                                                    |                     |                     |                   |                   |                   |
| M.A.P. Match                                                          | 165,000              | 150,000                                            | 150,000             | 150,000             | 150,000           | 150,000           | Taxes             |
| Materials Testing                                                     | 240,000              | 250,000                                            | 250,000             | 250,000             | 250,000           | 250,000           | Taxes             |
| Neighborhood Traffic Calming Program                                  | 60,000               | 60,000                                             | 60,000              | 60,000              | 60,000            | 60,000            | Taxes             |
| Pavement Condition Index Improvements                                 | 10,238,981           | 6,300,000                                          | 6,300,000           | 6,300,000           | 6,300,000         | 6,300,000         | Bonds, Taxes      |
| Pavement Condition Index Improvements                                 |                      |                                                    |                     |                     |                   |                   |                   |
| Pavement Overlays                                                     |                      |                                                    |                     |                     |                   |                   |                   |
| Pavement Replacement                                                  |                      |                                                    |                     |                     |                   |                   |                   |
| Pavement Treatment                                                    |                      |                                                    |                     |                     |                   |                   |                   |

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|-------------------------------------------------------------------------------------|----------------------|----------------------------------------------------|----------------------|----------------------|----------------------|----------------------|---------------------|
|                                                                                     |                      | FY 2025                                            | FY 2026              | FY 2027              | FY 2028              | FY 2029              |                     |
| Pavement Marking Program                                                            | 169,000              | 500,000                                            | 250,000              | 500,000              | 250,000              | 500,000              | Taxes               |
| Roadway Maintenance Program                                                         | 902,569              | 700,000                                            | 700,000              | 700,000              | 700,000              | 700,000              | Taxes               |
| Street Lighting & Traffic Signal Maintenance Program                                | 1,096,291            | 500,000                                            | 500,000              | 500,000              | 500,000              | 500,000              | Taxes               |
| Traffic Signal Program<br>Bataan Memorial at Rinconada                              | 514,847              | 500,000                                            | 500,000              | 500,000              | 500,000              | 500,000              | Taxes               |
| Transportation System Modernization ITS                                             | 1,000,000            | 1,000,000                                          | 1,000,000            | 1,000,000            | 1,000,000            | 1,000,000            | Taxes               |
| Unpaved Roads                                                                       | 250,000              | 250,000                                            | 250,000              | 250,000              | 250,000              | 250,000              | Taxes               |
| Weed Control & Maintenance Program<br>City Rights of Way<br>Las Cruces Dam<br>Ponds | 95,000               | 100,000                                            | 100,000              | 100,000              | 100,000              | 100,000              | Taxes               |
| <b>Public Works - Total Annual Projects</b>                                         | <b>\$ 23,395,589</b> | <b>\$ 11,690,000</b>                               | <b>\$ 11,440,000</b> | <b>\$ 11,690,000</b> | <b>\$ 11,440,000</b> | <b>\$ 11,690,000</b> |                     |
| <b>Public Works - Future Projects</b>                                               |                      |                                                    |                      |                      |                      |                      |                     |
| HWY 70 and Elks/Triviz Intersection Improvements                                    |                      | 25,000,000                                         |                      |                      |                      |                      | Grants, Taxes       |
| Melendres Ave - Hadley to Picacho                                                   |                      | 1,979,500                                          |                      |                      |                      |                      | Loans, Taxes        |
| Johnson St - Rouault Ave to Topley Dr                                               |                      | 1,712,000                                          |                      |                      |                      |                      | Loans, Taxes        |
| Ethel Ave - Alameda Blvd to Miranda, and Houma                                      |                      | 1,043,250                                          |                      |                      |                      |                      | Loans, Taxes        |
| Pittsburg Ave - Melendres to Cul de Sac                                             |                      | 250,000                                            |                      |                      |                      |                      | Loans, Taxes        |
| Med Park Ave - Idaho to Perkins Ave                                                 |                      |                                                    | 1,824,000            |                      |                      |                      | Loans, Taxes        |
| Evelyn St - Madrid Ave to Ash Ave                                                   |                      |                                                    | 1,710,000            |                      |                      |                      | Loans, Taxes        |
| Sacramento St - Ash Ave to Oasis Ave                                                |                      |                                                    | 1,482,000            |                      |                      |                      | Loans, Taxes        |
| Mountain Ave - Melendres St to Armijo St                                            |                      |                                                    | 1,368,000            |                      |                      |                      | Loans, Taxes        |
| Armijo St - Picacho Ave to Parker Rd                                                |                      |                                                    | 684,000              |                      |                      |                      | Loans, Taxes        |
| Sequoia Ave - Valley Dr to E.O.P.                                                   |                      |                                                    |                      | 2,420,000            |                      |                      | Loans, Taxes        |
| Lohman at Walnut and Walton Signal Improvements                                     |                      |                                                    |                      | 1,500,000            |                      |                      | Bonds, Loans, Taxes |
| Kilmer St - Spruce Ave to Ash Ave                                                   |                      |                                                    |                      | 1,391,000            |                      |                      | Loans, Taxes        |
| Armijo St - Organ Ave to Mountain Ave                                               |                      |                                                    |                      | 1,331,000            |                      |                      | Loans, Taxes        |
| Poplar Ave - Mesquite St to Santa Fe St                                             |                      |                                                    |                      | 871,200              |                      |                      | Loans, Taxes        |
| La Fonda Dr - Idaho Ave to E.O.P.                                                   |                      |                                                    |                      | 726,000              |                      |                      | Loans, Taxes        |
| 6th Street - Hayner Ave to Hadley Ave                                               |                      |                                                    |                      | 484,000              |                      |                      | Loans, Taxes        |
| South Valley Dr Reconstruction - Avenida de Mesilla to Boutz                        |                      |                                                    |                      |                      | 3,379,200            |                      | Loans, Taxes        |
| Miranda Ave - Picacho Ave to Court Ave                                              |                      |                                                    |                      |                      | 1,664,000            |                      | Loans, Taxes        |
| Rigsby Rd - Barker to Valley Dr                                                     |                      |                                                    |                      |                      | 768,000              |                      | Loans, Taxes        |
| Scoggins Ave - 6th St to Sweet St                                                   |                      |                                                    |                      |                      | 652,800              |                      | Loans, Taxes        |
| Mountain Ave - Water St to Alameda Blvd                                             |                      |                                                    |                      |                      | 640,000              |                      | Loans, Taxes        |
| Street Lighting Management System                                                   |                      |                                                    |                      |                      | 500,000              |                      | Bonds, Loans, Taxes |
| Aspen Ave - Sequioa Ave to S Valley Dr                                              |                      |                                                    |                      |                      |                      | 2,970,000            | Loans, Taxes        |
| Alameda Blvd - Amador Ave to Las Cruces Ave                                         |                      |                                                    |                      |                      |                      | 1,409,400            | Taxes, TIDD         |
| Westgate St - Amador Ave to Cul de Sac                                              |                      |                                                    |                      |                      |                      | 1,350,000            | Loans, Taxes        |
| Parkview Dr - Espina St to E.O.P.                                                   |                      |                                                    |                      |                      |                      | 972,000              | Loans, Taxes        |
| Sweet St - Hadley Ave to Hayner St                                                  |                      |                                                    |                      |                      |                      | 568,000              | Loans, Taxes        |
| Targeted Road and Lighting Improvements - Design                                    |                      |                                                    |                      |                      |                      | 50,000               | Taxes               |
| West Mesa Fiber Optics Improvements - Design                                        |                      |                                                    |                      |                      |                      | 50,000               | Taxes               |
| <b>Public Works - Total Future Projects</b>                                         | <b>\$ -</b>          | <b>\$ 29,984,750</b>                               | <b>\$ 7,068,000</b>  | <b>\$ 8,723,200</b>  | <b>\$ 7,604,000</b>  | <b>\$ 7,369,400</b>  |                     |
| <b>Total Public Works</b>                                                           | <b>\$ 91,713,890</b> | <b>\$ 56,607,853</b>                               | <b>\$ 25,558,000</b> | <b>\$ 26,963,200</b> | <b>\$ 23,144,000</b> | <b>\$ 23,159,400</b> |                     |



**City of Las Cruces  
Capital Improvements Program  
FY 2024-2029**

Amended 7/1/2024

Agenda Item #7.2.

| Project Title                                         | Funded<br>FY2024    | Infrastructure Capital Improvement Plan (Unfunded) |                     |                     |                     |                      | Funding Source(s)    |
|-------------------------------------------------------|---------------------|----------------------------------------------------|---------------------|---------------------|---------------------|----------------------|----------------------|
|                                                       |                     | FY 2025                                            | FY 2026             | FY 2027             | FY 2028             | FY 2029              |                      |
| <b>QUALITY OF LIFE</b>                                |                     |                                                    |                     |                     |                     |                      |                      |
| <b>Quality of Life - Newly Funded Projects</b>        |                     |                                                    |                     |                     |                     |                      |                      |
| Frank O'Brien Papen Center - Dining Room Floor        | 35,000              | 47,140                                             |                     |                     |                     |                      | Grants, Taxes        |
| Museum of Nature and Science - Atrium Redesign        | 50,000              | 15,000                                             |                     |                     |                     |                      | Grants, Taxes        |
| Museum System Technology Improvements                 | 210,000             |                                                    |                     |                     |                     |                      | TIDD                 |
| Senior Programs Vehicles                              | 110,000             | 30,000                                             | 280,000             | 280,000             |                     |                      | Grants               |
| <i>2023 Legislative Appropriation</i>                 |                     | <i>200,000</i>                                     |                     |                     |                     |                      |                      |
| <b>Quality of Life - Total Newly Funded Projects</b>  | <b>\$ 405,000</b>   | <b>\$ 292,140</b>                                  | <b>\$ 280,000</b>   | <b>\$ 280,000</b>   | <b>\$ -</b>         | <b>\$ -</b>          |                      |
| <b>Quality of Life - Carryover Projects</b>           |                     |                                                    |                     |                     |                     |                      |                      |
| Benavidez Center Renovations                          | 126,225             | 38,900                                             |                     |                     |                     |                      | Bonds, Grants, Taxes |
| Branigan Cultural Center Improvements                 | 287,714             | 93,000                                             | 1,000,000           | 1,000,000           | 1,200,000           |                      | Grants, Taxes        |
| Branigan Library - Expansion Phase II/Branch          | 64,364              | 2,615,000                                          | 1,650,000           |                     |                     |                      | Bonds, Grants, Other |
| Go Bond 2023 Public Art                               | 340,000             |                                                    |                     |                     |                     |                      | Bond                 |
| Munson Center Renovations                             | 3,165,327           |                                                    |                     |                     |                     |                      | Grants               |
| Sage Café Expansion                                   | 902,525             | 3,083,180                                          |                     |                     |                     |                      | Grants               |
| Senior Programs Kitchen Equipment                     | 52,409              | 150,000                                            |                     |                     |                     |                      | Taxes                |
| <b>Quality of Life - Total Carryover Projects</b>     | <b>\$ 4,938,564</b> | <b>\$ 5,980,080</b>                                | <b>\$ 2,650,000</b> | <b>\$ 1,000,000</b> | <b>\$ 1,200,000</b> | <b>\$ -</b>          |                      |
| <b>Quality of Life - Annual Projects</b>              |                     |                                                    |                     |                     |                     |                      |                      |
| Public Art Program                                    | 108,506             | 300,000                                            | 300,000             | 300,000             | 300,000             | 300,000              | Taxes                |
| <b>Quality of Life - Total Annual Projects</b>        | <b>\$ 108,506</b>   | <b>\$ 300,000</b>                                  | <b>\$ 300,000</b>   | <b>\$ 300,000</b>   | <b>\$ 300,000</b>   | <b>\$ 300,000</b>    |                      |
| <b>Quality of Life - Future Projects</b>              |                     |                                                    |                     |                     |                     |                      |                      |
| Munson Center Floor                                   |                     | 750,000                                            |                     |                     |                     |                      | Bonds, Grants, Taxes |
| Sage Café Backup Generator                            |                     | 422,500                                            |                     |                     |                     |                      | Bonds, Grants, Taxes |
| Senior Programs Existing Kitchen Expansion Assessment |                     | 260,000                                            |                     |                     |                     |                      | Taxes                |
| Munson Center Bathrooms                               |                     | 250,000                                            |                     |                     |                     |                      | Bonds, Grants, Taxes |
| Munson Center Kitchen Expansion                       |                     | 221,000                                            | 3,053,100           |                     |                     |                      | Bonds, Grants, Taxes |
| Benavidez Kitchen Expansion                           |                     |                                                    | 93,800              | 2,854,800           |                     |                      | Bonds, Grants, Taxes |
| Museum System On-site Server                          |                     | 115,000                                            |                     |                     |                     |                      | Bonds, Grants, Taxes |
| Museum of Art Improvements                            |                     | 35,000                                             | 95,000              | 320,000             | 200,000             |                      | Bonds, Grants, Taxes |
| Museum of Art - Gallery Flooring                      |                     | 35,000                                             | 165,000             |                     |                     |                      | Bonds, Grants, Taxes |
| Museum of Nature and Science - Nature Center Redesign |                     | 25,000                                             | 75,000              | 175,000             |                     |                      | Taxes, Grants        |
| Railroad Museum Reinterpretation                      |                     | 25,000                                             | 60,000              | 150,000             | 75,000              |                      | Bonds, Grants, Taxes |
| Railroad Museum - Exterior Improvements               |                     |                                                    | 38,000              | 60,000              | 17,500              |                      | Bonds, Grants, Taxes |
| Branigan Library Renovation                           |                     |                                                    |                     | 209,000             | 2,750,000           | 1,111,000            | Bonds, Grants, Taxes |
| Museum of Art Relocation/Remodel                      |                     |                                                    |                     |                     |                     | 30,000,000           | Bonds, Grants, Taxes |
| Museums Collection Storage Facility                   |                     |                                                    |                     |                     |                     | 9,500,000            | Grants, Taxes        |
| <b>Quality of Life - Total Future Projects</b>        | <b>\$ -</b>         | <b>\$ 2,138,500</b>                                | <b>\$ 3,579,900</b> | <b>\$ 3,768,800</b> | <b>\$ 3,042,500</b> | <b>\$ 40,611,000</b> |                      |
| <b>Total Quality of Life</b>                          | <b>\$ 5,452,070</b> | <b>\$ 8,710,720</b>                                | <b>\$ 6,809,900</b> | <b>\$ 5,348,800</b> | <b>\$ 4,542,500</b> | <b>\$ 40,911,000</b> |                      |



**City of Las Cruces  
Capital Improvements Program  
FY 2024-2029**

Amended 7/1/2024

Agenda Item #7.2.

| Project Title                                        | Funded<br>FY2024     | Infrastructure Capital Improvement Plan (Unfunded) |                     |                     |                  |                   | Funding Source(s)          |
|------------------------------------------------------|----------------------|----------------------------------------------------|---------------------|---------------------|------------------|-------------------|----------------------------|
|                                                      |                      | FY 2025                                            | FY 2026             | FY 2027             | FY 2028          | FY 2029           |                            |
| <b>ROADRUNNER TRANSIT</b>                            |                      |                                                    |                     |                     |                  |                   |                            |
| <b>RoadRUNNER Transit - Carryover Projects</b>       |                      |                                                    |                     |                     |                  |                   |                            |
| Municipal Services Center - Transit                  | 22,110,608           | 8,383,338                                          |                     |                     |                  |                   | ARPA, Bonds, Grants, Taxes |
| <b>RoadRUNNER Transit - Total Carryover Projects</b> | <b>\$ 22,110,608</b> | <b>\$ 8,383,338</b>                                | <b>\$ -</b>         | <b>\$ -</b>         | <b>\$ -</b>      | <b>\$ -</b>       |                            |
| <b>RoadRUNNER Transit - Annual Projects</b>          |                      |                                                    |                     |                     |                  |                   |                            |
| Transit Facilities Improvement Program               | 75,000               | 75,000                                             | 75,000              | 75,000              | 80,000           | 185,000           | Grants, Taxes              |
| <b>RoadRUNNER Transit - Total Annual Projects</b>    | <b>\$ 75,000</b>     | <b>\$ 75,000</b>                                   | <b>\$ 75,000</b>    | <b>\$ 75,000</b>    | <b>\$ 80,000</b> | <b>\$ 185,000</b> |                            |
| <b>Total RoadRUNNER Transit</b>                      | <b>\$ 22,185,608</b> | <b>\$ 8,458,338</b>                                | <b>\$ 75,000</b>    | <b>\$ 75,000</b>    | <b>\$ 80,000</b> | <b>\$ 185,000</b> |                            |
| <b>SUSTAINABILITY</b>                                |                      |                                                    |                     |                     |                  |                   |                            |
| <b>Sustainability - Carryover Projects</b>           |                      |                                                    |                     |                     |                  |                   |                            |
| Solar Energy Photo Voltaic Projects                  | 214,152              |                                                    |                     |                     |                  |                   | Taxes                      |
| Fleet Electric Vehicle Chargers                      | 376,000              | -                                                  |                     |                     |                  |                   | Grants, Bonds, Taxes       |
| <b>Sustainability - Total Carryover Projects</b>     | <b>\$ 590,152</b>    | <b>\$ -</b>                                        | <b>\$ -</b>         | <b>\$ -</b>         | <b>\$ -</b>      | <b>\$ -</b>       |                            |
| <b>Sustainability - Future Projects</b>              |                      |                                                    |                     |                     |                  |                   |                            |
| DC Fast Chargers for Electric Vehicles               |                      | 200,000                                            | 200,000             |                     |                  |                   | Grants, Bonds, Taxes       |
| Public Electric Vehicle Chargers                     |                      | 200,000                                            | 200,000             |                     |                  |                   | Grants, Bonds, Taxes       |
| Green Cool Corridors for Bicycles                    |                      |                                                    |                     | 174,000             |                  |                   | Grants, Bonds, Taxes       |
| LMI Housing Retrofits for Resiliency                 |                      |                                                    |                     | 1,270,000           |                  |                   | Grants, Bonds, Taxes       |
| <b>Sustainability - Total Future Projects</b>        | <b>\$ -</b>          | <b>\$ 400,000</b>                                  | <b>\$ 400,000</b>   | <b>\$ 1,444,000</b> | <b>\$ -</b>      | <b>\$ -</b>       |                            |
| <b>Total Sustainability</b>                          | <b>\$ 590,152</b>    | <b>\$ 400,000</b>                                  | <b>\$ 400,000</b>   | <b>\$ 1,444,000</b> | <b>\$ -</b>      | <b>\$ -</b>       |                            |
| <b>UTILITIES</b>                                     |                      |                                                    |                     |                     |                  |                   |                            |
| <b>Utilities - Newly Funded Projects</b>             |                      |                                                    |                     |                     |                  |                   |                            |
| JHWWTF Rehabilitation                                | 15,111,385           |                                                    |                     |                     |                  |                   | Bonds                      |
| Wastewater SCADA                                     | 596,277              | 296,569                                            | 196,569             | 30,000              | 30,000           | 30,000            | Other                      |
| Water Development                                    | 163,224              | 1,469,019                                          |                     |                     |                  |                   | WIF                        |
| <b>Utilities - Total Newly Funded Projects</b>       | <b>\$ 15,870,886</b> | <b>\$ 1,765,588</b>                                | <b>\$ 196,569</b>   | <b>\$ 30,000</b>    | <b>\$ 30,000</b> | <b>\$ 30,000</b>  |                            |
| <b>Utilities - Carryover Projects</b>                |                      |                                                    |                     |                     |                  |                   |                            |
| Wastewater Development                               | 165,000              |                                                    |                     |                     |                  |                   | WWIF                       |
| Wastewater Septic Systems                            | 2,171,467            | 1,472,100                                          | 1,619,000           |                     |                  |                   | Other, Bonds, Grant        |
| Water Rehabilitation - NMFA                          | 34,941               |                                                    |                     |                     |                  |                   | Loans                      |
| Water Utilities Bond Projects 2020A                  | 3,558,786            | 4,939,151                                          |                     |                     |                  |                   | Bonds                      |
| <b>Utilities - Total Carryover Projects</b>          | <b>\$ 5,930,194</b>  | <b>\$ 6,411,251</b>                                | <b>\$ 1,619,000</b> | <b>\$ -</b>         | <b>\$ -</b>      | <b>\$ -</b>       |                            |
| <b>Utilities - Annual Projects</b>                   |                      |                                                    |                     |                     |                  |                   |                            |
| Gas Admin Building Improvements                      | 468,323              | 475,000                                            | 125,000             | 125,000             | 125,000          | 125,000           | Other                      |
| Fiberoptic Cable Replacement from Roundtree to JU    |                      |                                                    |                     |                     |                  |                   |                            |
| Gas Development - Low & High Pressure                | 112,444              | 19,234,390                                         | 3,168,364           | 652,341             | 300,000          | 300,000           | Other                      |
| Gas Rehabilitation - Low & High Pressure             | 110,000              | 2,403,244                                          | 2,543,189           | 460,000             | 250,000          | 250,000           | Other                      |
| Gas Rehabilitation - Street Utility Rehabilitation   | 2,150,425            | 1,044,223                                          |                     |                     |                  |                   | Other                      |
| Gas SCADA                                            | 290,871              | 236,748                                            | 236,748             | 50,000              | 50,000           | 50,000            | Other                      |
| Solid Waste Building Improvements                    | 1,117,906            | 405,000                                            | 125,000             | 125,000             | 125,000          | 125,000           | Other                      |
| Fiberoptic Cable Replacement from Roundtree to JU    |                      |                                                    |                     |                     |                  |                   |                            |

**City of Las Cruces  
Capital Improvements Program  
FY 2024-2029**

Amended 7/1/2024

Agenda Item #7.2.

| Project Title                                                                         | Funded<br>FY2024      | Infrastructure Capital Improvement Plan (Unfunded) |                       |                      |                      |                       | Funding Source(s) |
|---------------------------------------------------------------------------------------|-----------------------|----------------------------------------------------|-----------------------|----------------------|----------------------|-----------------------|-------------------|
|                                                                                       |                       | FY 2025                                            | FY 2026               | FY 2027              | FY 2028              | FY 2029               |                   |
| Wastewater Building Improvements<br>Fiberoptic Cable Replacement from Roundtree to JU | 175,000               | 1,031,000                                          | 75,000                | 75,000               | 75,000               | 75,000                | Other             |
| Wastewater JHWWTF                                                                     | 69,219                | 727,835                                            |                       |                      |                      |                       | Other             |
| Wastewater Lift Station Renovations                                                   | 50,000                | 100,000                                            | 50,000                | 100,000              | 50,000               | 100,000               | Other             |
| Wastewater Rehabilitation - East Mesa Water Reclamation Facility                      | 1,631,309             |                                                    |                       |                      |                      |                       | Other             |
| Wastewater Street Utility Rehabilitation                                              | 2,133,558             | 3,465,381                                          | 400,000               |                      | 400,000              |                       | Other             |
| Water Building Improvements<br>Fiberoptic Cable Replacement from Roundtree to JU      | 245,333               | 475,000                                            | 125,000               | 125,000              | 125,000              | 125,000               | Other             |
| Water Rehabilitation - Line Extension                                                 | 823,106               | 1,126,230                                          |                       |                      |                      |                       | Other             |
| Water Rehabilitation - Reservoir Rehabilitation                                       | 60,068                | 7,367,011                                          | 3,565,500             |                      |                      |                       | Other             |
| Water Rehabilitation - Street Utility Rehabilitation                                  | 3,071,605             | 3,098,992                                          | 250,000               | 350,000              | 250,000              | 350,000               | Other             |
| Water SCADA                                                                           | 89,277                | 689,214                                            | 669,461               | 50,000               | 30,000               | 50,000                | Other             |
| <b>Utilities - Total Annual Projects</b>                                              | <b>\$ 12,598,444</b>  | <b>\$ 41,879,268</b>                               | <b>\$ 11,333,262</b>  | <b>\$ 2,112,341</b>  | <b>\$ 1,780,000</b>  | <b>\$ 1,550,000</b>   |                   |
| <b>Utilities - Future Projects</b>                                                    |                       |                                                    |                       |                      |                      |                       |                   |
| Water Transite Pipe ID and replace                                                    |                       | 5,000,000                                          |                       |                      |                      |                       | Grants            |
| Water Well Buildings                                                                  |                       | 1,800,000                                          |                       |                      |                      |                       | Other             |
| Water Booster Station                                                                 |                       | 1,006,771                                          |                       |                      |                      |                       | Other             |
| Water Pump Station Well Rehab                                                         |                       | 481,040                                            | 2,709,364             |                      |                      |                       | Other             |
| Water Rehabilitation - Pump Station Rehabilitation                                    |                       | 377,800                                            | 100,000               | 100,000              | 100,000              | 100,000               | Other             |
| Water Rehabilitation - Pump PRV                                                       |                       | 324,000                                            |                       |                      |                      |                       | Other             |
| Gas Rehabilitation - Regulator Stations                                               |                       | 223,658                                            | 2,012,923             |                      |                      |                       | Other             |
| Wastewater Jacob Hands Wastewater Treatment Facility                                  |                       | 100,000                                            | 100,000               | 100,000              | 100,000              | 100,000               | Other             |
| Water NMFA Loan                                                                       |                       | 100,000                                            |                       |                      |                      |                       | Bonds             |
| Wastewater East Mesa Water Reclamation                                                |                       | 50,000                                             |                       | 50,000               | 50,000               | 50,000                | Other             |
| Wastewater Development Lift Station Upgrades                                          | \$ -                  |                                                    | 100,000               |                      |                      |                       | WWIF              |
| <b>Utilities - Total Future Projects</b>                                              |                       | <b>\$ 9,463,269</b>                                | <b>\$ 5,072,287</b>   | <b>\$ 250,000</b>    | <b>\$ 250,000</b>    | <b>\$ 250,000</b>     |                   |
| <b>Total Utilities</b>                                                                | <b>\$ 34,399,525</b>  | <b>\$ 59,519,376</b>                               | <b>\$ 18,221,118</b>  | <b>\$ 2,392,341</b>  | <b>\$ 2,060,000</b>  | <b>\$ 1,830,000</b>   |                   |
| <b>VISIT LAS CRUCES</b>                                                               |                       |                                                    |                       |                      |                      |                       |                   |
| <b>Visit Las Cruces - Carryover Projects</b>                                          |                       |                                                    |                       |                      |                      |                       |                   |
| Convention Center FF&E                                                                | 75,000                | 75,000                                             | -                     | -                    | -                    | -                     | Taxes             |
| <b>Visit Las Cruces - Total Carryover Projects</b>                                    | <b>\$ 75,000</b>      | <b>\$ 75,000</b>                                   | <b>\$ -</b>           | <b>\$ -</b>          | <b>\$ -</b>          | <b>\$ -</b>           |                   |
| <b>Total Visit Las Cruces</b>                                                         | <b>\$ 75,000</b>      | <b>\$ 75,000</b>                                   | <b>\$ -</b>           | <b>\$ -</b>          | <b>\$ -</b>          | <b>\$ -</b>           |                   |
| <b>ALL DEPARTMENTS</b>                                                                |                       |                                                    |                       |                      |                      |                       |                   |
| <b>Total Newly Funded Projects</b>                                                    | <b>\$ 47,106,858</b>  | <b>\$ 16,213,228</b>                               | <b>\$ 12,994,069</b>  | <b>\$ 12,772,500</b> | <b>\$ 4,792,500</b>  | <b>\$ 4,792,500</b>   |                   |
| <b>Total Carryover Projects</b>                                                       | <b>\$ 109,319,834</b> | <b>\$ 43,314,675</b>                               | <b>\$ 19,265,363</b>  | <b>\$ 9,800,000</b>  | <b>\$ 20,350,000</b> | <b>\$ 9,950,000</b>   |                   |
| <b>Total Annual Projects</b>                                                          | <b>\$ 48,267,778</b>  | <b>\$ 58,500,768</b>                               | <b>\$ 26,829,762</b>  | <b>\$ 17,879,041</b> | <b>\$ 17,301,700</b> | <b>\$ 16,926,700</b>  |                   |
| <b>Total Future Projects</b>                                                          | <b>\$ -</b>           | <b>\$ 127,098,515</b>                              | <b>\$ 57,101,687</b>  | <b>\$ 38,566,500</b> | <b>\$ 23,416,500</b> | <b>\$ 131,525,400</b> |                   |
| <b>GRAND TOTAL</b>                                                                    | <b>\$ 204,694,470</b> | <b>\$ 245,127,186</b>                              | <b>\$ 116,190,881</b> | <b>\$ 79,018,041</b> | <b>\$ 65,860,700</b> | <b>\$ 163,194,600</b> |                   |

Abbreviations and Notes:

Indicates a Change

Pending funding noted in italic

Current funding sources noted in bold

ARPA - American Rescue Plan Act

Bonds - Includes Bonds and Loans

Grants - Includes Local, State, Federal,  
or private entity

Other - Includes Fees, State Entitlements, Leases,  
Developer Contributions, and Donations

PIF - Park Impact Fees

PSIF - Public Safety Impact Fees

TIDD - Tax Increment Development  
District

WIF - Water Impact Fees

WWIF - Wastewater Impact Fees

**CITY OF LAS CRUCES**  
**BUDGET ADJUSTMENT REQUEST**  
**BUDGET FISCAL YEAR 2023-24**

Exhibit "C"

|                                         | 2490<br>JUDICIAL EDUCATION<br>2023-24 |                |                 |                 |
|-----------------------------------------|---------------------------------------|----------------|-----------------|-----------------|
|                                         | Original Budget                       | Amended Budget | Req. Adjustment | Adjusted Budget |
| <b>RESOURCES</b>                        |                                       |                |                 |                 |
| Beginning Balance                       | \$ 3,263                              | 4,658          | 0               | 4,658           |
| <b>Revenues</b>                         |                                       |                |                 |                 |
| Municipal Gross Receipts Tax            | 0                                     | 0              | 0               | 0               |
| Public Safety Gross Receipts Tax        | 0                                     | 0              | 0               | 0               |
| Hold Harmless Replacement GRT           | 0                                     | 0              | 0               | 0               |
| State-Shared Gross Receipts Tax         | 0                                     | 0              | 0               | 0               |
| Environmental Gross Receipts Tax        | 0                                     | 0              | 0               | 0               |
| County Environmental Gross Receipts Tax | 0                                     | 0              | 0               | 0               |
| Internet Sales Gross Receipts Tax       | 0                                     | 0              | 0               | 0               |
| Gasoline Tax                            | 0                                     | 0              | 0               | 0               |
| Cannabis Excise Tax                     | 0                                     | 0              | 0               | 0               |
| Lodgers Tax                             | 0                                     | 0              | 0               | 0               |
| Property Taxes                          | 0                                     | 0              | 0               | 0               |
| Payment In Lieu of Property Tax         | 0                                     | 0              | 0               | 0               |
| Franchise Fees                          | 0                                     | 0              | 0               | 0               |
| Payment In Lieu of Franchise Fees       | 0                                     | 0              | 0               | 0               |
| Licenses, Fees & Permits                | 0                                     | 0              | 0               | 0               |
| Convention Center Fee                   | 0                                     | 0              | 0               | 0               |
| Auto License - State Shared             | 0                                     | 0              | 0               | 0               |
| Fines & Forfeitures                     | 10,000                                | 10,000         | 8,000           | 18,000          |
| Charges For Services                    | 0                                     | 0              | 0               | 0               |
| Natural Gas Sales - Commodity           | 0                                     | 0              | 0               | 0               |
| Motor Pool Maintenances Charges         | 0                                     | 0              | 0               | 0               |
| Fuel Charges                            | 0                                     | 0              | 0               | 0               |
| Intergovernmental                       | 0                                     | 0              | 0               | 0               |
| Investment Income                       | 0                                     | 0              | 0               | 0               |
| Miscellaneous Revenues                  | 0                                     | 0              | 0               | 0               |
| Federal Grants                          | 0                                     | 0              | 0               | 0               |
| State Grants                            | 0                                     | 0              | 0               | 0               |
| Local Grants                            | 0                                     | 0              | 0               | 0               |
| Debt Service                            | 0                                     | 0              | 0               | 0               |
| <b>Total Revenues</b>                   | <b>10,000</b>                         | <b>10,000</b>  | <b>8,000</b>    | <b>18,000</b>   |
| <b>TOTAL RESOURCES</b>                  | <b>\$ 13,263</b>                      | <b>14,658</b>  | <b>8,000</b>    | <b>22,658</b>   |
| <b>Expenditures</b>                     |                                       |                |                 |                 |
| General Government                      | 0                                     | 0              | 0               | 0               |
| Legislative                             | 0                                     | 0              | 0               | 0               |
| Municipal Court                         | 10,000                                | 10,000         | 8,000           | 18,000          |
| Chief Administrative Officer            | 0                                     | 0              | 0               | 0               |
| City Manager                            | 0                                     | 0              | 0               | 0               |
| Legal                                   | 0                                     | 0              | 0               | 0               |
| Las Cruces Police Department            | 0                                     | 0              | 0               | 0               |
| Las Cruces Fire Department              | 0                                     | 0              | 0               | 0               |
| Utilities                               | 0                                     | 0              | 0               | 0               |
| Economic Development                    | 0                                     | 0              | 0               | 0               |
| Internal Audit                          | 0                                     | 0              | 0               | 0               |
| Assistant City Manager-400              | 0                                     | 0              | 0               | 0               |
| Human Resources                         | 0                                     | 0              | 0               | 0               |
| Financial Services                      | 0                                     | 0              | 0               | 0               |
| Information Technology                  | 0                                     | 0              | 0               | 0               |
| Fleet                                   | 0                                     | 0              | 0               | 0               |
| Assistant City Manger-500               | 0                                     | 0              | 0               | 0               |
| Parks & Recreation                      | 0                                     | 0              | 0               | 0               |
| Community Development                   | 0                                     | 0              | 0               | 0               |
| Quality of Life                         | 0                                     | 0              | 0               | 0               |
| Public Works                            | 0                                     | 0              | 0               | 0               |
| Legislative Reserve                     | 0                                     | 0              | 0               | 0               |
| <b>Total Expenditures</b>               | <b>\$ 10,000</b>                      | <b>10,000</b>  | <b>8,000</b>    | <b>18,000</b>   |
| <b>Other Resources</b>                  |                                       |                |                 |                 |
| Operating Transfers In                  | 0                                     | 0              | 0               | 0               |
| Operating Transfers Out                 | 0                                     | 0              | 0               | 0               |
| <b>Total Other Resources</b>            | <b>\$ 0</b>                           | <b>0</b>       | <b>0</b>        | <b>0</b>        |
| Accrual Adjustments                     | 0                                     | 0              | 0               | 0               |
| <b>ENDING BALANCE</b>                   | <b>\$ 3,263</b>                       | <b>4,658</b>   | <b>0</b>        | <b>4,658</b>    |

## Agenda Item #7.2.



# CITY OF LAS CRUCES

*The following grant has been awarded to the City of Las Cruces*

**Today's Date:** 05/24/2024

**Grant Team Representative:** Gabriela Prats

**Application Submission Date:**

**Council Budget Adjustment Date:** 07/01/2024

**Requested Amount:** 350,000.00

**Grant Award Amount:** \$ 500,000.00

**Award Notification Date:** 05/07/2024

**Grant Agreement #:** PO # 41900-0000012607

**Funding Agency:** New Mexico Department of Economic Development

**CFDA #:** 21.027

**Funder MUNIS CID #:** 185172

## PROJECT INFORMATION

**Grant Project Title:** Tortugas and Dona Ana County Recreational Trail

**Type of Funding:** Federal Capital

**Type of Grant:** Competitive

**Grantor Type:** Federal

**Match Amount:** \$ 500,000.00

**Match Description:** State-Local Combo Match

**Match Percent/Ratio:** 1:1

**Match Source:** Paso Del Norte Health Found. Grant; State of New Mexico appropriation; GF

**Grant Effective Date:** 04/23/2024

**Grant Reversion Date:** 04/22/2026

**Starting Fiscal Year of Grant:** FY2024

**Grant Scope of Work:**

Design and construction of a recreational trail that will connect the community of Tortugas and Dona Ana County with the New Mexico State University campus, Las Cruces High School, and other destinations within the metropolitan area.

**Does this grant involve Sub-Grantees or Pass Through Grants:**

☒ YES

☐ NO

## DEPARTMENT INFORMATION

**Department:** Parks & Recreation

**Line of Business:** Construction, Maintenance, Beautificati

**Program:** Sports Fields 0245E

**Project Manager:** Catherine Mathews

**Email:** cmathews@lascruces.gov

**Phone:** 575-541-2592

**MUNIS Dept. Number:** 450

## ACCOUNT STRINGS:

**Include the fund number - Object Description - Amount:** (2100 for General Grants/4100 for Capital Grants)

REV: 4100-40245005-599100 - \$500,000.00

EXP: 4100-40245005-805000 - \$500,000.00

**Capital Assets:** ☒ YES ☐ NO

**Reimbursable Grant:** ☒

**Revenue Collected in Advance:** ☐

**Grant Application #:** N/A

**Project Code #:** 25925

**Set-Up Date:** 05/30/2024

**Date to Accounting:** 05/24/2024

**Accounting Department Info:**



# CITY OF LAS CRUCES

The following grant has been awarded to the City of Las Cruces

**Today's Date:** 05/20/2024  
**Application Submission Date:**  
**Requested Amount:** \$466,486.00  
**Award Notification Date:** 04/26/2024  
**Funding Agency:** State of New Mexico Department of Cultural Affairs, Library Division

**Grant Team Representative:** Gabriela Prats  
**Council Budget Adjustment Date:** 07/01/2024  
**Grant Award Amount:** \$ 466,896.96  
**Grant Agreement #:** A22-G5372

**CFDA #:**

**Funder MUNIS CID #:** 23

PROJECT INFORMATION

**Grant Project Title:** FY22 State GO Bond Grant for Library Support Services  
**Type of Funding:** State Operating  
**Grantor Type:** State  
**Match Description:** No Match Required-Provided  
**Match Source:**  
**Grant Effective Date:** 04/26/2024  
**Starting Fiscal Year of Grant:** FY2024  
**Grant Scope of Work:**

**Type of Grant:** Competitive  
**Match Amount:** \$ 0.00  
**Match Percent/Ratio:**  
  
**Grant Reversion Date:** 06/30/2026

The funding provided through this grant will allow the Las Cruces Public Libraries expend on items such as equipment, library furniture, fixtures and supplemental library resource acquisitions, including print, non-print and electronic resources, collaborative library resources, and information technology projects.

**Does this grant involve Sub-Grantees or Pass Through Grants:**

☐ YES

☒ NO

DEPARTMENT INFORMATION

**Department:** Quality of Life  
**Program:** Library Support Services 0254C  
**Email:** sbooth@lascruces.gov  
**MUNIS Dept. Number:** 540

**Line of Business:** Library 0254  
**Project Manager:** Sarah Booth  
**Phone:** 575-528-4017

ACCOUNT STRINGS:

**Include the fund number - Object Description - Amount:** (2100 for General Grants/4100 for Capital Grants)

REV: 2100-20254003-599200 - \$466,896.96  
EXP: 2100-20254003-701000 - \$ 410.96  
2100-20254003-701180 - \$300,000.00  
2100-20254003-732300 - \$ 50,000.00  
2100-20254003-790160 - \$ 52,126.00  
2100-20254003-801000 - \$ 64,360.00

**Capital Assets:** ☒ YES ☐ NO

**Reimbursable Grant:** ☒

**Revenue Collected in Advance:** ☐

**Grant Application #:** N/A

**Project Code #** 22372

**Set-Up Date:** 05/30/2024

**Date to Accounting:** 05/20/2024

Accounting Department Info:



# CITY OF LAS CRUCES

The following grant has been awarded to the City of Las Cruces

**Today's Date:** 05/24/2024

**Grant Team Representative:** Gabriela Prats

**Application Submission Date:**

**Council Budget Adjustment Date:** 07/01/2024

**Requested Amount:**

**Grant Award Amount:** \$ 190,000.00

**Award Notification Date:**

**Grant Agreement #:** HW2L100518

**Funding Agency:** New Mexico Department of Transportation

CFDA #:

Funder MUNIS CID #:

## PROJECT INFORMATION

**Grant Project Title:** Municipal Arterial Program - HAWK at US Highway 70/Picacho Ave Project

**Type of Funding:** State Capital

**Grantor Type:** State

**Match Description:** Local Cash Match

**Match Source:** Public Works Roads Fund

**Grant Effective Date:** 09/02/2021

**Starting Fiscal Year of Grant:** FY2024

**Grant Scope of Work:**

**Type of Grant:** Competitive

**Match Amount:** \$ 63,333.00

**Match Percent/Ratio:** 25%

**Grant Reversion Date:** 06/30/2025

The Second Amendment to Municipal Arterial Program Cooperative Agreement extends the termination date of the agreement to June 30, 2025. The award and match amounts remain unchanged. All other terms and conditions of the agreement remain the same.

Does this grant involve Sub-Grantees or Pass Through Grants:

☐ YES

☒ NO

## DEPARTMENT INFORMATION

**Department:** Public Works

**Line of Business:** Public Infrastructure

**Program:** Engineering & Surveying

**Project Manager:** William Bass

**Email:** wbass@lascruces.gov

**Phone:** 575-528-3107

**MUNIS Dept. Number:** 550

## ACCOUNT STRINGS:

Include the fund number - Object Description - Amount: (2100 for General Grants/4100 for Capital Grants)

Adjustment needed bring Grant to Actuals in FY25:

4100-40255004-802000-12081 (\$29,809)  
4100-40255004-599200-12081 (\$29,809)  
4202-40255008-802000-12081 (\$9,936.85) Match Portion

Capital Assets:

☒ YES

☐ NO

Reimbursable Grant:

☒

Revenue Collected in Advance:

☐

**Grant Application #:** N/A

**Project Code #** 12081

**Set-Up Date:** 10/31/2021

**Date to Accounting:** 05/29/2024

Accounting Department Info:



# CITY OF LAS CRUCES

The following grant has been awarded to the City of Las Cruces

**Today's Date:** 05/29/2024  
**Application Submission Date:** 2/15/24  
**Requested Amount:** 1200.00  
**Award Notification Date:** 03/18/2024  
**Funding Agency:** Library of America

**Grant Team Representative:** Gabriela Prats  
**Council Budget Adjustment Date:** 07/01/2024  
**Grant Award Amount:** \$ 1,200.00  
**Grant Agreement #:** None

**CFDA #:**

**Funder MUNIS CID #:** N/A

## PROJECT INFORMATION

**Grant Project Title:** Latino Poetry: Places We Call Home  
**Type of Funding:** Other Operating  
**Grantor Type:** Other/Foundation  
**Match Description:** No Match Required-Provided  
**Match Source:**  
**Grant Effective Date:** 04/01/2024  
**Starting Fiscal Year of Grant:** FY2024  
**Grant Scope of Work:**

**Type of Grant:** Competitive  
**Match Amount:** \$ 0.00  
**Match Percent/Ratio:**  
  
**Grant Reversion Date:** 03/31/2025

The grant award will support Latino Heritage Month celebration activities hosted by the Public Libraries. Events will take place in September and October of 2024.

**Does this grant involve Sub-Grantees or Pass Through Grants:**

☐ YES

☒ NO

## DEPARTMENT INFORMATION

**Department:** Quality of Life  
**Program:** Library Program 0254A  
**Email:** adelcampo@lascruces.gov  
**MUNIS Dept. Number:** 540

**Line of Business:** Library 0254  
**Project Manager:** Arminda Del Campo  
**Phone:** 575-528-4024

## ACCOUNT STRINGS:

**Include the fund number - Object Description - Amount:** (2100 for General Grants/4100 for Capital Grants)

REV: 2100-20254001-599300 - \$1,200.00  
EXP: 2100-20254001-701000 - \$ 750.00  
2100-20254001-701040 - \$ 150.00  
2100-20254001-780050 - \$ 300.00

**Capital Assets:** ☐ YES

☒ NO

**Reimbursable Grant:** ☐

**Revenue Collected in Advance:** ☒

**Grant Application #:** N/A

**Project Code #** 12125

**Set-Up Date:** 05/30/2024

**Date to Accounting:** 05/29/2024

**Accounting Department Info:**



# CITY OF LAS CRUCES

The following grant has been awarded to the City of Las Cruces

**Today's Date:** 05/29/2024  
**Application Submission Date:** 4/9/24  
**Requested Amount:** \$126,613.31  
**Award Notification Date:** 04/22/2024  
**Funding Agency:** New Mexico Aging & Long-Term Services Department

**Grant Team Representative:** Gabriela Prats  
**Council Budget Adjustment Date:** 07/01/2024  
**Grant Award Amount:** \$ 126,000.00  
**Grant Agreement #:** None

**CFDA #:**

**Funder MUNIS CID #:** 11

PROJECT INFORMATION

**Grant Project Title:** Las Cruces Senior Nutrition Program Fresh Food Program  
**Type of Funding:** State Operating  
**Grantor Type:** State  
**Match Description:** No Match Required-Provided  
**Match Source:**  
**Grant Effective Date:** 07/01/2024  
**Starting Fiscal Year of Grant:** FY2024  
**Grant Scope of Work:**

**Type of Grant:** Competitive  
**Match Amount:** \$ 0.00  
**Match Percent/Ratio:**  
  
**Grant Reversion Date:** 05/31/2025

The funds provided by this grant allow for the purchase of local and regional fresh produce for the preparation of meals for Senior Nutrition Program participants. This includes congregate as well as home-delivered meals.

**Does this grant involve Sub-Grantees or Pass Through Grants:**

☐ YES

☒ NO

DEPARTMENT INFORMATION

**Department:** Quality of Life  
**Program:** Senior Nutrition 0354A  
**Email:** ssaldana@lascruces.gov  
**MUNIS Dept. Number:** 540

**Line of Business:** Senior Programs 0354  
**Project Manager:** Sonia Saldana  
**Phone:** 575-541-2464

ACCOUNT STRINGS:

**Include the fund number - Object Description - Amount:** (2100 for General Grants/4100 for Capital Grants)

REV: 2100-20354001-599200 - \$126,000.00  
EXP: 2100-20354001-780050 - \$126,000.00

Requesting Project # 25067, if available

**Capital Assets:** ☐ YES

☒ NO

**Reimbursable Grant:** ☒

**Revenue Collected in Advance:** ☐

**Grant Application #:** N/A

**Project Code #** 25067

**Set-Up Date:** 05/30/2024

**Date to Accounting:** 05/29/2024

Accounting Department Info:





# CITY OF LAS CRUCES

*The following grant has been awarded to the City of Las Cruces*

**Today's Date:** 06/18/2024  
**Application Submission Date:**  
**Requested Amount:**  
**Award Notification Date:** 05/20/2024  
**Funding Agency:** Board of Regents of the New Mexico State University

**Grant Team Representative:** Gabriela Prats  
**Council Budget Adjustment Date:** 07/01/2024  
**Grant Award Amount:** \$ 8,000.00  
**Grant Agreement #:** PO224346

**CFDA #:**

**Funder MUNIS CID #:** 39682

PROJECT INFORMATION

**Grant Project Title:** FY24 Las Cruces Police Department Youth Leashership Academy  
**Type of Funding:** Other Operating  
**Grantor Type:** Other/Foundation  
**Match Description:** No Match Required-Provided  
**Match Source:**  
**Grant Effective Date:**  
**Starting Fiscal Year of Grant:** FY2024  
**Grant Scope of Work:**

**Type of Grant:** Competitive  
**Match Amount:** \$ 0.00  
**Match Percent/Ratio:**  
  
**Grant Reversion Date:**

Create and provide a safe learning environment in schools and continue a lasting relationship between the police department, NMSU, the school district and the students which will encourage communications and serve to develop a continually focused, effective collaboration to the benefit of our youth.

**Does this grant involve Sub-Grantees or Pass Through Grants:**

☐ YES

☐ NO

DEPARTMENT INFORMATION

**Department:** Public Safety  
**Program:** Administration - PD 0132A  
**Email:** lpadilla@lascruces.gov  
**MUNIS Dept. Number:** 320

**Line of Business:** Office of the Chief - PD 0132  
**Project Manager:** Laurie Padilla-Nunley  
**Phone:** 575-541-4135

ACCOUNT STRINGS:

**Include the fund number - Object Description - Amount:** (2100 for General Grants/4100 for Capital Grants)

REV: 2100-20132001-591190 - \$8,000.00  
EXP: 2100-20132001-701000 - \$8,000.00

**Capital Assets:** ☐ YES ☒ NO

**Reimbursable Grant:** ☒

**Revenue Collected in Advance:** ☐

**Grant Application #:** N/A

**Project Code #** 24952

**Set-Up Date:** 06/18/2024

**Date to Accounting:** 06/18/2024

Accounting Department Info:

**SUBAWARD BETWEEN  
THE NEW MEXICO ECONOMIC DEVELOPMENT DEPARTMENT  
AND THE  
CITY OF LAS CRUCES**

THIS AGREEMENT is hereby made and entered into as of the date of execution below, by and between the New Mexico Economic Development Department ("EDD"), hereinafter referred to as GRANTEE, and City of Las Cruces, hereinafter referred to as "SUB RECIPIENT."

WHEREAS, the U.S. Department of Treasury (hereinafter referred to as "GRANTOR") has made federal funds available to the GRANTEE under the Coronavirus State and Local Fiscal Recovery Fund (CSLFRF) Program (Assistance Listing Number (ALN) 21.027);

WHEREAS, Recipients under the CSLFRF Program are the eligible entities identified in sections 602 and 603 of the Social Security Act as added by section 9901 of the American Rescue Plan Act of 2021 that receive a CSLFRF award. Subrecipients under the CSLFRF Program are entities that receive a subaward from a recipient to carry out the purposes (program or project) of the CSLFRF award on behalf of the recipient;

WHEREAS, Recipients are accountable to Treasury for oversight of their subrecipients, including ensuring their subrecipients comply with the CSLFRF statute, CSLFRF Award Terms and Conditions, Treasury's Interim Final Rule, and reporting requirements, as applicable; and,

WHEREAS, this agreement addresses the flow of funds from the GRANTOR above to the GRANTEE who will then provide the same referenced subaward funds to the SUB RECIPIENT, as legally allowed by the relevant law and regulations, for any approved scope of work as further discussed in Section 1 of this agreement;

NOW THEREFORE, the GRANTEE and the SUB RECIPIENT do mutually agree to the following terms and conditions of this agreement:

**1. Scope of Work**

The GRANTOR has provided funds, through its CSLFRF Program, to the GRANTEE who is then providing this same funding to the SUB RECIPIENT. Information related to the federal award is attached as Exhibit A. The SUB RECIPIENT shall perform the necessary tasks required in order to accomplish the objectives of the GRANTOR'S Program which have been agreed to by the GRANTEE. This includes complying with all applicable federal, state or local laws, regulations and administrative policies as they relate to the SUB RECIPIENT'S specific approved project including but are not limited to the references above as well as the following:

- (a) SUB RECIPIENT will comply with 31 CFR Part 35 Subpart A – Coronavirus State and Local Fiscal Recovery Funds.

- (b) SUB RECIPIENT will comply with Title 2, Subtitle A, Chapter II, Part 200- Uniform Administrative Requirements, Cost Principles and Audit Requirements for Federal Awards as well as any specific federal departmental grant requirement in other sections of the CFR.
- (c) SUB RECIPIENT will adhere to both the Federal Procurement Laws contained in 2 CFR Part 200.317 to 200.326 as well as the State Procurement Laws for Political Subdivisions contained in ENTER STATUTES.
- (d) SUB RECIPIENT will adhere to the requirements of the GRANTOR'S CSLFRF Program.
- (e) SUB RECIPIENT will adhere to the Scope of Work and Budget in Exhibit B.
- (f) SUB RECIPIENT will comply with the Assurances for Non-Construction Programs as outlined in Standard Form 424B (Rev. 7-97) where applicable.
- (g) SUB RECIPIENT will comply with the Assurances for Construction Programs as outlined in Standard Form 424D (Rev. 7-97) where applicable.
- (h) SUB RECIPIENT will incorporate, where applicable, the contractual provision requirements outlined in 2 CFR Part 200.326 which is further discussed in Section 6 of this agreement.
- (i) SUB RECIPIENT will comply, when applicable, with any applicable National Policy Requirements for federal grants which is further discussed in Section 6 of this agreement.
- (j) SUB RECIPIENT will not pay any contractor who is listed by the federal government as debarred and/or suspended which is further discussed in Section 6 of this agreement. SUB RECIPIENT agrees to alert the GRANTEE immediately if a contractor working for the SUB RECIPIENT becomes debarred or suspended.
- (k) SUB RECIPIENT will fully cooperate at all times with the GRANTEE as the project manager who is ultimately accountable to the GRANTOR for all funds related to this project.

Pursuant to information submitted to the GRANTEE for inclusion in the GRANTOR'S CSLFRF Program, the SUB RECIPIENT shall perform the following tasks:

Properly procure and complete the project as described in Exhibit B, Scope of Work and Budget. Any and all expenses associated with the project are the sole responsibility of the SUB RECIPIENT. The ownership of any property furnished hereunder will be the property of the SUB RECIPIENT. The SUB RECIPIENT shall have the sole responsibility to maintain possession of the said property, maintain the property, repair the property when needed and maintain any applicable insurance amounts. Any future costs related to these requirements remain the sole responsibility of the SUB RECIPIENT.

In compliance with the above, the SUB RECIPIENT agrees to notify the GRANTEE and GRANTOR, in writing, and request the preferred method of disposition for any property or equipment purchased with federal funds if said property or equipment is no longer of use to the SUB RECIPIENT. In addition, if an annual inventory is requested by the GRANTEE then the SUB RECIPIENT will provide prompt access to all inventory records.

## **2. Term of Agreement**

The terms of this agreement shall become effective upon execution of this agreement and shall continue for a period of five (5) years after closeout of the grant program. All funds must be obligated by the GRANTEE by **December 31, 2024**, and all funds must be expended by the SUB RECIPIENT by **24 months from date of agreement ratification by signature**.

## **3. Payment Terms of Grant Funding**

The maximum budget for the scope of work identified in Section 1 above:

**\$500,000.00**

Advancement of funds, under this agreement, is contingent upon the SUB RECIPIENT complying with all of the requirements for allowable uses for funds under the CSLFRF Program and providing sufficient documentation to the GRANTEE as determined by the GRANTEE. The SUB RECIPIENT is responsible for payment to its vendors unless otherwise specifically approved by the GRANTEE. The SUB RECIPIENT will provide copies of all related financial documentation to the GRANTEE with the first quarterly report, supplying sufficient documentation to meet the reporting requirements of the CSLFRF Program.

Any questioned costs which may occur at any point in this process (including the five-year period after grant closeout by the federal GRANTOR) will be the sole responsibility of the SUB RECIPIENT with respect to any activity covered by this agreement.

If this agreement extends beyond the current fiscal year and notwithstanding anything to the contrary and when applicable, both parties acknowledge and agree that pursuant to the applicable state law, this agreement is subject to an annual appropriation dependency requirement to the effect that the renewal of this agreement is contingent upon the appropriation of funds by either party to fulfill any future payment requirements of this agreement. If either party fails to appropriate sufficient monies to provide for any future payment requirements under this agreement, this agreement shall terminate on the last day of the last fiscal year for which funds were appropriated.

## **4. Monitoring and Review**

The SUB RECIPIENT is required to participate in monitoring and review activities necessary to assess the work performed under the Subaward and determine whether the SUB RECIPIENT has timely achieved the Scope of Work stated in Exhibit B to this Subaward. The ongoing monitoring of the SUB RECIPIENT will reflect its assessed risk and include monitoring, identification of deficiencies, and follow-up to ensure appropriate remediation.

The risk assessment may include factors such as prior experience in managing Federal funds, previous audits, personnel, and policies or procedures for award execution and oversight. Monitoring and review activities will be detailed in a Monitoring Plan based on the GRANTEE'S risk assessment of the SUB RECIPIENT and will be provided to the SUB

RECIPIENT. The Monitoring Plan may include, but not be limited to, the SUB RECIPIENT'S technical progress compared to the intended milestones and deliverables; the SUB RECIPIENT'S actual expenditures compared to the approved budget, review of SUB RECIPIENT'S reimbursement requests including detailed backup documentation, or other subject matter specified by the GRANTEE.

#### **5. Amendments and Assignments**

If there is a need to review and/or revise this agreement, the requesting party shall submit a written amendment to the other party, with the understanding that no amendment to this agreement shall be valid unless it is agreed and signed by both parties. This agreement shall not be assignable by either party without written consent of the other, except for assignment resulting from merger, consolidation, or reorganization of the assigning party.

#### **6. Records, Audits, and Other Grant Compliance Issues**

It is understood that this agreement may be utilized as part of the American Rescue Plan Act (Coronavirus State and Local Fiscal Relief Fund – ALN 21.027) and therefore both parties agree to maintain accounts and records, including personnel, property, and financial records, adequately to identify and account for all costs pertaining to this agreement and to ensure full compliance with the requirements of the above program. The SUB RECIPIENT will comply with all applicable federal law, regulations, executive orders, grant policies, procedures, and directives. Even though federal funding may be available, the Federal Government is not a party to this agreement and is not subject to any obligations or liabilities to the GRANTEE, SUB RECIPIENT, or any other party pertaining to any matter resulting from the agreement.

The SUB RECIPIENT may receive from the GRANTEE work product information that the GRANTEE utilizes. The SUB RECIPIENT assumes sole responsibility for verification of the accuracy of all information and for legal compliance with all rules and instructions required herein. The SUB RECIPIENT further acknowledges that the GRANTEE makes and assumes no representations or warranties with regard to the work product information. Work product information may include, but is not limited to, procurement policies, procurement forms, contractor insurance requirements, various standard contracts, specific grant program forms or other relevant documents.

With respect to the SUB RECIPIENT'S use of any work product transmitted by or originally created by the GRANTEE, the SUB RECIPIENT acknowledges it is the SUB RECIPIENT'S decision to act accordingly. The SUB RECIPIENT has the option to either adopt such product as the SUB RECIPIENT'S own or the SUB RECIPIENT may utilize the following other options available to the SUB RECIPIENT:

- (1) modify the GRANTEE'S work product appropriate to the SUB RECIPIENT'S own needs;
- (2) create and adopt the SUB RECIPIENT'S own work product separate from the GRANTEE'S work products; or,

- (3) adopt a work product created by other State or Federal agencies when applicable to the SUB RECIPIENT'S needs.

If the SUB RECIPIENT utilizes any of the GRANTEE'S work products in any way then the SUB RECIPIENT acknowledges that the GRANTEE makes no representations or warranties with regard to the same.

For audit purposes, all records will be made available by both parties to any authorized representative of either party and said records will be maintained and retained for five (5) years after closeout of the grant program. If any confidential information is obtained during the course of this agreement, both parties agree not to release that information without the approval of the other party unless instructed otherwise by court order, grantor, auditor, public information request or as required by law.

The GRANTEE and SUB RECIPIENT agree that all records shall be made available to either party at no additional charge for such information. The SUB RECIPIENT also agrees to provide the GRANTEE, the Government Accountability Office (GAO), the Treasury's Office of Inspector General (OIG), Pandemic Relief Accountability Committee (PRAC), or any of their authorized representatives access to any books, documents, papers, and records of the SUB RECIPIENT which are directly pertinent to this agreement for the purposes of making audits, examinations, excerpts, and transcriptions. The SUB RECIPIENT agrees to permit any of the foregoing parties to reproduce by any means whatsoever or to copy excerpts and transcriptions as reasonably needed at no additional charge.

In compliance with grantor and national policy requirements, including the above referenced federal grant requirements, both parties agree to adhere to the following regulations, where applicable:

(a) Federally Required Contractual Provisions:

- (1) **Administrative, Contractual or Legal Remedies** are required in all contracts in excess of the simplified acquisition threshold amount that are funded with federal funds and are addressed in various sections of this agreement;
- (2) **Termination Provision** requires all contracts in excess of \$10,000 to contain a provision for termination of the contract for cause or convenience and this provision is addressed in Section 8 of this agreement;
- (3) For all contracts that meet the definition of "federally assisted construction contract" in 41 CFR Part 60-1.3, **Equal Employment Opportunity**, including Executive Order 11246 which was further amended by Executive Order 11375, which requires equal opportunity for all persons, without regard to race, color, religion, sex or national origin, employed or seeking employment with government contractors or with contractors performing under federally assisted construction contracts (See Exhibit C);
- (4) For all applicable contracts in excess of \$100,000 that involve the employment of mechanics or laborers, **Contract Work Hours and Safety Standards Act** which

- prohibits certain unsanitary, hazardous or dangerous working conditions and requires that wages of every mechanic and laborer to be on the basis of a standard work week of forty hours with any work in excess of forty hours per week to be compensated at a rate of not less than one and one-half times the basic rate of pay (See Exhibit C);
- (5) For all contracts that meet the definition of “funding agreement” under 37 CFR Part 401.2(a) and involve a contract with a small business firm or nonprofit organization regarding the assignment or performance of experimental, developmental or research work must comply with the **Rights to Inventions Made Under a Contract or Agreement** contained in 37 CFR Part 401 (See Exhibit C);
  - (6) All contracts, subcontracts and sub-grants in excess of \$150,000 must contain a provision which requires compliance with all applicable standards, orders or regulations issued pursuant to the **Clean Air Act** and the **Federal Water Pollution Control Act** (See Exhibit C);
  - (7) **Debarment and Suspension (Executive Orders 12549 and 12689 and 2 CFR Part 180)** which prohibit the contracting with any party listed on the “System for Award Management” (SAM), formerly identified as the “Excluded Parties List System” (EPLS.gov), which identifies all parties that have active exclusions (i.e., suspensions, debarments) imposed by a federal agency (See Exhibit C);
  - (8) **Byrd Anti-Lobbying Prohibition (31 U.S.C. 1352)** prohibits the use of federal funds to pay any person or organization for influencing or attempting to influence anyone with any federal contract, grant or other award covered by 31 U.S.C. 1352 and also requires that Contractors that apply or bid for an award exceeding \$100,000 where federal funds are used must file the required certification stating that the parties will not and have not used federal funds to pay any person or organization for influencing or attempting to influence anyone with any federal contract, grant, or other award covered by 31 U.S.C. 1352 (See Exhibit C);
  - (9) For all construction contracts in excess of \$2,000 and required by federal grant regulations, the **Davis Bacon Act** which requires payments of wages for laborers and mechanics at a rate not less than the minimum wages specified in a wage determination made by the Secretary of Labor and said wage payments will be made at least weekly (See Exhibit D);
  - (10) **Prohibition on Certain Telecommunications and Video Surveillance Services or Equipment** wherein 2 CFR Part 200.216 prohibits use of federal grant or loan funds to procure or obtain equipment, services, or systems that uses covered telecommunications equipment or services as a substantial or essential component of any system. As described in Public Law 115-232, section 889, covered telecommunications equipment is telecommunications equipment produced by Huawei Technology Company, or Dahua Technology Company (or any subsidiary or affiliate of such entities);
  - (11) **Domestic Preferences for Procurements** for when federal funds are utilized, and where appropriate and to the extent consistent with other laws and regulations, 2 CFR Part 200.322 allows a federal award to provide a preference for the purchase, acquisition, or use of goods, products, or materials produced in the United States (including but not limited to iron, aluminum, steel, cement, and other manufactured products); and,

- (12) **Procurement of Recovered Materials** as required by 2 CFR Part 200.323 which requires procurements in excess of \$10,000 to contain the highest percentage of recovered materials practicable while consistent with maintaining a satisfactory level of competition.

(b) National Policy Requirements:

- (1) **Civil Rights Act of 1964**, including Title VI, which states that no person shall on the grounds of race, color or national origin shall be excluded from participation in, be refused the benefits of, or be otherwise subjected to discrimination under any program or activity receiving federal financial assistance;
- (2) **Age Discrimination Act of 1975** which prohibits discrimination based on age in programs or activities receiving federal financial assistance;
- (3) **Americans with Disabilities Act of 1990**, with respect to building construction or alteration, prohibits discrimination based on a disability defined as a physical or mental impairment that substantially limits a major life activity;
- (4) **Section 504 of the Rehabilitation Act of 1973**, if specifically required by the federal agency, which prohibits the exclusion of an otherwise qualified individual because of a disability in programs receiving federal financial assistance including program accessibility, accessible new construction and alterations, reasonable accommodations and effective communication with hearing and visually disabled (this requirement may vary with each federal agency);
- (5) For all construction or repair contracts, **Copeland "Anti-Kickback" Act** which requires all contracts and sub-grants for construction or repair to contain a provision that prohibits a contractor or sub-contractor from inducing, by any means, any person employed in the construction, completion or repairs of public work to give up any part of the compensation to which he is otherwise entitled;
- (6) **National Environmental Policy Act and National Historic Preservation Act** which prohibit any activities that will have an adverse impact on the environment and regulate activity on property or structures that are deemed historic;
- (7) **Energy Policy and Conservation Act** which require the contractors to comply with the mandatory standards and policies relating to energy efficiency which are contained in the state energy conservation plan;
- (8) **Reporting Provision** requires that all contracts should include a requirement that the SUB RECIPIENT assist the GRANTEE, when applicable, with any awarding agency requirements and regulations pertaining to reporting;
- (9) **Record Retention Provision** requires that any contract executed must include a provision that all required records will be maintained by the contractor/firm for a minimum period of three years after the GRANTEE formally closes out each federal program (GRANTEE and SUB RECIPIENT grant managers should verify the three-year record retention period with each respective grant agency to ensure that a longer period is not required);
- (10) **2013 National Defense Authorization Act (41 United States Code (U.S.C.) 4712, Pilot Program for Enhancement of Recipient and Subrecipient Employee Whistleblower Protection)** subjects any subawards and contracts over the federal



- simplified acquisition threshold to the provisions of the above act regarding rights and remedies for employee whistleblower protections;
- (11) **National Flood Insurance Act of 1968 and Flood Disaster Protection Act of 1973** which require recipients of federal grants that are acquiring, constructing or repairing property in a special flood hazard area, and with an estimated cost in excess of \$10,000, to purchase flood insurance;
  - (12) **Wild and Scenic Rivers Act of 1968** which protects components or potential components of the national wild and scenic rivers system;
  - (13) **Resource Conservation and Recovery Act** which requires proper handling and disposal of solid waste;
  - (14) **Toxic Substance Control Act** which places restrictions on chemicals that pose unreasonable risks, such as surfaces that could be covered with lead-based paint;
  - (15) **Federal Agency Seal(s), Logos, Crests, or Reproductions of Flags or Likeness of Federal Agency Officials** are prohibited from being utilized without specific federal agency pre-approval;
  - (16) **False Claims Act and 32 U.S.C. Chapter 38 (Administrative Remedies)** which prohibits the submission of false or fraudulent claims for payment to the federal government identifying administrative remedies for false claims and statements made which the CONTRACTOR herein acknowledges; and,
  - (17) **Section 603 Title VI of the Social Security Act** which establishes the Coronavirus State and Local Fiscal Recovery Fund and identifies eligible and ineligible uses for the Fund monies (See Exhibit E).

In compliance with Section 6(a)(8) above, the SUB RECIPIENT agrees to verify that all contractors or subcontractors employed are not parties listed as active exclusions (i.e., suspensions, debarments) on the "System for Award Management" (SAM) for parties debarred, suspended or otherwise excluded from contracting on any projects involving federal funds. SUB RECIPIENT agrees to require the contractor to provide immediate notice, but in no case later than three (3) business days, after being notified that the contractor, or any subcontractor, has been added to the SAM or otherwise been debarred from contracting on any projects involving federal funds.

In no event shall the SUB RECIPIENT allow any contractor to utilize a subcontractor at any time during the duration of this agreement who has been debarred from contracting on any projects involving federal funds. If the contractor is prohibited in any way from contracting on any projects involving federal funds at any time during the duration of this agreement, then both the SUB RECIPIENT and GRANTEE must be notified. GRANTEE may, at its sole discretion, immediately implement the termination provisions discussed in Section 8 below if the SUB RECIPIENT decides to continue with the project using a "debarred" or "active exclusion" contractor or subcontractor.

## **7. Liability, Indemnity, and Insurance**

The SUB RECIPIENT is responsible for the maintenance, upkeep and insurance requirements related to the scope of work. All related costs associated with this requirement are the sole responsibility of the SUB RECIPIENT.

This agreement is intended for the benefit of the GRANTEE and the SUB RECIPIENT and does not confer any rights upon any other third parties. All rights by and between the GRANTEE and the SUB RECIPIENT are limited to the actions outlined in the applicable local, state and federal laws, regulations and policies.

#### **8. Termination of Agreement and Dispute Resolution**

While both parties agree to negotiate all contractual disputes in good faith, the GRANTEE reserves the right to terminate this agreement at any time upon written notice of termination or if the SUB RECIPIENT has failed to comply with the terms of this agreement, the grant itself or any applicable law and regulation. All questioned costs are the sole responsibility of the SUB RECIPIENT.

If the parties are unable to independently and satisfactorily resolve any disagreement, then both parties agree that any contractual disagreement will be resolved under the jurisdiction of the State of New Mexico. In the event that court action is necessary then the parties agree that whoever prevails in the litigation is entitled to reasonable attorney's fees and costs as fixed by the Court.

#### **9. Severability, Entire Agreement and Captions**

This agreement shall be governed by and construed in accordance with the laws of the State of New Mexico. If any provision of this agreement is held invalid, void or unenforceable under any law or regulation or by a court of competent jurisdiction, such provision will be deemed amended in a manner which renders it valid, or if it cannot be so amended, it will be deemed to be deleted. Such amendment or deletion will not affect the validity of any other provision of this agreement. This agreement, any CSLRF Grant Program documentation, any attached documents, and any referenced documents represent the entire agreement between the GRANTEE and the SUB RECIPIENT and supersede all prior negotiations, representations or agreements, either written or oral. In the event of a conflict between this agreement and other documents, the terms of this agreement shall control.

Each paragraph of this agreement has been supplied with a caption to serve only as a guide to the contents. The caption does not control the meaning of any paragraph or in any way determine its interpretation.

IN WITNESS WHEREOF, the Grantee and the Grantor do hereby execute this Agreement as of the date of signature by the Grantor below.

THIS GRANT AGREEMENT has been approved by:

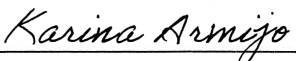
  
\_\_\_\_\_  
**Ikani Taumoepeau**, City Manager  
City of Las Cruces

4/17/24.  
\_\_\_\_\_  
Date

APPROVED AS TO FORM:   
\_\_\_\_\_  
City Attorney

4/11/24

NEW MEXICO ECONOMIC DEVELOPMENT DEPARTMENT

  
\_\_\_\_\_  
**Karina Armijo**, Director  
Outdoor Recreation Division

4/23/2024  
\_\_\_\_\_  
Date

EXHIBIT A

FEDERAL AWARD INFORMATION

In accordance with the Code of Federal Regulations (CFR), 2 CFR Section 200.331 requires that the following information be provided to any Subrecipient of a federal award:

Federal Award Identification: Coronavirus State and Local Fiscal Recovery Funds

Subrecipient Name: **City of Las Cruces**

Subrecipient Unique Identification (ID) Number: J3ZLWA2K1X47

Federal Award Identification Number: Coronavirus State and Local Fiscal Recovery Funds

Subaward Period of Performance (Start and End Date): Effective Date of this Agreement and October 31, 2026

Amount of Federal Funds Obligated to Subrecipient: **\$500,000.00**

Federal Award Project Description (in accordance with Federal Funding Accountability and Transparency Act (FFATA): Coronavirus State and Local Fiscal Recovery Funds

Name of Federal Awarding Agency: U.S. Department of the Treasury

Name of Pass-Through Entity and Contact Information:

**Name: Carl Colonius**

**Entity: New Mexico Economic Development Department, Outdoor Recreation Division**

**Phone: 505-570-7846**

**Email: [Carl.Colonius@edd.nm.gov](mailto:Carl.Colonius@edd.nm.gov)**

**Address: NMEDD, P.O. BOX 20003, Santa Fe NM 87504-5003**

Assistance Listing Number (ALN): 21.027

## EXHIBIT B

## SCOPE OF WORK AND BUDGET

In cooperation with Elephant Butte Irrigation District (EBID) and New Mexico State University (NMSU) the City of Las Cruces (City) will design and build a recreational trail that will connect the community of Tortugas and Doña Ana County with the university campus, Las Cruces High School, and other destinations within the metropolitan area. Based on the planning efforts outlined in the Las Cruces Active Transportation Plan and the City's Parks & Recreation Master Plan, this trail will meet the goals of providing safe, convenient, and accessible transportation and recreation for residents and visitors.

**Months 1-6**

Receipt of grant award agreement, execution, and acceptance of fully executed agreement by LC City Council to adjust the fiscal year budget, led by the City's Grant Administration staff, is anticipated to take 2-3 months. Implementation planning with Parks & Recreation (P&R) staff, design firm, and depending on when award is received, the selected contractor will begin immediately.

Staff in the P&R Special Projects section are currently in procurement for the design contract and are expected to have a firm on board prior to the end of the calendar year. The design phase, led by the contracted design firm and overseen by P&R staff, is expected to take 4-6 months. Funding from other sources will be utilized for the design phase. The EBID Permit will be requested during this time and any agreements needed with NMSU will be executed.

**Months 7-12**

Bidding of construction & contract award will be led by P&R staff with the assistance of the City's Finance-Purchasing Section. Bidding and contractor negotiations can take from 2-3 months.

Pre-construction meeting & start of construction will be initiated during this timeframe and led by the P&R staff with the assistance of the design firm. The EBID Permit will be finalized, coordination with NMSU will be completed. A contracted surveyor will layout the construction area, staging areas will be set-up, project site will be secured, & all contract issues finalized. All activities during this phase will be led by the P&R staff, the contractor and design firm, taking 1-2 months.

Construction work will begin with the contractor leading the effort during the end of this period. The P&R Staff & design firm will continue to coordinate and oversee the project activities with the assistance of Public Works (PW) Department staff.

**Months 12-18**

Construction will proceed, with the Contractor as lead and oversight by the P&R staff. Construction observation will be contracted and coordinated by a Project Manager in the City's Public Works Department. Materials testing will take place. Unexpected design issues and modification necessitated by site conditions will be addressed. Regular reporting, progress checks, and payments will be made. The contracted design firm and P&R staff will work with the contractor as lead. Construction is expected to take 12-18 months.

**Months 19-24**

Project closeout will be done during this period. It will include a substantial completion walkthrough, punch list generation, punch list coverage, project turnover, and project acceptance with final payment. Any delays in the design or construction process will be handled during this last phase of the project. P&R staff will lead this phase with assistance from the Public Works Department to complete the final closeout activities.

## Agenda Item #7.2.

| DA MOVE TRAIL AND TORTUGAS TRAIL INITIAL OPINION OF PROBABLE COST |      |     | 10/16/2023    |                   |
|-------------------------------------------------------------------|------|-----|---------------|-------------------|
| MOBILIZATION                                                      | 1    | LS  | \$ 21,448.00  | \$ 21,448.00      |
| TESTING                                                           | 1    | LS  | \$ 24,700.00  | \$ 24,700.00      |
| SURVEYOR & STAKING & LAYOUT                                       | 1    | LS  | \$ 10,000.00  | \$ 10,000.00      |
| TRAFFIC CONTROL                                                   | 1    | LS  | \$ 10,000.00  | \$ 10,000.00      |
| SWPPP PREP & MAINTENANCE                                          | 1    | LS  | \$ 5,000.00   | \$ 5,000.00       |
| CLEARING AND GRUBBING                                             | 1    | LS  | \$ 40,000.00  | \$ 40,000.00      |
| SUBGRADE PREP, 6"                                                 | 6101 | SY  | \$ 4.50       | \$ 27,454.50      |
| EXCAVATION AND FILL                                               | 3000 | CY  | \$ 30.00      | \$ 90,000.00      |
| BASE COURSE 6"                                                    | 6101 | SY  | \$ 10.00      | \$ 61,010.00      |
| 2" ASPHALT                                                        | 6101 | SY  | \$ 14.39      | \$ 87,793.39      |
| TRAIL HEAD SIGN                                                   | 4    | EA  | \$ 3,450.00   | \$ 13,800.00      |
| BENCH                                                             | 1    | EAC | \$ 1,575.00   | \$ 1,575.00       |
| PET WASTE STATION                                                 | 8    | EAC | \$ 250.00     | \$ 2,000.00       |
| TRAIL ROUTE SIGN                                                  | 7    | EAC | \$ 450.00     | \$ 3,150.00       |
| DAY USE SIGN                                                      | 8    | EAC | \$ 240.50     | \$ 1,924.00       |
| PAINTED TURTLE EMBLEM                                             | 10   | EAC | \$ 98.71      | \$ 987.10         |
| Trails End sign sign                                              | 2    | EAC | \$ 240.50     | \$ 481.00         |
| TRASH CAN                                                         | 4    | EA  | \$ 675.00     | \$ 2,700.00       |
| PIPE BOLLARD REMOVABLE                                            | 20   | EA  | \$ 775.00     | \$ 15,500.00      |
| DEMO EPID GATES                                                   | 6    | EA  | \$ 336.66     | \$ 2,019.96       |
| CMP 36"                                                           | 400  | LF  | \$ 100.00     | \$ 40,000.00      |
| HEADWALLS                                                         | 80   | LF  | \$ 200.00     | \$ 16,000.00      |
| STOP SIGN                                                         | 3    | EA  | \$ 280.93     | \$ 842.79         |
| Subtotal                                                          |      |     |               | \$ 498,345.74     |
| MID-BLOCK CROSSING, CONST                                         | 2    | EA  | \$ 182,070.71 | \$ 364,141.42     |
| MID-BLOCK CROSSING, SURVEY ALIGNMENT                              | 2    | EA  | \$ 3,782.19   | \$ 7,564.38       |
| Subtotal                                                          |      |     |               | \$ 371,705.80     |
| WAYFINDING SIGNAGE - LC LATERAL TRAIL                             | 1    | LS  | \$ 41,531.00  | \$ 41,531.00      |
| Subtotal                                                          |      |     |               | \$ 41,531.00      |
| CONTINGENCY 0.05                                                  | 1    | LS  | \$ 45,581.13  | \$ 45,581.13      |
| SUBTOTAL                                                          |      |     |               | \$ 1,370,446.47   |
| Bond 0.03                                                         | 1    | LS  | \$ 41,113.21  | \$ 41,113.21      |
| Subtotal                                                          |      |     |               | \$ 1,411,559.68   |
| Tax 0.080625                                                      | 1    | LS  | \$ 113,806.52 | \$ 113,806.52     |
|                                                                   |      |     |               | \$ 1,525,366.20   |
| DESIGN                                                            | 1    | LS  | \$ 112,924.29 | \$ 112,924.29     |
| WARRANT ANALYSIS, Mid-Block Crossing                              | 2    | LS  | \$ 56,462.15  | \$ 112,924.29     |
| Construction Management/Observation                               | 1    | LS  | \$ 79,047.01  | \$ 79,047.01      |
| Design Tax 0.080625                                               |      |     |               | \$ 24,582.21      |
| Design SUBTOTAL                                                   |      |     |               | \$ 329,477.80     |
|                                                                   |      |     |               | \$ 1,854,838.00   |
| Match Funding                                                     |      |     | \$            | \$ (1,354,838.00) |
| Trails+ Grant Request                                             |      |     | \$            | \$ 500,000.00     |

### Significant Changes to Scope of Work

The SUB RECIPIENT is required to notify and seek written approval of the GRANTEE in advance of any proposed changes to the scope of work under this Subaward (i.e., significant changes to the statement of project objectives or the schedule of technical milestones and deliverables). Such changes may require the GRANTEE to re-evaluate the eligibility of the work under this Subaward.

EXHIBIT C

CONTRACT PROVISIONS FOR NON-FEDERAL ENTITY CONTRACTS  
UNDER FEDERAL AWARDS

**Equal Employment Opportunity.** Except as otherwise provided under 41 CFR Part 60, all contracts that meet the definition of “federally assisted construction contract” in 41 CFR Part 60-1.3 must include the equal opportunity clause provided under 41 CFR 60-1.4(b), in accordance with Executive Order 11246, “Equal Employment Opportunity” (30 FR 12319, 12935, 3 CFR Part, 19641965 Comp., p. 339), as amended by Executive Order 11375, “Amending Executive Order 11246 Relating to Equal Employment Opportunity,” and implementing regulations at 41 CFR part 60, “Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor.”

**Contract Work Hours and Safety Standards Act** (40 U.S.C. 3701-3708). Where applicable, all contracts awarded by the non-Federal entity in excess of \$100,000 that involve the employment of mechanics or laborers must include a provision for compliance with 40 U.S.C. 3702 and 3704, as supplemented by Department of Labor regulations (29 CFR Part 5). Under 40 U.S.C. 3702 of the Act, each contractor must be required to compute the wages of every mechanic and laborer on the basis of a standard work week of 40 hours. Work in excess of the standard work week is permissible provided that the worker is compensated at a rate of not less than one and a half times the basic rate of pay for all hours worked in excess of 40 hours in the work week. The requirements of 40 U.S.C. 3704 are applicable to construction work and provide that no laborer or mechanic must be required to work in surroundings or under working conditions which are unsanitary, hazardous or dangerous. These requirements do not apply to the purchases of supplies or materials or articles ordinarily available on the open market, or contracts for transportation or transmission of intelligence.

**Rights to Inventions Made Under a Contract or Agreement.** If the Federal award meets the definition of “funding agreement” under 37 CFR section 401.2 (a) and the recipient or subrecipient wishes to enter into a contract with a small business firm or nonprofit organization regarding the substitution of parties, assignment or performance of experimental, developmental, or research work under that “funding agreement,” the recipient or subrecipient must comply with the requirements of 37 CFR Part 401, “Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements,” and any implementing regulations issued by the awarding agency.

**Clean Air Act and the Federal Water Pollution Control Act.** Contracts and subgrants of amounts in excess of \$150,000 must contain a provision that requires the non-Federal award to agree to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act (42 U.S.C. 74017671q) and the Federal Water Pollution Control Act as amended (33 U.S.C. 1251-1387). Violations must be reported to the Federal awarding agency and the Regional Office of the Environmental Protection Agency (EPA).

**Debarment and Suspension** (Executive Orders 12549 and 12689). A contract award (see 2 CFR 180.220) must not be made to parties listed on the governmentwide exclusions in the System for Award Management (SAM), in accordance with the OMB guidelines at 2 CFR 180 that implement Executive Orders 12549 (3 CFR part 1986 Comp., p. 189) and 12689 (3 CFR part 1989 Comp., p. 235), "Debarment and Suspension." SAM Exclusions contains the names of parties debarred, suspended, or otherwise excluded by agencies, as well as parties declared ineligible under statutory or regulatory authority other than Executive Order 12549.

**Byrd Anti-Lobbying Amendment** (31 U.S.C. 1352). Contractors that apply or bid for an award exceeding \$100,000 must file the required certification. Each tier certifies to the tier above that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any Federal contract, grant or any other award covered by 31 U.S.C. 1352. Each tier must also disclose any lobbying with non-Federal funds that takes place in connection with obtaining any Federal award. Such disclosures are forwarded from tier to tier up to the non-Federal award.



EXHIBIT D

DAVIS-BACON ACT REQUIREMENTS  
(IF APPLICABLE)

**Overview**

Section 1606 of the American Recovery and Reinvestment Act (ARRA) of 2009, Pub. L. No. 111-5, 123 Stat. 115 (Feb. 17, 2009) (the "Recovery Act"), requires grant award recipients, subrecipients, contractors, and subcontractors to comply with the wage requirements of the Davis-Bacon Act (40 U.S.C. 3141 *et seq.*) and related acts, stating:

Notwithstanding any other provision of law and in a manner consistent with other provisions in this Act, all laborers and mechanics employed by contractors and subcontractors on projects funded directly by or assisted in whole or in part by and through the Federal Government pursuant to this Act shall be paid wages at rates not less than those prevailing on projects of a character similar in the locality as determined by the Secretary of Labor in accordance with subchapter IV of chapter 31 of title 40, United States Code. With respect to the labor standards specified in this section, the Secretary of Labor shall have the authority and functions set forth in Reorganization Plan Numbered 14 of 1950 (64 Stat. 1267; 5 U.S.C. App.) and section 3145 of title 40, United States Code.

**Scope of the Davis-Bacon Act** The Davis-Bacon Act prevailing wage requirements apply to laborers and mechanics employed under contracts or subcontracts in excess of \$2,000 for construction, alteration, or repair activities (including but not limited to painting and decorating) that are funded, in whole or in part, under BTOP grant awards. In general:

- Laborers and mechanics – Are workers whose duties are manual or physical in nature, including apprentices, trainees and helpers, but do not include workers whose duties are primarily managerial, administrative, executive, or clerical. See 29 C.F.R. section 5.2(m).
- The \$2,000 threshold – Pertains to the amount of the prime construction contract, not to the amount of individual subcontracts. Accordingly, if the prime construction contract exceeds \$2,000, all construction work on the project (including subcontracts) is covered by the Davis-Bacon Act. See 29 C.F.R. section 5.5(a)(6).
- Construction, alteration, or repair activities – Are those occurring at the "site of the work" that involve the alteration, remodeling, or installation of items fabricated off-site; painting and decorating; manufacturing or furnishing of materials, articles, supplies, or equipment on the site of the building or work; and, in certain cases, transportation between the site of the work and other points. See 29 C.F.R. section 5.2(j).
- Site of the work – Is the physical place or places where the building or work called for in the contract will remain, and any other site where a significant portion of the building or work is constructed, provided that such site is established specifically for the performance

of the contract or project, and includes job headquarters, tool yards, batch plants, borrow pits, etc., if they are dedicated exclusively, or nearly so, to performance of the contract or project, and are adjacent or virtually adjacent to the site of the work. The site of the work does not include permanent home offices, branch plant establishments, fabrication plants, tool yards, etc., of a contractor or subcontractor whose location and continued operation are determined wholly without regard to a particular Federal or Federally assisted contract or project. See 29 C.F.R. section 5.2(l).

- Application to Governmental Agencies - Governmental agencies, such as states or their political subdivisions, are not subject to the Davis Bacon Act requirements when construction work is being performed by their own employees on a "force account" basis. See 29 C.F.R. section 5.2(h).

Davis-Bacon Act prevailing wage requirements are likely to apply to construction and related activities undertaken in connection with Infrastructure Round 1 and Comprehensive Community Infrastructure (CCI) Round 2 projects. In many cases, Davis-Bacon Act prevailing wage requirements will also apply to activities under BTOP grants for Sustainable Broadband Adoption (SBA) and Public Computer Centers (PCC), when construction and related activities (including minor renovation of facilities) can be segregated from the other work contemplated by the grant. See 29 C.F.R. section 4.116; F.A.R. section 22.402(b).

#### **Davis-Bacon Act Requirements**

Required contract provisions (appearing at 29 C.F.R. section 5.5) and the applicable wage determination(s) for the activities contemplated by a construction project must be included in any contract or subcontract to which the Davis-Bacon Act applies providing, among other items, that:

- Laborers and mechanics must be paid the full amount of wages and bona fide fringe benefits (or cash equivalents thereof) at least once a week;
- No paycheck deductions or rebates are permitted, except as permitted under Department of Labor (DOL) regulations (29 C.F.R. sections 3.5-3.6);
- Wage and fringe benefit rates must be no less than those contained in DOL wage determination for the labor classification for the work actually performed.

The recipient is responsible for ensuring that the required contract provisions appear in all contracts and subcontracts entered into by recipients, subrecipients, contractors, and subcontractors for construction, alteration and repair activities covered by the Davis-Bacon Act and related acts. Applicable wage determinations included in the contract must be verified by the recipient within 10 days of the contract date.

In cases where state wage rates (determined under state statutes often called "Mini-Davis-Bacon Acts") are higher than the Federal wage rates, the state wage rates take precedence and should be included in contracts in lieu of the lower, Federal wage rates. In cases of construction

projects on tribal lands, the recipient should contact its assigned Federal Program Officer (FPO) for guidance on the interplay among the Davis-Bacon Act, state Mini-Davis-Bacon acts, and the Tribal Employment Rights Ordinance (TERO).

Contracts for amounts over \$100,000 that are covered by the Davis-Bacon Act must include additional standard clauses (also appearing in 29 C.F.R. section 5.5) providing, among other things, that overtime for laborers and mechanics must be paid at a rate 1.5 times the basic rate of pay for time worked in excess of 40 hours per week.

In addition, the DOL Davis-Bacon poster (WH-1321) must be prominently posted at the site of the work. Refer to: ([www.dol.gov/whd/regs/compliance/posters/fedprojc.pdf](http://www.dol.gov/whd/regs/compliance/posters/fedprojc.pdf) 1321).

### **Davis-Bacon Wage Rate Determinations**

DOL conducts statewide surveys seeking payment data on wage and fringe benefit rates from construction contractors and other interested parties, such as labor unions. Wage determinations are issued by locality, typically on a county-by-county basis. Davis-Bacon Act wage determinations are published on DOL's Wage Determinations OnLine (WDOL) website accessible at: [www.wdol.gov](http://www.wdol.gov). The Davis-Bacon Act prevailing wages are determined by DOL based on wages paid to various classes of laborers and mechanics employed on specific types of construction projects in an area.

If DOL has not published a wage determination for work that is needed to complete a BTOP construction project, the recipient may seek a Conformance. The recipient must submit a Conformance request using Standard Form (SF) 1444. Please go to [www.wdol.gov/library.aspx](http://www.wdol.gov/library.aspx) to obtain a copy of the form and instructions.

To complete the form, the recipient must describe the work to be done (identified with a classification that is used in the subject area in the construction industry) and propose a wage rate that bears a reasonable relationship to existing wage determinations. Typically, the rate must not be less than the wage determination for an unskilled laborer and, for a skilled craft, must be at least equal to the lowest wage determination for any other skilled craft.

Infrastructure and CCI recipients should submit the completed SF-1444 through Grants Online as an "Other Action Request." The SF1444 will be routed to the National Oceanic and Atmospheric Administration (NOAA) Grants Officer and transmitted to the DOL Wage and Hour Division for review and approval. The Wage and Hour Division has committed to act on Conformance requests within 30 days.

SBA and PCC recipients should submit completed SF-1444 Conformance requests through the Post-Award Monitoring (PAM) System. To do so, the recipient should create a report package of the type "POR: PAM Other Request." After filling out and attaching the Request Template, recipient should attach the completed SF-1444 form using the "Add File" button. The SF-1444 will be routed to the National Institute of Standards and Technology (NIST) Grants Officer and transmitted to the DOL Wage and Hour Division for review and approval. The Wage and Hour Division has committed to act on Conformance requests within 30 days.

### **Recordkeeping and Monitoring Obligations**

Recipients, subrecipients, contractors, and subcontractors must prepare weekly certified payroll documentation using Form WH347 (available at: [www.dol.gov/whd/forms/wh347.pdf](http://www.dol.gov/whd/forms/wh347.pdf)), properly completed for laborers and mechanics performing activities covered by the Davis-Bacon Act requirements of the Recovery Act. Subrecipients, contractors, and subcontractors must submit this information to the BTOP grant award recipient on a weekly basis within seven days of the regular payment date of the subrecipient's, contractor's or subcontractor's payroll period.

A recipient must review the weekly certified payroll documentation it receives from its subrecipients, contractors and subcontractors on an ongoing basis. See 29 C.F.R. sections 3.3-3.4. If a subrecipient receives the original payroll documents, the subrecipient should review these documents and forward the original documents to the recipient on a weekly basis within the time period described above.

The recipient must maintain in its files the original Davis-Bacon Act payroll records it prepares for itself, as well as those prepared by subrecipients, contractors, and subcontractors. The recipient is not required to submit any of the payroll documents to the BTOP Grants Office unless the assigned Grants Officer makes a request for such records. The payroll records must be maintained so as to be easily accessed by BTOP Grants Officers and by other duly authorized officials. The recipient must retain these records as provided in the Department of Commerce (DOC) Uniform Administrative Requirements for Grants and Cooperative Agreements, 15 C.F.R. section 14.53 or 24.42, as applicable, generally for the later of three years after closeout of the award, or until any litigation, claim, or audit is resolved.

### **Enforcement and Penalties**

Violation of the requirements of Section 1606 of the Recovery Act and the Davis-Bacon Act and related acts is a serious offense. Compliance is subject to audit during OMB Circular A-133 audits (including program-specific audits) of BTOP grant recipients and subrecipients, as well as audits and investigations by the DOC Office of Inspector General, the Government Accountability Office (GAO), the DOL Wage and Hour Division, and other duly authorized officials. A violation of the Davis-Bacon Act wage requirements may lead NTIA to impose appropriate enforcement action in connection with a BTOP grant award, up to and including suspension or termination of the award. In addition, contracting parties are subject to payment of back wages, and suspension or debarment from future contracts for a period of up to three years. Monetary damages may also apply. Falsification of certified payroll records or the required kickback of wages may subject a violator to civil or criminal prosecution, the penalty for which may include fines and/or imprisonment.

### ELIGIBLE AND RESTRICTED USES OF CSLFRF FUNDS

As described in the CSLFRF statute and summarized above, there are four enumerated eligible uses of CSLFRF award funds. As a recipient of an award under the CSLFRF program, your organization is responsible for complying with requirements for the use of funds. In addition to determining a given project's eligibility, recipients are also responsible for determining subrecipient's or beneficiaries' eligibility and must monitor use of CSLFRF award funds.

To help recipients build a greater understanding of eligible uses, Treasury's Interim Final Rule establishes a framework for determining whether a specific project would be eligible under the CSLFRF program, including some helpful definitions. For example, Treasury's Interim Final Rule establishes:

- A framework for determining whether a project "responds to" a "negative economic impact" caused by the COVID-19 public health emergency;
- Definitions of "eligible employers", "essential work," "eligible workers", and "premium pay" for cases where premium pay is an eligible use;
- A definition of "general revenue" and a formula for calculating revenue lost due to the COVID-19 public health emergency;
- A framework for eligible water and sewer infrastructure projects that aligns eligible uses with projects that are eligible under the Environmental Protection Agency's Drinking Water and Clean Water State Revolving Funds; and,
- A framework for eligible broadband projects designed to provide service to unserved or underserved households, or businesses at speeds sufficient to enable users to generally meet household needs, including the ability to support the simultaneous use of work, education, and health applications, and also sufficiently robust to meet increasing household demands for bandwidth.

Treasury's Interim Final Rule also provides more information on four important restrictions on use of CSLFRF award funds: recipients may not deposit CSLFRF funds into a pension fund; recipients that are States or territories may not use CSLFRF funds to offset a reduction in net tax revenue caused by the recipient's change in law, regulation, or administrative interpretation; and, recipients may not use CSLFRF funds as non-Federal match where prohibited. In addition, the Interim Final Rule clarifies certain uses of CSLFRF funds outside the scope of eligible uses, including that recipients generally may not use CSLFRF funds directly to service debt, satisfy a judgment or settlement, or contribute to a "rainy day" fund. Recipients should refer to Treasury's Interim Final Rule for more information on these restrictions.

**STATE OF NEW MEXICO  
DEPARTMENT OF CULTURAL AFFAIRS  
FUND 89200 APPROPRIATION PROJECT**

THIS AGREEMENT is made and entered into by and between the Department of Cultural Affairs, New Mexico State Library Division, hereinafter called the "Department" or abbreviation such as "NMSL", and the **CITY OF LAS CRUCES**, hereinafter called the "Grantee" on behalf of the **Las Cruces Public Libraries**. This Agreement shall be effective as of the date it is executed by the Department.

**RECITALS**

**WHEREAS**, in the Laws of 2022, Chapter 55, Paragraph B(1)(a), 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** NMSA 1978, Section 18-2-4 directs the state librarian to make rules and regulations necessary to administer the division and as provided by law, and NMSA 1978, Section 18-2-4(B) directs the state librarian to administer grants-in-aid and encourage local library services and generally promote an effective statewide library system;

**WHEREAS**, the state librarian promulgated administrative rules to govern the distribution of general obligation bonds, which are compiled as Section 4.5.8 NMAC;

**WHEREAS**, the Grantee on behalf of a library, that is eligible for receipt of such funds because it is a local public library, as defined under section 4.5.8 NMAC that has filed an approved annual report with the Department;

**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**, the Department determined the amount of the Grant based on the criteria describe in Rule 4.5.8.8 NMAC ("Distribution of Funds").

**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:

Project No. **A22-G5372** for Six Million Dollars (\$6,000,000.00)

APPROPRIATION REVERSION DATE: 30-JUN-2026

Laws of 2022, Chapter 55, Paragraph B(1)(a), \$6,000,000.00 (Six Million Dollars) for equipment, library furniture, fixtures and supplemental library resource acquisitions, including print, non-print and electronic resources, collaborative library resources and information technology projects, and for the purchase and installation of broadband internet equipment and infrastructure at tribal libraries statewide. The Grantee's total reimbursements under this Agreement shall not exceed **\$ 466,896.96 (Four hundred sixty-six thousand, eight hundred ninety-six dollars and ninety-six cents)** which is hereinafter referred to as "Appropriation Amount." Pursuant to the Art in Public Places Act, zero dollars (\$0.00) has been set aside from the Project and transferred to the Art in Public Places Fund, which is administered by the Cultural Affairs Department.

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." 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 Reimburse<sup>1</sup> 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

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<sup>1</sup> "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.

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
- (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.

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

Grantee: City of Las Cruces

Name: Gabriela M. Prats

Title: Grant Manager

Address: 700 N. Main St.

Las Cruces, NM 88001-1120

Email: [gprats@lascruces.gov](mailto:gprats@lascruces.gov)

Telephone: 575-541-2430

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

Department: New Mexico State Library, Development Bureau

Name: Patricia Moore

Title: GO Bond Project Manager

Address: 1209 Camino Carlos Rey, Santa Fe, NM 87507

Telephone: 505-476-9724

Email: [patricia.moore@dca.nm.gov](mailto:patricia.moore@dca.nm.gov)

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 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 Project activity, if applicable, 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. 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. The Paper Final Report must be submitted 90 days from the reversion date.

#### **B. Paper Final Report**

The Grantee shall submit to the Department and the Department of Finance and Administration a Final Report (Exhibit 1) for the Project. The Final Report shall be submitted on a form provided by the Department and contain such information as the Department may require. The Final Report form is attached hereto as Exhibit 1. The Department shall provide Grantee with a minimum of thirty (30) days' advance, written notice of any change to the Final Report format or content. The Paper Final Report must be submitted 90 days from the reversion date.

#### **C. 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.
- (iv) As an additional condition precedent to payment, the Department may, in its discretion, require the Grantee to submit with its Request(s) for Payment invoices showing the amount and type of expenditures and proof of payment (e.g., cancelled warrant or check (front and back)).

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; or
- (iv) **Ninety (90) 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 Grantee may immediately terminate this Agreement by giving Contractor written notice of such termination. The Grantee’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 Grantee or the Department or the State of New Mexico in the event of immediate or Early Termination of this Agreement by the Grantee 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 Grant Agreement. Should the Department early terminate the grant agreement, the Grantee may early terminate this contract by providing Contractor written notice of such termination. In the event of termination pursuant to this paragraph, the Grantee’s only liability shall be to pay Contractor for acceptable goods delivered and services rendered before the termination date.”

The 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.

**ARTICLE 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. [OPTIONAL IF THE APPROPRIATION IS FUNDED BY SEVERANCE TAX BONDS OR GENERAL OBLIGATION BONDS] 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.

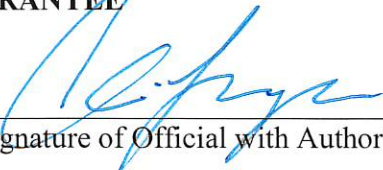
B. Grantee acknowledges and agrees that the SBOF may in its sole and absolute discretion remove a project's assigned bond proceeds if the project doesn't proceed sufficiently. Entities must comply with the requirement to encumber five percent (5%) of Project funds within six months of bond issuance as 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

By: Ikani Taumoepeau

Its: City Manager

4/17/24  
Date

APPROVED AS TO FORM:

 4/11/24  
\_\_\_\_\_  
City Attorney

DEPARTMENT OF CULTURAL AFFAIRS

DocuSigned by:  
  
\_\_\_\_\_  
By: Debra Garcia y Griego, Cabinet Secretary

4/26/2024  
\_\_\_\_\_  
Date

DocuSigned by:  
  
\_\_\_\_\_  
By: Greg Geisler, Division Director, CFO, Administration  
Services Division

4/26/2024  
\_\_\_\_\_  
Date

DocuSigned by:  
  
\_\_\_\_\_  
By: Max DeAzevedo, General Counsel

4/26/2024  
\_\_\_\_\_  
Date

DocuSigned by:  
  
\_\_\_\_\_  
By: Eli Guinnee, State Librarian

4/26/2024  
\_\_\_\_\_  
Date

| <b>STATE OF NEW MEXICO</b><br><b>CAPITAL GRANT PROJECT</b><br><b>Request for Payment Form</b><br><b>Exhibit 1</b>                                                                                                                                                                                                                                                                                                                         |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             |
|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>I. Grantee Information</b><br>(Make sure information is complete & accurate)<br>A. Grantee: _____<br>B. Address: _____<br>(Complete Mailing, including Suite, if applicable)<br>_____<br><div style="display: flex; justify-content: space-between; width: 100%;"> <span>City</span> <span>State</span> <span>Zip</span> </div> C. Phone No: _____<br>D. Grant No: _____<br>E. Project Title: _____<br>F. Grant Expiration Date: _____ | <b>II. Payment Computation</b><br>A. Payment Request No. _____<br>B. Grant Amount: _____<br>C. AIPP Amount (If Applicable): _____<br>D. Funds Requested to Date: _____<br>E. Amount Requested this Payment: _____<br>F. Reversion Amount (If Applicable): _____<br>G. Grant Balance: _____<br>H. <input type="checkbox"/> GF <input type="checkbox"/> GOB <input type="checkbox"/> STB (attach wire if first draw)<br>I. <input type="checkbox"/> Final Request for Payment (if Applicable) |
| <b>III. Fiscal Year :</b> _____<br>(The State of NM Fiscal Year is July 1, 20XX through June 30, 20XX of the following year)                                                                                                                                                                                                                                                                                                              |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             |
| <b>IV. <input type="checkbox"/> Reporting Certification:</b> I hereby certify to the best of my knowledge 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.                                                                            |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             |
| <b>V. <input type="checkbox"/> Compliance Certification:</b> Under penalty of law, I hereby certify to the best of my knowledge 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 with Article IX, Sec. 14 of the New Mexico Constitution known as the "anti donation" clause.                         |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             |
|                                                                                                                                                                                                                                                                                                                                                                                                                                           |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             |
| <b>Grantee Fiscal Officer</b><br><b>or Fiscal Agent (if applicable)</b><br><br>_____<br>Printed Name<br>Date: _____                                                                                                                                                                                                                                                                                                                       | <b>Grantee Representative</b><br><br>_____<br>Printed Name<br>Date: _____                                                                                                                                                                                                                                                                                                                                                                                                                   |
| <b>(State Agency Use Only)</b>                                                                                                                                                                                                                                                                                                                                                                                                            |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             |
| <b>Vendor Code:</b> _____ <b>Fund No.:</b> _____ <b>Loc No.:</b> _____                                                                                                                                                                                                                                                                                                                                                                    |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             |
| I certify that the State Agency financial and vendor file information agree with the above submitted information.                                                                                                                                                                                                                                                                                                                         |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             |
| _____<br>Division Fiscal Officer                      Date                                                                                                                                                                                                                                                                                                                                                                                | _____<br>Division Project Manager                      Date                                                                                                                                                                                                                                                                                                                                                                                                                                 |

**NOTICE OF OBLIGATION TO REIMBURSE GRANTEE  
EXHIBIT 2****Notice of Obligation to Reimburse Grantee [# 1]**

DATE: [REDACTED]

TO: Department Representative: [REDACTED]

FROM: Grantee: [REDACTED]

Grantee Official Representative: [REDACTED]

SUBJECT: Notice of Obligation to Reimburse Grantee

Grant Number: [REDACTED]

Grant Termination Date: [REDACTED]

As the designated representative of the Department for Grant Agreement number [REDACTED] 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:

[REDACTED]

Third Party Obligation Amount: [REDACTED]

Vendor or Contractor:

[REDACTED]

Third Party Obligation Amount: [REDACTED]

Vendor or Contractor:

[REDACTED]

Third Party Obligation Amount: [REDACTED]

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):

[REDACTED]

The Amount of this Notice of Obligation:

[REDACTED]

The Total Amount of all Previously Issued Notices of Obligation:

[REDACTED]

The Total Amount of all Notices of Obligation to Date:

[REDACTED]

*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:

[REDACTED]

Title:

[REDACTED]

Signature:

[REDACTED]

Date:

[REDACTED]

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.

STATE OF NEW MEXICO  
2022 GO BOND PROJECT  
PAPER PERIODIC/FINAL REPORT  
EXHIBIT 3

☐

PERIODIC REPORT

☐

FINAL REPORT

Grantee: \_\_\_\_\_

Name of Library: \_\_\_\_\_

Project Number: A22-G5372

Reporting Period: \_\_\_\_\_

1. Please provide a detailed status of project referenced above.

*A. Third Party Obligations*

Purchase Order or Contract # \_\_\_\_\_

Name of Contractor or Vendor: \_\_\_\_\_

Amount of Third Party Obligation: \_\_\_\_\_

Date Executed: \_\_\_\_\_

Termination Date: \_\_\_\_\_

2. Original Grant Amount: \_\_\_\_\_

Total Grant Amount Expended by Grantee to Date: \_\_\_\_\_

Grant Balance as of this Date: \_\_\_\_\_

☐

PERIODIC REPORT

I hereby certify that the aforementioned Capital Grant Project funds are being expended in accordance with all requirements of the Grant Agreement, and in compliance with all other applicable requirements.

☐

FINAL REPORT

I hereby certify that the aforementioned Capital Grant Project funds have been completed and funds were expended in accordance with all requirements of the Grant Agreement, and in compliance with all other applicable state/regulatory requirements.

\_\_\_\_\_  
Grantee Representative/Title\_\_\_\_\_  
Date



## ATTACHMENT A

<https://www.srca.nm.gov/parts/title04/04.005.0008.html>

Section 18-2-4 I NMSA 1978 directs the state librarian to make rules and regulations necessary to administer the division and as provided by law. Section 18-2-4 B NMSA 1978 directs the state librarian to administer grants-in-aid and encourage local library services and generally promote an effective statewide library system.

**4.5.8.8 DISTRIBUTION OF FUNDS:** Money from the library bond program shall be distributed in the following manner:

**A. Notification:** When the library bond program funds are approved by the voters, the state library shall send a letter of notification and acceptance agreement to all public libraries informing them of their eligibility to receive the funds and the amount of funds they are eligible to receive. The agreement must be signed and returned to the state library one-hundred twenty (120) days before the start of the authorized expenditure period. Libraries that do not return the signed agreement within the required time period shall not be eligible to receive funds. Upon receipt of the agreements, the state library shall calculate the final allocation and the libraries shall be notified of any changes within ninety (90) days before the authorized expenditure period.

**B. Allocation:** The amount allocated to eligible public libraries is dependant upon the amount of bond funds approved by the state legislature and approved by the voters in a bond election. The state library may publish and make publicly available a list showing the bond fund allocations for each eligible library.

**C. Criteria for allocation of funds:** The state librarian shall establish the amount of funds to be allocated to each eligible library system using the following criteria.

- (1) Library shall be a local public library.
- (2) Library shall have filed an approved annual report with the state library.
- (3) Library shall return a signed agreement accepting the funds and agreeing to abide by the terms and conditions of this rule.
- (4) Non-profit libraries shall have an agreement with a local funding authority to act as their fiscal agent for these funds.
- (5) The library's and the local funding authority's accounting records shall be sufficient to document expenditures of library bond program money. At the sole discretion of the state library, such records may be audited annually or as needed by the state library or its designated representative.
- (6) County population and the library's legal service area shall be used to determine the amount of library bond program funds that shall be allocated to each eligible library.

**D. Distribution of funds:** Money from the library bond program funds shall be distributed in the following order:

(1) library system allocation: each eligible local public library system, including rural library services facilities, shall receive a fixed allocation dependent upon the total library bond funds available;

(2) per capita allocation: remaining library bond funds shall be distributed to each county on a per capita basis using the latest U. S. census bureau estimates, as follows: (a) each library shall receive funds based upon the legal service area population and proportional credit for the unassigned population in each county; and, (b) local public libraries that are the only local public library in their county shall receive the entire per capita allocation for the county.

**E. Maintenance of effort:**

(1) Library's book or materials budget shall not be reduced by the local funding authority as a result of eligibility for library bond program funds.

(2) Upon demonstrated evidence that such a reduction has occurred, the library shall be ineligible to receive funds in the next library bond program.

[4.5.8.8 NMAC - N, 2/14/2008]

Gabriela M. Prats  
Gabriela M. Prats (Apr 4, 2024 17:03 MDT)



## Agenda Item #7.2.

|                     |                          |
|---------------------|--------------------------|
| <b>Contract No.</b> | <b><u>D18962/2</u></b>   |
| <b>Vendor No.</b>   | <b><u>0000054342</u></b> |
| <b>Control No.</b>  | <b><u>HW2L100518</u></b> |

**SECOND AMENDMENT TO  
MUNICIPAL ARTERIAL PROGRAM  
COOPERATIVE AGREEMENT**

This **Second Amendment** is to the Agreement entered into between the New Mexico Department of Transportation (Department) and the City of Las Cruces (Public Entity). This Amendment is effective as of the date of the last party to sign on the signature page.

**RECITALS**

**Whereas**, the Department and the Public Entity entered into an Agreement, Contract No. D18962, on September 8, 2021; and,

**Whereas**, Section 19 allows for modification of the Agreement by an instrument in writing executed by the parties; and,

**Whereas**, the Department and the Public Entity want to extend the term of the Agreement to allow for Project completion; and,

**Whereas**, the parties agree to modify this Agreement.

**Now, therefore**, the Department and the Public Entity agree as follows:

Section 6, Term, is deleted and replaced with the following:

**6. Term.**

This Agreement becomes effective upon signature of all parties. The effective date is the date when the last party signed the Agreement on the signature page below. This Agreement terminates on **06/30/2025**. In the event an extension to the term is needed, the Public Entity shall provide written notice along with detailed justification to the Department sixty (60) days prior to the expiration date to ensure timely processing of an Amendment.

All other obligations set forth in the Original Agreement shall remain in full force and effect unless expressly amended or modified by this Second Amendment.

Agenda Item #7.2.

In Witness Whereof, each party is signing this Agreement on the date stated opposite that party's signature.

New Mexico Department of Transportation

DocuSigned by:  
Mallory Manzanares  
83F307B82C81449...  
By: \_\_\_\_\_  
Cabinet Secretary or Designee

Date: 05/15/24  
\_\_\_\_\_

Approved as to form and legal sufficiency by the New Mexico Department of Transportation's Office of General Counsel

DocuSigned by:  
Sunderjeet Kaur  
CBDDF719FE734A2...  
By: \_\_\_\_\_  
Assistant General Counsel

Date: 05/14/24  
\_\_\_\_\_

City of Las Cruces

By: S. I. Delgado for IT  
Name: Ikani Taumoepeau  
Title: City Manager

Date: 5/2/24  
\_\_\_\_\_

APPROVED AS TO FORM:

[Signature] 4/30/24  
City Attorney Date

ATTEST:

By: Christine Rivera  
City of Las Cruces Clerk or Designee

Date: 5/8/24  
\_\_\_\_\_

## RESOLUTION 24-106

### **A RESOLUTION AUTHORIZING THE CITY OF LAS CRUCES (CITY) TO FORMALLY REQUEST A ONE-YEAR TIME EXTENSION FROM JUNE 30, 2024, TO JUNE 30, 2025, FOR NEW MEXICO DEPARTMENT OF TRANSPORTATION (NMDOT) MUNICIPAL ARTERIAL PROGRAM (MAP) L100518 HAWK US HIGHWAY 70/PICACHO AVENUE PROJECT:**

The City Council is informed that:

**WHEREAS**, July 19, 2021, City Council approved Resolution No. 22-009 accepting a grant award from the NMDOT for 2021/2022 MAP funding. The grant is to plan design, construct and install a High-Intensity Activated Crosswalk (HAWK) signal device on US Hwy 70 (Picacho Avenue); and

**WHEREAS**, July 18, 2022, City Council approved Resolution No. 23-009, for an extension from June 30, 2023, to June 30, 2024, due to right of way (ROW) issues, which delayed the design phase and permitting process for the HAWK US Highway 70/Picacho Ave at 4th Street MAP project. The Public Works department requested and was granted an extension to the project completion date due to these issues, by New Mexico Department of Transportation (NMDOT); and

**WHEREAS**, a second extension is being requested to the agreement (Project Control Number HW2L100518) with a revised date of June 30, 2025, due to delays in the supply of critical traffic signal parts from the contractor's supplier. The contractor is awaiting critical parts, but the scope of the project otherwise remains unchanged.

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

(I)

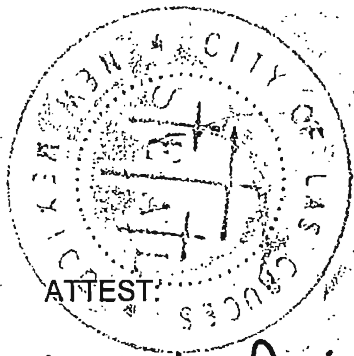
**THAT** the City hereby approves the extension request for Project Control Number HW2L100518 for a new completion date of June 30, 2025.

(II)

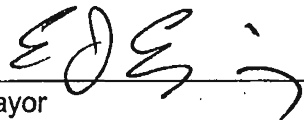
**THAT** City staff is hereby authorized to do all deeds as necessary in the accomplishment of the herein above.

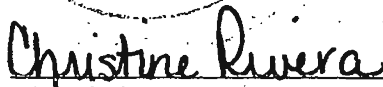
**DONE AND APPROVED** this 06 day of May 2024

Agenda Item #7.2.



APPROVED

  
\_\_\_\_\_  
Mayor

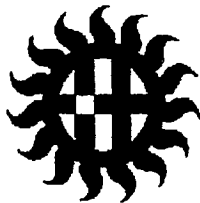
  
\_\_\_\_\_  
City Clerk

**Moved by:** Yvonne Flores

**Seconded by:** William Mattiace

**AYES** Yvonne Flores, Becki Graham, Cassie McClure, William Mattiace, Eric Enriquez

**NAYS** Johana Bencomo, Becky Corran



## City Council Action and Executive Summary

**24-106**
**Type of Action:**
☒ Resolution

☐ Ordinance

☐ TIDD Resolution

|                                      |                                                                                                                                                                                                           |
|--------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>District:</b>                     | <input type="checkbox"/> 1 <input type="checkbox"/> 2 <input type="checkbox"/> 3 <input checked="" type="checkbox"/> 4 <input type="checkbox"/> 5 <input type="checkbox"/> 6 <input type="checkbox"/> N/A |
| <b>1st Reading:</b>                  | <b>Adopted:</b> May 6, 2024                                                                                                                                                                               |
| <b>Drafter:</b> Crystal Silva        | <b>Department:</b> Financial Services                                                                                                                                                                     |
| <b>Program:</b> Grant Administration | <b>Line of Business:</b> Fiscal Management                                                                                                                                                                |

|               |                                                                                                                                                                                                                                                                                           |
|---------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>Title:</b> | <b>A RESOLUTION AUTHORIZING THE CITY OF LAS CRUCES (CITY) TO FORMALLY REQUEST A ONE-YEAR TIME EXTENSION FROM JUNE 30, 2024, TO JUNE 30, 2025, FOR NEW MEXICO DEPARTMENT OF TRANSPORTATION (NMDOT) MUNICIPAL ARTERIAL PROGRAM (MAP) L100518 HAWK US HIGHWAY 70/PICACHO AVENUE PROJECT.</b> |
|---------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|

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

### **PURPOSE(S) OF ACTION:**

Request for grant award/agreement extension.

### **BACKGROUND / KEY ISSUES / CONTRIBUTING FACTORS:**

On July 19, 2021, City Council approved Resolution No. 22-009 accepting a grant award from the NMDOT for 2021/2022 MAP funding. The grant is to plan design, construct and install a High-Intensity Activated Crosswalk (HAWK) signal device on US Hwy 70 (Picacho Avenue).

On July 18, 2022, City Council approved Resolution No. 23-009, for an extension from June 30, 2023, to June 30, 2024, due to right of way (ROW) issues, which delayed the design phase and permitting process for the HAWK US Highway 70/Picacho Ave at 4th Street MAP project. The Public Works department requested and was granted an extension to the project completion date due to these issues, by New Mexico Department of Transportation (NMDOT).

A second extension is being requested to the agreement (Project Control Number HW2L100518) with a revised date of June 30, 2025, due to delays in the supply of critical traffic signal parts from the contractor's supplier. The status of the project is that all required certifications have been acquired, and it has currently been awarded to a contractor for construction. The City's contractor is awaiting critical parts, but the scope of the project otherwise remains unchanged. This request is to ensure City can complete our obligations by this new project deadline.

At this time, approval is required to submit an extension request for Project Control Number HW2L100518 with a new completion date of June 30, 2025.

### **SUPPORT INFORMATION:**

Attachment "A" - Picacho MAP Extension

Attachment "B" - Agreement L100518 FY22 MAP - Executed

Attachment "C" - Agreement L100518 Amendment 1 - Executed

Agenda Item #7.2.

**PLAN(S):**

Department Strategic Business Plan

**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 amendment.
2. Vote "No"; this will not approve the amendment.
3. Vote to "Amend"; this could delay approval of the amendment and require direction and specific amendments from City Council.
4. Vote to "Table"; this could delay the approval of the amendment. Staff may require additional direction from City Council on how to proceed.

**REFERENCE INFORMATION:**

Resolution No. 22-009

Resolution No. 23-009



March 19, 2024

NMDOT District 1

Aaron Chavarria, P.E., District Engineer  
c/o Gil Gallosa, LGRF Coordinator  
2912 E. Pine Ste.  
Deming, NM 88030

Subject: Request for Second Extension – 4<sup>th</sup>/ US 70 (Picacho) Pedestrian Crossing HAWK Signal, Control No. HW2L100518

Dear Mr. Chavarria,

The City of Las Cruces (CLC) accepted the New Mexico Department of Transportation (NMDOT) MAP funding allocated for the 4<sup>th</sup>/US 70 (Picacho) Pedestrian Crossing HAWK Signal, Control No. HW2L100518. A time extension was requested and granted from June 30, 2023, to June 30, 2024, due to ROW issues.

At this time, we are requesting another time extension due to delays in supply of critical traffic signal parts from the contractor's supplier. The status of the project is that all certifications have been approved and it has currently been awarded to a contractor for construction. The City's contractor is awaiting critical parts, but the scope of the project otherwise remains unchanged.

The following is a timeline of remaining items to meet contract agreement:

|                             |                                                            |
|-----------------------------|------------------------------------------------------------|
| May 15 - June 15, 2024      | Delivery of traffic signal controllers and misc. equipment |
| June 1 - August 15, 2024    | Construction of project                                    |
| August 15 - October 1, 2024 | Contract & Grant Closeout                                  |

In order to provide sufficient time to complete extension of agreement, take delivery upon of critical equipment, complete construction as well as the closeout process, the City of Las Cruces requests an extension on the above listed project from June 30, 2024 to June 30, 2025. This will allow for all remaining items to be properly completed in accordance with the terms of the MAP Grant.

If you have questions or require additional information, you may contact me at (575) 528-3136 and/or email at [dsedillo@lascruces.gov](mailto:dsedillo@lascruces.gov) or Kyle Arend at (575) 528-3451 and/or email at [karend@lascruces.gov](mailto:karend@lascruces.gov).

Sincerely,

David Sedillo, P.E.  
Public Works Director

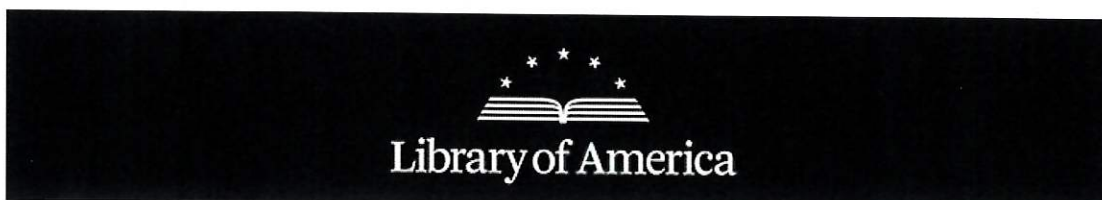
cc: Tony Trevino, Assistant Director to Public Works  
cc: Gaby Prats, Grants Manager

Initials:   
Initials:

**Gaby Prats**

**From:** Library of America <latinopoetry@loa.org>  
**Sent:** Monday, March 18, 2024 12:00 PM  
**To:** Gaby Prats  
**Subject:** Your Application to Latino Poetry: Places We Call Home

No images? [Click here](#)



Major funding provided by



National Partners

Academy of American  
Poets

Cave Canem

Dear Latino Poetry: Places We Call  
Home Applicant,

Library of America is delighted to inform you that you have been selected to receive a **Places We Call Home** programming grant in the amount of \$1,200.

Yours is one of seventy-five institutions in thirty-two states, the District of Columbia, and Puerto Rico chosen to participate in **Latino Poetry: Places We Call Home**, a public programming initiative made possible with support from the National Endowment for the Humanities. Our goal is to involve participants in a nationwide conversation about Latino poetry—its profound engagement with pasts historical and mythic, its reckoning with the complexities of language, land, and identity, its visions of a nation enriched by the stories of immigrants, exiles, refugees, and their descendants.

To confirm your acceptance, please fill out and submit [this form](#) by March 30, 2024. You will receive your programming stipend from Library of America via mail on or before May 15, 2024.

Your award includes:

- A \$1,200 grant to support free public programming (grants may be used for



## Agenda Item #7.2.

**Letras Latinas**

**NALAC**

**National Book  
Foundation**

**National Museum of  
Mexican Art**

**Poetry Society of  
America**

**Project Director**  
Max Rudin  
President & Publisher  
*Library of America*

**Principal Humanities  
Advisor**  
Rigoberto González  
Professor of English  
*Rutgers University*

direct costs associated with your events, including an honorarium for a local poet/scholar; travel expenses; actor/performer fees; and publicity and advertising)

- One copy of *Latino Poetry: The Library of America Anthology*, a hardcover anthology edited by Rigoberto González to be published by Library of America in September 2024
- A guidelines and resources packet (coming soon), with information and suggestions for planning and publicizing your events
- An orientation webinar (date TBD) for program partners and scholars/facilitators that will cover best practices for organizing and running public programs
- Logistical support and consultation from LOA throughout the grant period

**By accepting this award you agree to:**

- Present two (or more) public programs, at least one of which will be a reading and discussion of a poem or poems in the *Latino Poetry Reader* or *Latino Poetry: The Library of America Anthology*, moderated by a poet/scholar
- Participate in the orientation webinar on public program best practices
- Promote your programs to a diverse audience within your community
- Offer programs free of charge and open to the public in an accessible venue
- Report on your event

These resources on [latinopoetry.org](https://latinopoetry.org) are available to help you plan your programs:

- *The Latino Poetry Reader* (coming soon), a selection of featured poems, essays by poets and scholars, and discussion questions illuminating the project's eight core humanities themes
- Biographies of featured poets

## Agenda Item #7.2.

- Video readings and commentary by scholars, poets, actors, musicians, and other public figures
- An event calendar for the project period running from September 2024 through April 2025

Thank you. We're honored to be working with you on this unprecedented initiative!

Sincerely yours,



Max Rudin, Project Director  
Latino Poetry: Places We Call Home

Questions? Reach out to us at [latinopoetry@loa.org](mailto:latinopoetry@loa.org).

---

### USEFUL LINKS

- [View all the latest titles](#) or [all the titles published in the LOA series](#).
- [Browse the boxed sets available from Library of America](#).
- [See a list of stand-alone works released as LOA eBook Classics](#).

Questions? Comments? [Visit LOA's contact page](#).



#### Library of America

14 E. 60th St.  
New York, NY 10022  
[www.loa.org](http://www.loa.org)

Library of America sends e-mail only to subscribers and customers who have provided their e-mail addresses and wish to receive additional information about events and publications. You are receiving this e-mail because you signed up for the Latino Poetry e-mail list.

We will never share your e-mail address with any other company or use it for business not related to Library of America.

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14 E. 60th St.  
New York, NY 10022  
[www.loa.org](http://www.loa.org)

Library of America sends e-mail only to subscribers and customers who have provided their e-mail addresses and wish to receive additional information about events and publications. You are receiving this e-mail because you signed up for the Latino Poetry e-mail list.

We will never share your e-mail address with any other company or use it for business not related to Library of America.

**From:** [Google Forms](#)  
**To:** [Gaby Prats](#)  
**Subject:** Latino Poetry: Places We Call Home Program Partner Confirmation Form  
**Date:** Wednesday, March 27, 2024 1:24:28 PM

You don't often get email from forms-receipts-noreply@google.com. [Learn why this is important](#)



Thanks for filling out [Latino Poetry: Places We Call Home Program Partner Confirmation Form](#)

Here's what was received.

# Latino Poetry: Places We Call Home Program Partner Confirmation Form

To confirm acceptance of your **Latino Poetry: Places We Call Home** programming grant, please fill out and submit this form by March 30, 2024. For any questions, reach out to [latinopoetry@loa.org](mailto:latinopoetry@loa.org).

Email \*

gprats@lascruces.gov

Site Coordinator Name \*

Arminda Del Campo

Date \*

03/27/2024

Please check the box below to confirm your acceptance. \*



Checking this box constitutes acceptance of the requirements for Latino Poetry:  
Places We Call Home as outlined in the accompanying email.

Organization Name \*

City of Las Cruces

Organization Address (we'll send the check for your programming grant here)

\*

P. O. Box 20000, Attn: Grants Administration, Las Cruces, NM 88001

In order for LOA to issue your check, please complete [this W-9 form](#) (PDF download, 132 KB) and either upload it below, e-mail it as an attachment to [latinopoetry@loa.org](mailto:latinopoetry@loa.org), or print it out and send a copy to:

**Susana Plotts-Pineda**  
**Library of America**  
**14 East 60th Street, 11th Floor**  
**New York, NY 10022**

Submitted files



City of Las Cruces W-9 signed 10-18-2023 - Gabriela Prats.pdf

If you didn't upload your W-9 to this form, please indicate how you plan to send it.



## Agenda Item #7.2.

- ☐ E-mail as an attachment to latinopoetry@loa.org
- ☐ Physical mail

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**From:** [Google Forms](#)  
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[Create your own Google Form](#)

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## **FY25 New Mexico Grown Program Grant Agreement CITY OF LAS CRUCES**

### **A. PURPOSE**

The New Mexico Aging & Long-Term Services Department (ALTSD) believes farm to senior center or nutrition site are essential to the senior meal nutrition programs in New Mexico. The goal of this funding is to strengthen the connections between senior centers local farms, farm organizations and ranchers so that freshly harvested local food items become an essential component in New Mexico seniors' diet.

The purpose of the New Mexico Grown Grant Agreement is to allocate funds in support of the provision of congregate and home delivered meals provided under Title IIIC of the Older Americans Act (OAA). The Senior Center Service Provider, and its sub-contractors, must be recipients of Title III funding or Title III matching funds to participate.

### **B. AREAS TO BE SERVED**

The Senior Center Service Provider shall be responsible for the provision of freshly harvested local produce, local meat, and allowable food items in the following locations:

- **Munson Senior Center**
- **Frank O'Brien Papen Community Center**
- **Sage Café**
- **Henry Benavidez Community Center**
- **Eastside Community Center**

### **C. TARGET POPULATION**

Target population includes persons aged 60 or older. Per the Older Americans Act, an effort must be given to serving eligible persons with the greatest social or economic need, with particular attention to minority individuals with low incomes. Additionally, efforts must be made to target individuals residing in rural areas, individuals with limited English proficiency, and individuals with Alzheimer's disease and related disorders, with severe disabilities or at-risk of institutionalization and their caregivers.

### **D. RESPONSIBILITIES OF THE SENIOR CENTER SERVICE PROVIDER**

Administrative Requirements:

- i. Allocate funds received from ALTSD under the New Mexico Grown Program Grant to nutrition providers that provide congregate and home-delivered meals under the Older Americans Act.
- ii. Require that meals are served to clients eligible for Older Americans Act funded congregate and home-delivered meals programs.
- iii. Purchase directly from New Mexico farmers, farm organizations and ranchers listed on the Farmers Market Association's "[Approved Supplier List](#)", which certifies that the product originated on farms and ranches that practice sound food safety practices in the State of New Mexico. The following spreadsheet contains a list of all permissible food items [Allowable Products NM Grown.xlsx - Google Sheets](#). Both lists are live and should be accessed through the links provided, please do not

- downloaded the documents.
- iv. It is recommended that 10% of the providers allocation go toward purchasing New Mexico locally grown produce and meat from small farmers and ranchers. A small farm comprises of farms cultivating on two acres or less.
  - v. Maintain documented:
    - a. Meal Counts
    - b. Number of Pounds of Produce and Meat Purchased
  - vi. Ensure in all cases that all produce, meat, and allowable food items are guaranteed to be grown, harvested, and processed in New Mexico and are accompanied by documentation proving origin, including farm or ranch name and location.
  - vii. Ensure that all meat purchased is packaged with the USDA FSIS inspection stamp on the packaging from a USDA FSIS inspected processor.
  - viii. Ensure that New Mexico Grown Program Grant funds are to be used exclusively for the purchase of local produce, local meat, and allowable local food items. The funds may not be used for meal preparation or administrative costs. Transportation and/or Delivery Fees are allowable and must be factored into the final price per unit agreed upon by your senior center and applicable vendor.
  - ix. Senior Center Service Providers must submit monthly invoices for reimbursement by the 10<sup>th</sup> day of the month, for the prior month's expenditures until all funds are spent, unless otherwise authorized by ALTSD at its sole discretion.
  - x. All monthly invoices for reimbursement must be accompanied by supporting receipts or invoices from vendors whom purchases were made. A receipt and/or invoice from New Mexico farmers, farm organizations or rancher must include the following:
    - a. the vendor's name, address, and contact information.
    - b. internal transaction number, or invoice number.
    - c. the purchased items with a description of each product along with the corresponding quantity.
    - d. the price for each item and any applicable discount.
    - e. the total amount of the sale items.
    - f. senior center or meal site (s) to which will receive the delivery, their full name, address, and other contact information.
  - xi. ALTSD has the discretion to request documentation related to compliance at any time for any reason.
  - xii. Each quarter's reimbursement request must reflect the expenditure of at least one-quarter of the allocated funds until all funds have been spent. Failure to withdraw at least one-quarter of the allocated awarded amount each quarter (until all funds are spent) may result in a reduction in the allocated award for failure to meet fiscal responsibilities.
  - xiii. ALTSD encourages all New Mexico Grown participants to emphasize locally sourced food items on their monthly menus when they are served.
  - xiv. During Fiscal year 2025, participants of the New Mexico Grown program are encouraged to tailor their meal plans to incorporate elements from the Nuevo Thursday program, taking into consideration their available resources. The Nuevo Thursday initiative is designed to promote innovation within the senior nutrition meal program, with an emphasis on incorporating locally sourced ingredients and

food items whenever possible. Nuevo Thursdays serves as a platform for the senior nutrition program to introduce new elements, such as incorporating a new fruit or vegetables into the menu or utilizing 100% New Mexico grown ingredients in a meal. Senior center providers are encouraged to include "Nuevo Thursday" as a highlighted option on their menus. For additional details on Nuevo Thursdays, please visit the official Nuevo Thursday website.

[https://issuu.com/cookingwithkidsnm/docs/nmped\\_program\\_and\\_planning\\_guide\\_2021.05.05/s/12235332](https://issuu.com/cookingwithkidsnm/docs/nmped_program_and_planning_guide_2021.05.05/s/12235332).

- xv. New Mexico Grown participants are encouraged to apply for the Golden Chili Award for Fiscal Year 2025. This award recognizes different levels of participation in New Mexico's local food movement, with a focus on promoting nutrition and supporting the state's farming economy. For more information on the Golden Chili Awards, please visit the New Mexico Grown website <https://newmexicogrown.org/>.

#### **E. COMPENSATION**

ALTSD shall pay the Senior Center Service Provider in full for New Mexico local food items purchased satisfactorily in accordance with the deliverables established in this Scope of Work. **The total amount payable to the Senior Center Service Provider under this Agreement, including gross receipts tax and expenses, shall not exceed \$126,000.00.** Senior Center Providers may spend up to **40%** of their funding on New Mexico local USDA stamped meat from vendors on the New Mexico Farmers Market Approved Suppliers List. The purchase of local New Mexico raised; processed USDA stamped meat may not exceed the budgeted amount of **\$50,400.00**. The purchase of New Mexico locally grown produce and allowable New Mexico food items must not exceed budgeted amount of **\$75,600.00**. Funding for this awarded amount must be fully expended by **May 31, 2025**.

#### **F. DEPARTMENT OVERSIGHT**

ALTSD will monitor the monthly invoicing to verify all produce purchased is allowable under the New Mexico Grown Program Grant. ALTSD will provide technical assistance to providers as needed.

#### **G. SERVICE PROVISION/PERFORMANCE MEASURE**

Each Senior Center Service Provider is required to submit a monthly data sheet detailing the total number of pounds of New Mexico grown produce, and local meat integrated in the senior meal program. Data must be accurate, and unduplicated.

#### **H. ADMINISTRATION COSTS**

N/A

EXECUTED AND AGREED TO BY SIGNATURE(s) BELOW:

|                                                                                                            |                            |
|------------------------------------------------------------------------------------------------------------|----------------------------|
| <b>Name:</b> Ikani Taumoepeau                                                                              | <b>Title:</b> City Manager |
| <b>Digital-Signature</b>  | <b>Date</b> 5/13/24        |

|                                                                                                            |                                                                     |
|------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------|
| <b>Name:</b> Ophelia Steppe                                                                                | <b>Title:</b> Aging & Long-Term Services<br>Department Nutritionist |
| <b>Digital-Signature</b>  | <b>Date</b> 5/28/2024                                               |

|                                                                                                              |                                                                          |
|--------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------|
| <b>Name:</b> Sarah Jacobs                                                                                    | <b>Title:</b> Aging & Long-Term Services<br>Department Cabinet Secertary |
| <b>Digital-Signature</b>  | <b>Date</b> 5/28/2024                                                    |

APPROVED AS TO FORM:

  
City Attorney

5/10/24  
Date

New Mexico State University



Procurement Services  
PO Box 30001, MSC 3890  
Las Cruces, NM 88003  
inside.nmsu.edu/purchasing  
purchasing@nmsu.edu  
575.646.2916(V) 575.646.1351(F)

| Purchase Order      |                  |              |
|---------------------|------------------|--------------|
| Purchase Order Date | PO/Reference No. | Revision No. |
| May 20, 2024        | P0224346         | 0            |
| Delivery Date       | Payment Terms:   | F.O.B.       |
|                     | 0, Net 30        | Destination  |

| Vendor Information |                                                            | Requester |                  |
|--------------------|------------------------------------------------------------|-----------|------------------|
| Vendor:            | City of Las Cruces                                         | Name      | Lucille Casas    |
| Address            | PO Box 20000<br>Las Cruces, New Mexico 88004 United States | Phone     | +1 575-646-7486  |
| Aggie ID:          | 800094017                                                  | Email     | lucasas@nmsu.edu |
| Quote number       |                                                            |           |                  |

| Submit Invoices To:         |                   | Ship To                     |                   |
|-----------------------------|-------------------|-----------------------------|-------------------|
| New Mexico State University |                   | New Mexico State University |                   |
| Accounts Payable            |                   | ATTN:                       | Lucille Casas     |
| MSC 3AP                     |                   | DEPT:                       | Arts and Sciences |
| PO Box 30001                |                   | ROOM:                       | 163               |
| Las Cruces, NM 88003-4570   |                   | Breland Hall                |                   |
| Email:                      | invoices@nmsu.edu | 1525 Stewart St             |                   |
|                             |                   | Las Cruces, NM 88003        |                   |

| Note to Vendor                                                                                                                                               |  |
|--------------------------------------------------------------------------------------------------------------------------------------------------------------|--|
| FOR TERMS/CONDITIONS GO TO - <a href="https://inside.nmsu.edu/purchasing/terms-and-conditions/">https://inside.nmsu.edu/purchasing/terms-and-conditions/</a> |  |
| PURCHASE ORDER MUST APPEAR ON ALL CARTONS AND INVOICES                                                                                                       |  |
| Attachments for Vendor                                                                                                                                       |  |
| MOU COAS LCPD You...                                                                                                                                         |  |
| There are no clauses associated with this Purchase Order.                                                                                                    |  |

| Line No. | Product Description                                                       | Catalog No. | Size / Packaging | Unit Price   | Quantity | Ext. Price   |
|----------|---------------------------------------------------------------------------|-------------|------------------|--------------|----------|--------------|
| 1 of 1   | Las Cruces Police Department Summer 2024 Youth Leadership Program Academy |             | EA               | 4,000.00 USD | 1 EA     | 4,000.00 USD |
|          | PO3 Refer below                                                           |             |                  |              |          |              |
| Total    |                                                                           |             |                  |              |          | 4,000.00 USD |

| Approval Signature |      |
|--------------------|------|
|                    | Date |



A handwritten signature in dark ink, appearing to read "Cole Collins", written in a cursive style. The signature is positioned above a solid horizontal line.

**Cole Collins**  
**Chief Procurement Officer**

## **YOUTH LEADERSHIP ACADEMY**

### **Memorandum of Understanding**

#### **Between the**

**City of Las Cruces Police Department**

**And New Mexico State University Board of Regents**

### **FORWARD**

The City of Las Cruces (City) Las Cruces Police Department (LCPD) and New Mexico State University-Board of Regents (NMSU) have a history of mutual support and strong bond of supporting young people in our community. The LCPD Summer Youth Leadership Academy provides an opportunity for young people to develop their leadership skills and become productive and positive members of their community. The effective interaction of government and education is vital for the well-being of our children and the future of all our youth. School Resource Officers (SRO) work to provide a safe learning environment in the schools. Provide valuable resources to school staff, foster positive relationship with the youth in the schools and develop strategies to resolve problems affecting the school community.

### **INTRODUCTION**

This Memorandum sets out the understanding of the City of Las Cruces on behalf of its police department and NMSU of the responsibilities, principles, working practices and financial responsibility that underlie the relationship between them.

This document shall be finding on both parties as a statement of intent designed to guide officials and support the development of detailed working arrangements.

### **GOALS AND OBJECTIVES**

1. To create and provide a safe learning environment in the schools
  - a. Foster a positive relationship with the youth, school staff and SRO's.
  - b. Support the goals of LCPS's "Character Counts" curricula
  - c. Develop positive skills through mentoring and teamwork
2. Continue a lasting relationship between the police department, NMSU, the school district and the students, which will encourage communications and serve to develop a continually focused, effective collaboration to the benefit of our youth.
  - a. Involve students through leadership activities and workshops

- b. Build relationships with the young people in attendance at the academy, to promote positive connection throughout the youth's school career and beyond
- c. Additionally, work with and on behalf of young people promoting bullying prevention, advocacy, and education

## **MISSION STATEMENT**

Our mission is to motivate and mentor potential young leaders, to enable them to take an active role in their school and community.

We hope to assist in building strong leaders who have hope for the future and the tools to influence a positive and safe community.

## **ROLES AND RESPONSIBILITIES**

- The functions of each party are established by governing rules, regulations, policies, procedures, and statutes. Neither party shall be asked to compromise their internal responsibilities as a result of this partnership.
- SECTION ONE – THE CITY ON BEHALF OF ITS POLICE DEPARTMENT AGREES:
  - LCPD will provide a budget to NMSU for the LCPD Summer Youth Leadership Academy;
  - LCPD will not expend any funds up to \$8,000.00 until the Memorandum of Understanding between the City and NMSU has been fully executed by both parties and the funding accepted by the City Council;
  - LCPD shall act as fiscal agent for funding by setting up a city account that is dedicated to this program to promote accurate tracking of expenditures, reimbursement requests and payments;
  - Financial reporting will be accomplished through the LCPD and the City of Las Cruces Accounting Office; and
  - Provide to NMSU a final programmatic report
- SECTION TWO – NEW MEXICO STATE UNIVERSITY-COLLEGE OF ARTS AND SCIENCES AGREES:
  - NMSU will provide funding not to exceed \$8,000.00 (\$4,000.00 per session) to provide materials and supplies for the LCPD Youth Leadership Academy;
  - Funding is contingent on an NMSU approved LCPD budget and approval of the Memorandum of Understanding by New Mexico State University;
  - To recognize that acceptance of funding is contingent on the approval of this Memorandum of Understanding and ratification of the City Manager's

signature by the City of Las Cruces City Council through a resolution authorizing the receipt and expenditure of funds associated with the LCPD Summer Youth Academy;

- Funding will be on a cost reimbursement basis, by means of an invoice to the NMSU;
- The period of performance to complete activities and expenditures for the Summer Youth Academy will be May 15, 2024 through July 15, 2024.

- **SECTION THREE-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 the immunities and limitations of the New Mexico Tort Claims Act.

## **PARTNER INVOLVEMENT IN COMMUNITY POLICING**

The LCPD and the New Mexico State University-Board of Regents are developing and implementing a new and innovative strategy to achieve needed results for our community and youth. This program will only serve to strengthen and verify those efforts. Both parties will strive to proactively solve problems and strengthen the bonds of cooperation within our community of interest.

- A shared focus on providing an effective and efficient service
- The maintenance of key relationships in a flexible way
- An open and cooperative dialogue on strategic and key issues
- A cooperative approach to settling issues of roles and responsibilities
- A transparent relationship which works effectively at all levels to meet the needs and challenges facing our youth.

**The LCPD and NMSU aim jointly to:**

- **Enable each party to deliver its services in an effective manner in support of the program objective.**
- **Enable each party to participate in the development of future procedures in a cooperative atmosphere.**

**This Agreement shall not be altered, changed, or amended except by an instrument, in writing, executed and approved by all parties.**

**The following parties have executed Agreement specified on the dates below.**

City Attorney

Date \_\_\_\_\_

Page 177 of 440

## Agenda Item #7.2.

Wednesday, May 22, 2024 at 17:29:10 Mountain Daylight Time

**Subject:** FW: Scanned image from MX-5071  
**Date:** Tuesday, May 7, 2024 at 2:21:00 PM Mountain Daylight Time  
**From:** Robert Holguin  
**To:** Lucille Casas  
**Attachments:** canon@las-cruces.org\_20240429\_102610.pdf

[You don't often get email from [rholguin@lascruces.gov](mailto:rholguin@lascruces.gov). Learn why this is important at <https://aka.ms/LearnAboutSenderIdentification> ]

WARNING This email originated external to the NMSU email system. Do not click on links or open attachments unless you are sure the content is safe.

Hi Ms. Casas, here is a signed copy of the MOU from the city. If you need anything else from me, please let me know.

-----Original Message-----

From: Sean Mullen <[smullen@las-cruces.org](mailto:smullen@las-cruces.org)>  
Sent: Tuesday, May 7, 2024 2:16 PM  
To: Robert Holguin <[rholguin@lascruces.gov](mailto:rholguin@lascruces.gov)>; Manny Melendez <[mmelendez@lascruces.gov](mailto:mmelendez@lascruces.gov)>  
Cc: Joy Wiitala <[jwiitala@lascruces.gov](mailto:jwiitala@lascruces.gov)>; Jeremy Story <[jstory@lascruces.gov](mailto:jstory@lascruces.gov)>  
Subject: FW: Scanned image from MX-5071

Good afternoon,

I spoke with legal - this MOU has already been through the review and approval process on our end. Please have the NMSU designee line out the \$8,000 funding amount and reduce to \$4,000, per their request, and initial the change. Since this is the only change NMSU identified, it will streamline the process and is acceptable to Brad.

Thank you,

Sean Mullen  
Deputy Chief of Administration/Las Cruces Police Department  
Direct: 575-528-4101 Main: 575-528-4200, [smullen@las-cruces.org](mailto:smullen@las-cruces.org)

-----Original Message-----

From: [canon@las-cruces.org](mailto:canon@las-cruces.org) <[canon@las-cruces.org](mailto:canon@las-cruces.org)>  
Sent: Monday, April 29, 2024 10:26 AM  
To: Sean Mullen <[smullen@las-cruces.org](mailto:smullen@las-cruces.org)>  
Subject: Scanned image from MX-5071

Reply to: [canon@las-cruces.org](mailto:canon@las-cruces.org) <[canon@las-cruces.org](mailto:canon@las-cruces.org)> Device Name: Not Set Device Model: MX-5071  
Location: Not Set

File Format: PDF MMR(G4)  
Resolution: 200dpi x 200dpi

Attached file is scanned image in PDF format.

Use Acrobat(R)Reader(R) or Adobe(R)Reader(R) of Adobe Systems Incorporated to view the document.

Adobe(R)Reader(R) can be downloaded from the following URL:

Adobe, the Adobe logo, Acrobat, the Adobe PDF logo, and Reader are registered trademarks or trademarks of Adobe Systems Incorporated in the United States and other countries.

<https://nam10.safelinks.protection.outlook.com/?url=http%3A%2F%2Fwww.adobe.com%2F&data=05%7C02%7Cucasas%40nmsu.edu%7C7f324586f72c475394db08dc6ed323d6%7Ca3ec87a89fb84158ba8ff11bace1eba>



25-003

# City Council Action and Executive Summary

Type of Action:  
☒ Resolution  
☐ Ordinance  
☐ TIDD Resolution

|              |                                                                                                                                                                                                                                                                                      |                            |                            |                                       |                            |                            |                              |
|--------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------|----------------------------|---------------------------------------|----------------------------|----------------------------|------------------------------|
| District:    | <input type="checkbox"/> 1                                                                                                                                                                                                                                                           | <input type="checkbox"/> 2 | <input type="checkbox"/> 3 | <input checked="" type="checkbox"/> 4 | <input type="checkbox"/> 5 | <input type="checkbox"/> 6 | <input type="checkbox"/> N/A |
| 1st Reading: |                                                                                                                                                                                                                                                                                      |                            |                            | Adopted:                              | July 1, 2024               |                            |                              |
| Drafter:     | Vince Banegas                                                                                                                                                                                                                                                                        |                            |                            | Department:                           | Community Development      |                            |                              |
| Program:     | Community Planning                                                                                                                                                                                                                                                                   |                            |                            | Line of Business:                     | Community Planning         |                            |                              |
| Title:       | A RESOLUTION REVERSING A DENIAL DECISION OF THE PLANNING AND ZONING COMMISSION REGARDING AN INFILL DEVELOPMENT PROPOSAL SEEKING APPROVAL OF A FIFTEEN (15) UNIT APARTMENT COMPLEX AND ASSOCIATED DEVELOPMENT STANDARD WAIVERS ON PROPERTY ZONED R-1A (SINGLE-FAMILY MEDIUM DENSITY). |                            |                            |                                       |                            |                            |                              |

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

**PURPOSE(S) OF ACTION:**  
Reverse Planning and Zoning Commission denial decision.

**BACKGROUND / KEY ISSUES / CONTRIBUTING FACTORS:**  
This case is an appeal of a denial decision by the Planning and Zoning Commission involving an Infill Development Proposal (IDP) seeking approval for a fifteen (15) unit apartment complex and associated development standard waivers. The property is zoned R-1a (Single-Family Medium Density).

The following deviations are associated with the IDP request: 1) A proposed maximum density of 13.4 dwelling units per acre (du/ac) in lieu of the maximum 8 du/ac density allowed in the R-1a zoning district; 2) A proposed maximum of 15 dwelling units in lieu of the 1 maximum dwelling unit allowed in a R-1a district; and 3) A proposed 7-foot rear yard setback in lieu of the required 20-foot setback required in the R-1a district.

Pursuant to the 2001 Las Cruces Zoning Code, as amended, the IDP process is intended to support the development of vacant and/or underutilized properties in the prescribed core area of the city. The development process for IDPs seek to allow flexibility in applicable use and development standards so that any approved development that takes place, puts into active use those properties that have sat idle for some time. This flexibility assumes that the proposed (re)development maintains a reasonable degree of neighborhood compatibility and that any potential adverse impacts are minimized. The IDP is technically the only process that allows a use variance to be considered which is a key issue related to this case.

In regard to neighborhood compatibility, the surrounding neighborhood is primarily single-family residential in use with most of this development pattern supported by R-1a zoning. That said, there are several R-1a zoned lots near the subject property that appear to be nonconforming in use. Said properties have duplex, quadplex, and multi-family (mobile home park) uses within the R-1a district. Also, within ± 1,200 feet northeast of the subject property, a parcel developed as a duplex exists and is zoned R-2 (Multi-dwelling Low Density). Another, southeast of the subject property is zoned R-3 (Multi-dwelling Medium Density) and is developed as a multi-family apartment complex called The Miranda. Given the make-up of the existing uses in the area, it is not unreasonable to consider the IDP proposal compatible in terms of overall neighborhood character.

## Agenda Item #8.1.

In regard to minimizing potential adverse development impacts, significant neighborhood concerns focused on property value decline, traffic safety, lack of right-of-way infrastructure, and increased traffic flow, all of which were presumed to get worse if the IDP was approved. To address some of these concerns, staff shared information about McClure Road as it relates to road classification (major collector), the purpose of the roadway based on said classification, and finally, existing roadway infrastructure. Staff acknowledged deficiencies with McClure Road but feel that the negligible increase in traffic the proposed IDP would generate (estimated 25 peak hour trips) would not exacerbate any of the specific concerns raised by the neighborhood.

For some historical perspective on the request, please consider the following. The subject property under consideration was originally part of a larger  $\pm$  3.63-acre parcel. Via the October Sky Subdivision (mid-2021), the property was split into one  $\pm$  1.12-acre lot and one  $\pm$  2.51-acre tract (post dedication of right-of-way). The City of Las Cruces purchased one of the lots for drainage project purposes in an attempt to improve drainage in the surrounding area. The smaller lot was retained by the owner for redevelopment. On 3/29/23, the property owner submitted an IDP request seeking approval for a 20-unit apartment complex. The neighborhood opposed the request citing traffic related impacts, concerns regarding neighborhood compatibility, and decreased property values among others. On June 27, 2023, the P&Z Commission denied the request by a vote of 2-2-0 (three commissioners absent). On September 5, 2023, an appeal to the P&Z denial decision was heard by the Las Cruces City Council and the decision was upheld by a vote of 3-4-0.

On January 11, 2024, the property owner submitted a new IDP request for a 15-unit apartment complex on the same lot. The neighborhood opposed the request citing similar concerns as per the previous proposal. On February 27, 2024, the case was heard by the P&Z Commission and was denied by a vote of 3-3-0 (one Commissioner seat vacant). On March 15, 2024, Mesilla Valley Properties submitted an appeal of the P&Z Commission's denial decision. The appeal letter cites three reasons for the appeal. Generally speaking, the letter refers to the temporary absence of two Commissioners during significant parts of staff presentation returning to only hear the oppositions input and related discussion. The letter also cites previous statements/actions made during consideration of the first IDP submittal by the same two Commissioners, referring to their initial support of the proposal if 15 units were proposed in lieu of the 20 units requested at that time. The letter goes on to say that when the appealed case was considered, both Commissioners voted to deny the request. The letter states that the "new findings" referenced by one of those Commissioners during the vote were vague. For clarification, staff had provided affirmative findings supportive of a recommendation of conditional approval. The conditions provided by staff include 1) The applicant/property owner shall work with the City and install their pro-rata share of right-of-way improvements which may include a multi-use path/trail or sidewalk along the portion of right-of-way which fronts the subject property; and 2) The applicant/property owner shall comply with all development standards beyond those development standard deviations requested per the IDP.

Please be advised that the denial of the IDP at the February 27, 2024, P&Z regular meeting wasn't an outright denial, but was a procedural denial due to a tie vote. Findings for approval and denial are included in the attachments (staff packet and Notification of Decision for case # 24ZO5000003).

### **SUPPORT INFORMATION:**

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

[EXHIBIT "B" - SITE PLAN, FLOOR PLAN, & ELEVATION PG 1](#)

[EXHIBIT "B" - SITE PLAN, FLOOR PLAN, ELEVATION PG 2](#)

[EXHIBIT "C" - FINDINGS](#)

[ATTACHMENT "A" - APPROVED 02-27-24 P&Z Minutes](#)

[ATTACHMENT "B" - 725 McClure Rd. Staff Report](#)

[ATTACHMENT "C" - APPEAL LETTER](#)

### **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 reverse the denial decision made by the Planning and Zoning Commission and will approve the IDP with 15 apartment units.
2. Vote "No"; this will uphold the denial decision made by the Commission. The applicant will have to abide by the R-1a regulations as written or submit an alternate request for consideration as applicable.
3. Vote to "Amend"; this could allow the City Council to modify the resolution by voting "Yes" and adding conditions as deemed appropriate.
4. Vote to "Table"; this could allow the City Council to table/postpone the Resolution and direct staff accordingly.

**REFERENCE INFORMATION:**

Resolution # 24-028

**RESOLUTION 25-003**

**A RESOLUTION REVERSING A DENIAL DECISION OF THE PLANNING AND ZONING COMMISSION REGARDING AN INFILL DEVELOPMENT PROPOSAL SEEKING APPROVAL OF A FIFTEEN (15) UNIT APARTMENT COMPLEX AND ASSOCIATED DEVELOPMENT STANDARD WAIVERS ON PROPERTY ZONED R-1A (SINGLE-FAMILY MEDIUM DENSITY).**

The City Council is informed that:

**WHEREAS**, Mesilla Valley Properties LLC submitted a revised Infill Development Proposal (IDP) for property zoned R-1a (Single-Family Medium Density), encompassing 1.12 acres, and located at 725 McClure Road; and

**WHEREAS**, the proposal seeks approval for a 15-unit apartment complex with associated development standard deviations involving: 1) a proposed maximum density of 13.4 dwelling units per acre (du/ac) in lieu of the maximum 8 du/ac density allowed; 2) a proposed maximum of 15 dwelling units in lieu of the 1 maximum dwelling unit allowed; and 3) a proposed 7-foot rear yard setback in lieu of the required 20-foot setback required; and

**WHEREAS**, the current proposal under consideration represents a reduction of 5 apartment units from an earlier submittal that ultimately was denied by the Planning and Zoning Commission and City Council; and

**WHEREAS**, the neighborhood opposed the revised IDP proposal citing neighborhood compatibility issues, traffic safety concerns, lack of roadway infrastructure along McClure Road among other reasons to deny the request; and

**WHEREAS**, the Planning and Zoning Commission, after conducting a public hearing on February 27, 2024, denied the IDP request by a vote of 3-3-0 (1 Commission seat vacant).

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

(I)

**THAT** the denial of the IDP for a 15-unit apartment complex is hereby reversed.

(II)

**THAT** Mesilla Valley Properties LLC is hereby allowed to develop the property located at 727 McClure Road as a 15-unit apartment complex in accordance with the requested deviations and the site plan submitted and considered by staff and the Commission at the February 27, 2024 meeting.

(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 #8.1.

APPROVED

\_\_\_\_\_

ATTEST:

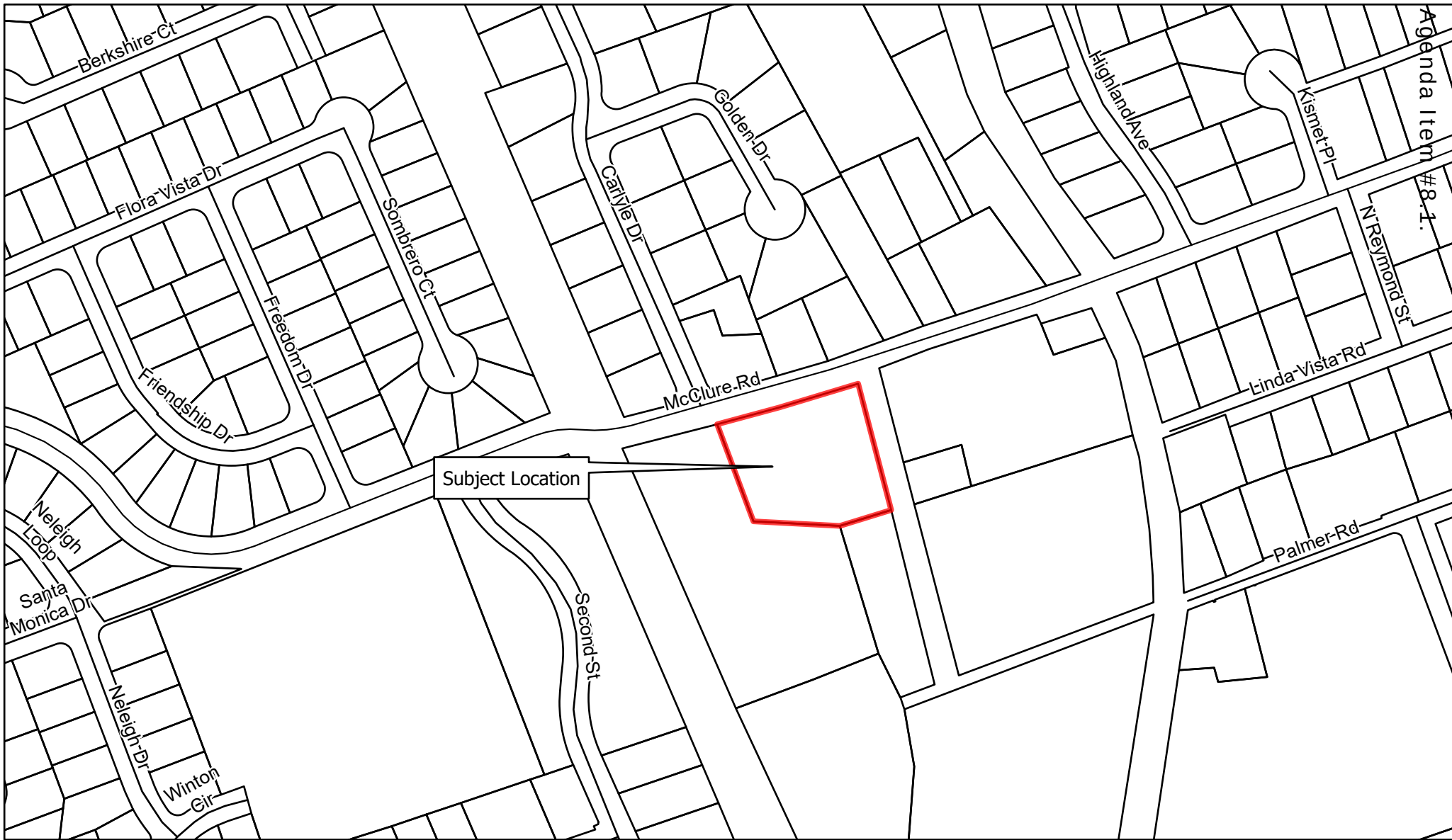
\_\_\_\_\_

**Moved by:**

**Seconded by:**

**AYES**

**NAYS**



Note: Subject property is outlined in red.

## Legend

- |                |                          |
|----------------|--------------------------|
| RoadCenterline | — Local Streets          |
| Road Class     | /// Heather Hills Zoning |
| — Collector    | □ Owner Parcels          |

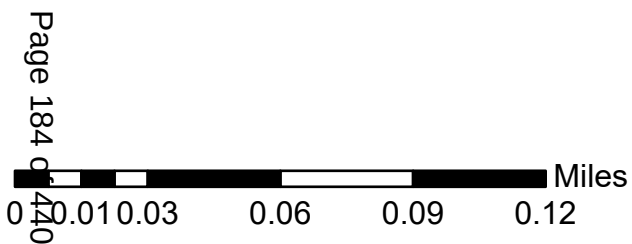
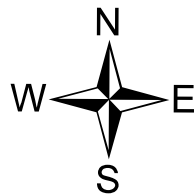


EXHIBIT “B” – SITE PLAN, FLOORPLAN, & ELEVATION PG 1

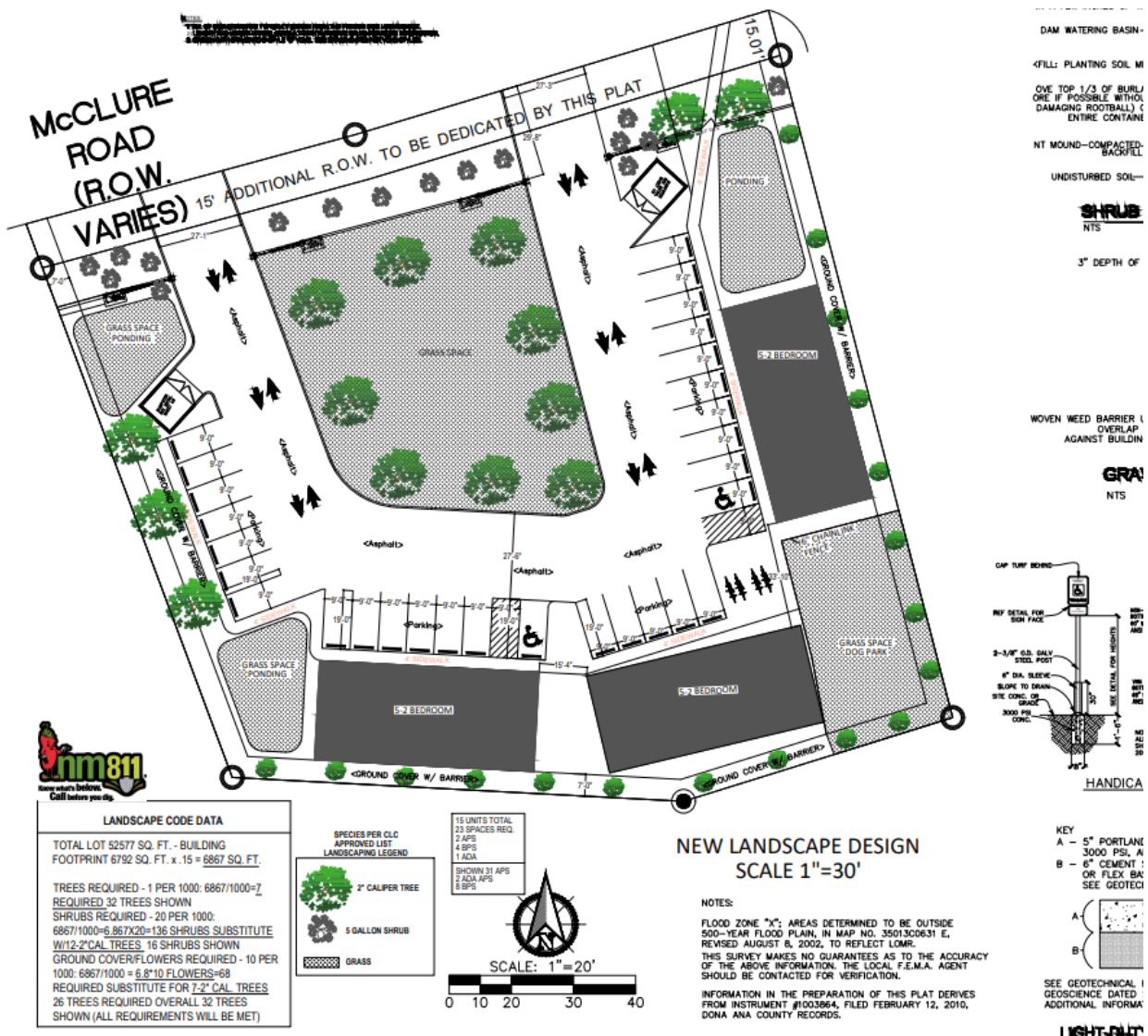
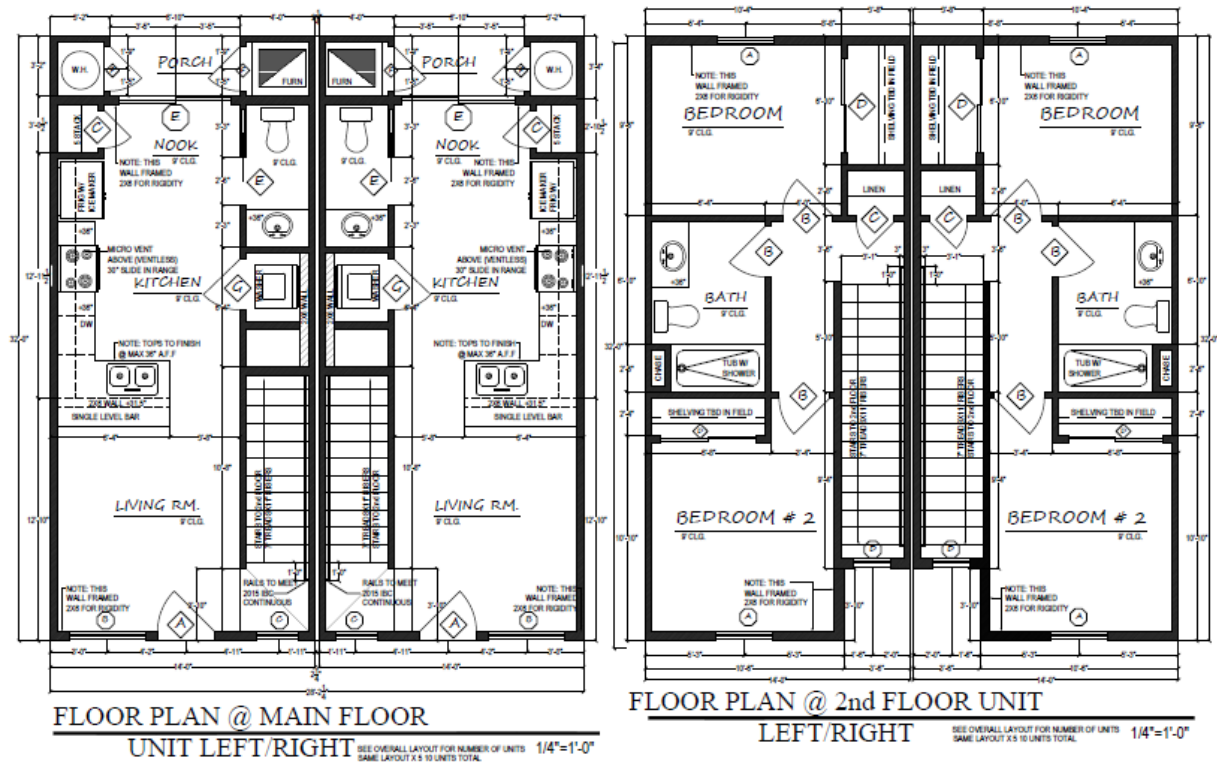


EXHIBIT “B” – Site Plan, Floor Plan, & Elevation PG 2



|                               |             |
|-------------------------------|-------------|
| AREA:                         |             |
| HEATED 1st FLOOR              | 402 SQ. FT. |
| HEATED 2nd FLOOR              | 397 SQ. FT. |
| TOTAL HEATED AREA             | 799 SQ. FT. |
| PORCHES                       | 45 SQ. FT.  |
| TOTAL PER UNIT                | 844 SQ. FT. |
| TOTAL BUILDING =4,220 SQ. FT. |             |



**EXHIBIT “C” - FINDINGS**

**FINDINGS IN OPPOSITION**

1. McClure has an inadequate cross section impacting safe and efficient traffic flow and use of facilities by autos, bicycles, and pedestrians.
2. Road deficiencies have been known for several years without significant improvements to help issues in Finding #1 above.
3. It isn't prudent to add traffic through special exception such as the subject IDP until applicable improvements are made.

**FINDINGS IN SUPPORT**

1. The IDP request was previously submitted and denied in that applicants were seeking approval for twenty (20) units which was deemed excessive and problematic for that location.
2. A reduction of units via this request (proposed 15) seeks to address/reduce previous concerns regarding development scale, density, and traffic impacts.
3. The density proposed will have a nominal impact on McClure Road traffic patterns.
4. McClure Road is identified as a major collector by the Elevate Las Cruces Comprehensive Plan and the Mesilla Valley Metropolitan Planning Organization (MVMPO). The roadway exists within constrained right-of-way having variable widths.
5. Via the October Sky Subdivision, fifteen feet (15') of additional right-of-way has been dedicated for a future multi-use trail, sidewalk and/or other requested right-of-way improvements adjacent to the subject property. Said improvements will be required at time of development of the parcel.
6. The proposal aligns with the Elevate Las Cruces Comprehensive Plan in context to several goals, policies, and actions.
7. Per the comprehensive plan, the property is within the Suburban Neighborhood place type which supports a gross density of 4-12 dwelling units per acre (du/ac) for single-family development and 15-30 du/ac for multi-family development. The proposed density for this proposal is 13.4 du/ac as per the 2001 Las Cruces Zoning Code, as amended.



PLANNING AND ZONING COMMISSION  
FOR THE  
CITY OF LAS CRUCES  
City Council Chambers  
February 27, 2024 at 6:00 p.m.

**BOARD MEMBERS PRESENT:**

- Scott Kaiser, Chair
- Enrico Smith, Vice-Chair
- James Bennett, Secretary
- Joaquin Acosta, Member
- Connor Murray, Member
- Vanessa Porter, Member

**BOARD MEMBERS ABSENT:**

**STAFF PRESENT:**

- Larry Nichols, Director Community Development Department
- 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 I'm going to go ahead and call this meeting to order. It is the February 27th City of Las Cruces Planning and Zoning Commission meeting. Thank you all for coming out here tonight.

**2. APPROVAL OF MINUTES – January 23, 2024**

Kaiser: Before we get into the meat of our packed agenda tonight, do we have any conflicts of - or excuse me. Are there any comments on the previous meetings minutes from January? No comments. All right, looking for motion to approve.

Bennett: I make a motion to approve the previous meetings.

Murray: I'll second it.

Baum: Member Acosta.

Acosta: Yes.



1  
2 Baum: Board Member Smith.

3  
4 Smith: Yes.

5  
6 Baum: Board Member Murray.

7  
8 Murray: Yes.

9  
10 Baum: Board Member Bennett.

11  
12 Bennett: Yes.

13  
14 Baum: Chair Kaiser.

15  
16 Kaiser: Yes.

17  
18 Baum: Motion passes.

19  
20 **3. CONFLICT OF INTEREST**

21  
22 Kaiser: All righty, Any conflicts of interest tonight from the Commission? All right,  
23 seeing none.

24  
25 **4. ACCEPTANCE OF THE AGENDA**

26  
27 Kaiser: We will go ahead and move into the acceptance of the agenda. But before  
28 we do, we have many items on our consent agenda this evening. If you see  
29 the slides up on the TVs behind me, you can see we have five items. So  
30 I'm going to go through this list. And if I can get a show of hands, anybody  
31 who wishes to hear a presentation on those items, please raise your hand  
32 so we can pull it from the consent agenda. If we don't pull it, then we're  
33 going to go ahead and move into approving the consent agenda. That will  
34 be the last that we hear on that item tonight. So is there anybody who  
35 wishes to hear a presentation on item 6.1? All right. So we'll go ahead and  
36 pull item 6.1. Is there anybody who wishes to hear a presentation on item  
37 6.2? Seeing none. 6.3? I see two hands so we'll pull 6.3. 6.4? Seeing  
38 none. 6.5? I see two hands. We'll pull item 6.5 as well. All right, so that  
39 leaves items 6.2 and 6.4 on the consent agenda. So with those changes  
40 can I get a motion to approve tonight's agenda?

41  
42 Bennett: I make a motion of tonight's agenda.

43  
44 Smith: I second.

45  
46 Baum: Board Member Acosta.

1  
2 Acosta: Yes.

3  
4 Baum: Board Member Smith.

5  
6 Smith: Yes.

7  
8 Baum: Board Member Porter.

9  
10 Porter: Yes.

11  
12 Baum: Board Member Murray.

13  
14 Murray: Yes.

15  
16 Baum: Board Member Bennett.

17  
18 Bennett: Yes.

19  
20 Baum: Chair Kaiser.

21  
22 Kaiser: Yes.

23  
24 Baum: Motion passes.

25  
26 **5. PUBLIC PARTICIPATION**

27  
28 Kaiser: All right. Now we will move into public participation. Is there anybody in the  
29 audience tonight who wishes to speak on an item that is not on tonight's  
30 agenda? I see one hand that's up. That's not on tonight's agenda. Is that  
31 correct? Okay. If you'll please come forward, I'll give you three minutes to  
32 speak.

33  
34 SPEAKING, NOT AT THE MICROPHONE

35  
36 Kaiser: So we're going to address that item later this evening, so thank you. Okay,  
37 seeing no other raised hands, we'll go ahead and close public participation  
38 for the minute.

39  
40 **6. CONSENT AGENDA**

41  
42 **6.1 Case No. 23CS0500123: MOVED TO NEW BUSINESS.**

43  
44 **6.2 Case No. 23CS0500145:** A request to approve a non-administrative replat known  
45 as Clute Subdivision No. 2 Replat No. 1. The proposed subdivision encompasses  
46 4.086 ± acres in size, zoned C-3 (Commercial High Intensity) and located at 1400

1 S. Valley Drive. The subdivision proposes to subdivide one (1) existing lot into two  
2 (2) new lots that are 1.4070 ± acres and 2.6766 ± acres in size. Submitted by  
3 Precision Surveys Inc., representative. Council District 4.  
4

5 **6.3 Case No. 24ZO0500001: MOVED TO NEW BUSINESS.**  
6

7 **6.4 Case No. 24ZO1000004:** A request to approve a Special Use Permit (SUP) to  
8 allow a cannabis dispensary (retailer) less than the required 300-foot buffer  
9 distance between a cannabis retail location and a single-family residential district  
10 (± 257') for a property located at 1011 W. Picacho Avenue. The subject property  
11 encompasses 0.56 + acres in size, is located along the south side of Picacho  
12 Avenue between 3rd Street and 4th Street and is zoned C-2 (Commercial Medium  
13 Intensity). Submitted by Danielle Rodriguez of Smoking Rodz Cannabis Company,  
14 business owner. Council District 4.  
15

16 **6.5 Case No. 24ZO5000001: MOVED TO NEW BUSINESS.**  
17

18 Kaiser: And we will move on to the consent agenda. So with those two remaining  
19 items, can I get a motion to approve tonight's consent agenda?  
20

21 Bennett: I make a motion to approve tonight's consent agenda.  
22

23 Smith: I second.  
24

25 Baum: Board Member Acosta.  
26

27 Acosta: Yes.  
28

29 Baum: Board Member Smith.  
30

31 Smith: Yes.  
32

33 Baum: Board Member Porter.  
34

35 Porter: Yes.  
36

37 Baum: Board Member Murray.  
38

39 Murray: Yes.  
40

41 Baum: Board Member Bennett.  
42

43 Bennett: Yes.  
44

45 Baum: Chair Kaiser.  
46

1 Kaiser: Yes.

2  
3 Baum: Motion passes.

4  
5 **7. NEW BUSINESS**

6  
7 **6.1 Case No. 23CS0500123:** A request to approve a preliminary plat known as Parkhill  
8 Estates Subdivision Phase 9. The proposed preliminary plat encompasses 33.214  
9 + acres, is zoned R-1a (Single-Family Medium Density) and located at the  
10 northwest corner of corner of Parkhill Drive and Rinconada Boulevard. The  
11 subdivision proposes to subdivide one (1) existing lot into one hundred fifty-seven  
12 (157) residential lots that range from 0.115 ± acres to 0.280 ± acres in size and six  
13 (6) tracts for drainage, utilities, and right-of-way. Submitted by Libbin Underwood  
14 Engineering & Surveying, representative. Council District 5.

15  
16 Kaiser: All right. Now we'll move on to item 6.1. Staff I will let you take it from here.

17  
18 Castillo: Good evening Commission. Tonight we have Parkhill Estates Phase 9  
19 Preliminary Plat. The current conditions of the property is that it's located  
20 at the northwest corner of Parkhill Drive and Rinconada Boulevard. It  
21 currently encompasses 33.214 acres. It's zoned R-1a, our single-family  
22 medium density zoning district. It's an undeveloped parcel of land. And the  
23 master plan for Parkhill Estates was approved in 2006.

24  
25 As you can see from the zoning map, the subject property is here  
26 highlighted. It's concurrent with other development that's going on. Here's  
27 an aerial image of the proposed development. So the proposal today is for  
28 a single-family residential subdivision. It's 157 residential lots, six tracts  
29 which will be dedicated to the City of Las Cruces for either drainage, utility  
30 purposes, or our right-of-way. It's a five phase development, meaning that  
31 while we're looking at Phase 9 as a whole, when they submit they'll submit  
32 in portions, so not all 157 lots will be developed at one time.

33  
34 This is the phasing of Phase 9. Public notice was sent to all surrounding  
35 properties within 500 feet. At the time that this presentation was created,  
36 there was no public input that was provided. But since then we have  
37 received a phone call and some e-mails regarding concerns with the  
38 development. The Development Review Committee on January 17th  
39 recommended approval of the proposed preliminary plat with limited  
40 discussion and no conditions.

41  
42 Staff's recommendation today is approval. The proposal preliminary plat  
43 follows the approved Parkhill Estates Master Plan, it complies with all  
44 requirements of the 2001 Zoning Code as amended, the City of Las Cruces  
45 Subdivision Code, and the City of Las Cruces Design Standards. The  
46 preliminary plat complies with Elevate Las Cruces Comprehensive Plan by

multiple points of connectivity between existing subdivisions and future commercial development. The DRC committee recommended approval of the preliminary plat during a public meeting on January 17th. Today your options are to vote "yes" to approve, vote "no" to deny, vote to amend, or vote to table.

Kaiser: Thank you. Any questions or comments from the Commission? All right. Seeing none. We'll go to public comments. Can I get another show of hands of those who wish to speak on this item. I see one, two, three, four, five, six individuals. So we'll go ahead and give everybody three minutes. And I'm going to start here with the gentleman in the blue.

C. Dillahun: Yes, you can sort of see our house. Hi.

Kaiser: Are the two of you speaking together or?

C. Dillahun: Because he's going to fill in when I don't.

Kaiser: Got you. Okay. Can I get both of you to state your name for the record so I can swear you in.?

C. Dillahun: Cina Dillahun.

S. Dillahun: Steven Dillahun.

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?

C. Dillahun: Absolutely.

Kaiser: Go ahead.

C. Dillahun: Where'd the arrow go? Okay. There's our house. Can you see it? 1430 Cabin Creek Avenue. We bought that house in spring of 2022. About two months after we moved in, of course we were getting insurance, we were told we were in a floodplain. Finally, they figured, no, you're not in a floodplain anymore. They gave us the insurance. Well, there was a storm that summer. Horrible. There was two and a half, almost three inches of water screaming down in front of our house, as well as behind our house on Parkhill. So my first question has to do with runoff from this development.

Second question, Parkhill between Rinconada and

S. Dillahun: Roadrunner.

- 1 C. Dillahun: Roadrunner, there's no stop sign. It's become a drag strip. I don't want one  
2 in front of my house. So I want to know how far Cabin Creek is going to go.  
3 It's going to go all the way across this development.  
4
- 5 S. Dillahun: To the end, but it does not ...  
6
- 7 C. Dillahun: Okay, it's going to go all the way across the development, which means I'm  
8 going to have a drag strip in front of the house as well as in back because  
9 there's no stop signs up there. So that's my second issue with this  
10 construction. My third issue is I don't see any green space. None. Just  
11 houses. And that's a problem. Because the amount of heat that this  
12 development will generate is over the top based on, and I used to work for  
13 the EPA. I know what that does. Go.  
14
- 15 S. Dillahun: No, that's it.  
16
- 17 C. Dillahun: Nothing. So those are my three questions. One is green space, two is  
18 runoff, and three is turning Cabin Creek into a drag strip. Yes, I see what it  
19 does where it turns. Doesn't matter. Doesn't matter. And that whole area  
20 up there has very little police activity. A lot of us have called and asked for  
21 the police to be up there, at least on the weekends at night. Once in a while  
22 they'll show up and issue a couple tickets. But you come up and hang out  
23 in my backyard and you will find it's horrible because that's almost, what  
24 half a mile or a mile, they start in first gear and they hit fifth by the time they  
25 get to Rinconada. It's frightening. And you put this in with another street  
26 going into it, somebody's going to die at some point because they don't pay  
27 attention. Thank you for your time.  
28
- 29 Kaiser: Thank you. All right. I think you were the only two individuals on this side  
30 of the room. So if I can get another show of hands of those. So I'm going  
31 to start in the back and work my way forward. So the gentleman in the  
32 second to last row, that's looking over his shoulder, in the plaid, yes, you.  
33 Okay. Can you both state your name for the record?  
34
- 35 T. Wright: Yes. My name is Tracy Wright.  
36
- 37 C. Wright: And I'm Clara Wright.  
38
- 39 Kaiser: And do you swear or affirm that the testimony you're about to give is the  
40 truth and nothing but the truth under penalty of law?  
41
- 42 C. Wright: Yes.  
43
- 44 T. Wright: Yes.  
45
- 46 Kaiser: Go ahead.

1  
2 T. Wright: Well, I'm going to speak just rather briefly I think. What we're interested in  
3 getting is an amendment to this proposal. The gentleman before us is very  
4 adamant about green space and that's our major concern. These are  
5 people, young families, middle class families, and they have young kids and  
6 they need some space. This is ridiculous. Come on, it's concrete for blocks  
7 and blocks. And there's one park that's not conducive to kids of all ages,  
8 the Parkhill Park. And what we need is obviously something like what  
9 Desert Trails Community Park there off of Roadrunner. What a great thing  
10 that is. We're new residents to Las Cruces. We came from Santa Fe this  
11 past May. And we love Las Cruces. It's beautiful. And we would like to  
12 keep it that way. We have from our back view yard a view of the Organ  
13 Mountains. And we're not going to be able to keep that I don't presume.  
14 But I'd like to be able to say that people here realized how beautiful the  
15 place they have is and they preserved it. They didn't just let the money  
16 people roll over and blow it up like so many places. Keep this place pretty.  
17 Give us some open space. And my wife will ...

18  
19 C. Wright: One there is like a hill that people do use. It's like a nature walk and that.

20  
21 Kaiser: Just adjust the mic a little bit.

22  
23 C. Wright: All right. There's a hill there that people do use now for trails and stuff.  
24 There's also a water catchment, a deep water catchment that when we  
25 moved there they said nothing would be built there because there's a deep  
26 water catchment there. A lot of people do walk along, you know we'll be  
27 sitting out in our backyard having a glass of wine, people walk by, we say  
28 hi, everything. So again, the quality of life you know giving us an opportunity  
29 to have a playground for little kids, to have a nature center and nature walk  
30 that's there, and not keep building all these big houses. And like the lady  
31 before us said, it's going to get hot. It's hot in Las Cruces. And you pile on  
32 house after house after house, you're just going to keep impacting the heat.  
33 And that's not safe for elderly. It's not safe for little kids. Again, you want  
34 to build all these homes for single families. Well, guess what they're going  
35 to have little kids. So let's find a way to make it inviting for them to want to  
36 buy these houses. Let's not just jampack everything. But let's have a nature  
37 center. Let's have a park that is conducive to all ages. And not just keep  
38 building house after house after house. Keep green pace.

39  
40 T. Wright: Thank you very much.

41  
42 C. Wright: Thank you.

43  
44 Kaiser: All right, and then working back this way. Please state your name for the  
45 record.  
46

1 Yun: Isaac Yun.

2

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

5

6 Yun: Yes.

7

8 Kaiser: Go ahead.

9

10 Yun: All right, well, it became very apparent to me very quickly that this area is  
11 very active with hikers, bikers, people walking their dogs all the time. So  
12 I'm just not speaking for myself and the immediate neighborhood, but for  
13 the hundreds of homes that I know are using it. Not hundreds, maybe a  
14 hundred or so homes that are using it. And you know, phase eight, phase  
15 nine, they're going to bring in potentially more homes for people to use.  
16 There are trails. And it didn't take long for me to snap a few quick shots to  
17 show photo evidence. So if you want photos, I have them. And keep in  
18 mind this is in February. If we don't have spaces like this for people, then  
19 this will just be a concrete jungle for miles. And that's not what we want in  
20 Las Cruces. It's not the community we want. There must be a space that  
21 we can use for these purposes, maybe a little park. And maybe there was  
22 a compromise. Well I understand that you know all of you here are giving  
23 up your time to preserve the interests of not just the City but the people of  
24 Las Cruces. And I want to make a proposal for a compromise where maybe  
25 we can keep a third or a half of the homes that are proposed, maybe just  
26 this south side over here can be built. But this whole area over here is very  
27 active and there are trails, people are hiking, biking. And I'm watching them  
28 day in day out. And being a hiker and biker myself, I very intimately  
29 understand which areas are being used and which are not, and it's basically  
30 this whole bottom section right here that nobody's really touching. Maybe  
31 we can put a park over in this nine B section. I think that would be perfect.  
32 So I do have a little, if, I don't know how this works, but if you want to take  
33 a look at something I'm proposing.

34

35 Kaiser: You can bring it forward if you want. We'll pass it.

36

37 Yun: What's that?

38

39 Kaiser: You can bring it forward. We'll pass it down.

40

41 Yun: Okay, I'll do it at the end here. So, okay, well, I guess that's it. I hope the  
42 City will take this seriously. And it would really be in the interests of a  
43 hundred people, hundreds of people and really be appreciated not just by  
44 them, but people for decades to come who will be living here. And yes,  
45 thank you.

46



1 Kaiser: Thank you. All right and then coming back forward to the front of the room.  
2 Yes, ma'am. Please state your name for the record.  
3  
4 Anderson: Good evening. I'm Trish Carter Anderson.  
5  
6 Kaiser: And do you swear or affirm that the testimony you're about to give is the  
7 truth and nothing but the truth under penalty of law?  
8  
9 Anderson: Yes, I do.  
10  
11 Kaiser: Go ahead.  
12  
13 Anderson: Like all the other residents have mentioned, the water runoff is a big  
14 concern. In 2017, there was three inches of rain and Parkhill, the whole  
15 road rolled up and the park was washed away. So I'd like to know what has  
16 been done to address the flood issue there. Also, right here as you can see  
17 on the map, this entire back wall that has been built for all of these residents,  
18 there are drainage pipes in those walls and they're all angled into the  
19 residents backyard. So when it rains, all of those backyards are going to  
20 flood. That's really not a good design. I mean that's, I'm really concerned  
21 about the water runoff into my yard. Also, I would like to address the issue  
22 of emergency services. As I pulled up earlier, we had eight fire stations in  
23 the City of Las Cruces. The City of Las Cruces is growing leaps and leaps  
24 and bounds. I mean everywhere, not just in Parkhill. So I'd like to make  
25 sure that we actually address that as a City. Additionally, evacuation routes.  
26 I do not want a Hawaii fire in Las Cruces. Do we have adequate road for  
27 us to get out? Not just in Parkhill, but everywhere. But Parkhill is growing  
28 leaps and bounds, and the whole area is. Like my other friends have said,  
29 the open space, there is none. We need open spaces for families. I mean  
30 the world is beginning to heat up because we're building so much concrete.  
31 So we need open spaces. Yes, the pipes in the backyard. The flood.  
32 Emergency services. Evacuation routes. Parks and open spaces. Those  
33 are my points.  
34  
35 Kaiser: Thank you.  
36  
37 Anderson: Thank you.  
38  
39 Kaiser: All right. I believe that was it for those who wish to speak on this item. I  
40 don't see any other hands being raised. So we'll come back to the  
41 Commission. And hoping that staff can maybe address some of these  
42 concerns that were raised. In particular, I know this is just one phase of a  
43 master plan that was approved back in, looks like 2006. So I don't know if  
44 you have an image of the full master plan to maybe address some of the  
45 questions about parks and open space because I'm sure that was  
46 incorporated into that master plan. So, staff, I'll turn it back to you.

1  
2 Castillo: Good evening. Mr. Chair, Commission. As part of the process for residential  
3 subdivisions, the beginning process is the master plan where they provide  
4 us kind of like an overarching document that shows large scale, super large  
5 scale. So it's going to create a drainage, what we call a master drainage  
6 report for the entirety of the lot in this case far beyond the 33.214 acres that  
7 we're looking at right now. But there was a master drainage study done for  
8 the entire master planned to area. As you can see a portion of it is here,  
9 then it goes further south this way on Parkhill. This section of R-1b is phase  
10 eight. They are almost I believe completed. There may be some homes  
11 done on the smaller portion that may need to be continued on. But for the  
12 most part, the master drainage study has been done. I can't speak for that,  
13 but the applicants representative as well as the applicants are here for that  
14 and they can elaborate further on stormwater runoff if necessary and how  
15 the drainage study works.

16  
17 As far as traffic requirements going back to this portion of the provided  
18 preliminary plat. We do look at it you know from a traffic standpoint. Our  
19 traffic engineers look at it. Our fire protection engineer looks at it. There  
20 are fire code requirements that state there has to be so many access points  
21 for development once we start going over a certain number of homes. As  
22 our fire representative is not here, I can't say for certain the exact number  
23 of homes that are needed. But at this point, there are going to be multiple  
24 points of access. Rinconada here provides one point of access. The  
25 creation of this access point here will allow into it. With the previous  
26 developments, you do have one here on this roadway. As the subdivision  
27 continues to develop, there will be multiple points of access so emergency  
28 access will have multiple points for all people to come in and out of the  
29 subdivision.

30  
31 As far as green space goes, I haven't looked at the master plan myself  
32 before this presentation. Unfortunately, I wasn't the one who created the  
33 presentation at that time. So I didn't have a chance to look at the master  
34 plan and see, but there was one park with the property. And like I said, we  
35 do have the applicants here as well as the representative and they can  
36 speak to that more. But any new creations of parks or open spaces that  
37 would have to alter the master plan as a whole. So then we'd have to bring  
38 the master plan in for an amendment as well as redesigning this preliminary  
39 plan as well.

40  
41 And I think I touched on everything. And if you'd like, like I said, the  
42 representative is here as well to speak a little bit further. And as far as the  
43 pipes that run through the back walls of these properties, they're probably  
44 more likely weep holes to help reduce static shock from any runoff that may  
45 occur on the properties during heavy rainfalls or hydrostatic pressure. I'm  
46 sorry.

1  
2 Kaiser: Basically, to keep the wall from falling down.

3  
4 Castillo: Correct.

5  
6 Kaiser: Okay, yes, the applicant can come up and maybe speak to some of these  
7 issues, particularly as it relates to the master plan. I think that will be helpful  
8 given that the master plan was done quite some time ago, I think a refresher  
9 on that. I personally am not familiar with it. So I think it would be helpful for  
10 all of us. And before we get started I'll need to swear you in, so if you could  
11 state your name for the record.

12  
13 Libbin: Zachary Libbin.

14  
15 Kaiser: And do you swear or affirm that the testimony you're about to give is the  
16 truth and nothing but the truth under penalty of law?

17  
18 Libbin: I do.

19  
20 Kaiser: Go ahead.

21  
22 Libbin: Good evening, Commission, Chairman. My name is Zach Libbin, Libbin,  
23 Underwood Engineering and Surveying. Here on behalf of the applicant  
24 here for Parkhill Estates Phase 9. As noted by Mr. Castillo's wonderful  
25 presentation, this preliminary plat is the last phase of this Parkhill master  
26 plan. It was envisioned much like it is here presented to the P&Z. Just  
27 again, just as it is here. There is, as Mr. Castillo noted, this was designed  
28 here meets the code and the Envision Las Cruces plan. The drainage is  
29 designed both through the drainage master plan and specific to this phase  
30 to address the 10 year and 100 year storm as required by code without the  
31 100 year storm encroaching onto their private property. Parkhill, the Parkhill  
32 Drive is designed to convey stormwater. It has been part of a certified letter  
33 of map revision for the floodplain that was once in this area. It's gone  
34 through FEMA. And the pond accommodates for that required stormwater  
35 drainage.

36  
37 Also the park was envisioned as part of the master plan. There's a four acre  
38 park that has been constructed. It includes playground equipment. It's  
39 within walking distance. And that park was designed as desired by the  
40 code, City staff to allow for all this Parkhill Estates to serve this area. There  
41 are other developments and other parks coming in, in the area as well. But  
42 there is not a park designed in this phase. But it was accommodated, or it  
43 was accounted for in a previous phase with a four acre park just down the  
44 road. Another green space is the large pond, it is not for recreation, but it  
45 does account for some green space. It was designed to take care of this  
46 drainage.

1  
2 The area has several points of access. All within these connections here  
3 obviously connects to Parkhill, Rinconada is right at the corner here. Engler  
4 is just to the north, and Del Rey is to the west. As you all know, there is a  
5 need for homes in and around Las Cruces. And these homes are in  
6 demand. The previous phase, phase eight, C and D are sold and are  
7 building houses as fast as they can build them. These lots and these homes  
8 are in demand here in Las Cruces. So I stand for any questions. We do  
9 also have the applicant specifically here if you have any questions for them  
10 as well.

11  
12 Kaiser: Thank you. The four acre park that you mentioned, where in relation to this  
13 phase is that located? It's under construction now is that what you?

14  
15 Libbin: No. It is fully constructed with playground equipment. It's a little bit hard to  
16 describe, but it is to the west. This is the east most phase, so that's easy.  
17 But it is to the west.

18  
19 Kaiser: Can we go, there's a slide that has a little bit more context.

20  
21 Castillo: Mr. Chair, Commission. The park is generally located I believe a little bit  
22 further south off the map, but in roughly this area over here.

23  
24 Kaiser: Okay. And it's would be south of Parkhill Drive.

25  
26 Castillo: That is correct.

27  
28 Kaiser: Okay. And what's the situation like for getting across Parkhill Drive?  
29 Sounds like Parkhill Drive has some serious traffic safety concerns. Is there  
30 a way for somebody to safely cross Parkhill Drive to access the park?

31  
32 Castillo: Mr. Chair, Commission. At this moment, I am not aware of what we have  
33 out there for Parkhill Drive. I don't know if it was ever built out for the  
34 purposes of traffic mitigation. But it is something that we can bring up with  
35 our street maintenance division.

36  
37 Kaiser: Thank you. Any other questions from the Commission? Commissioner  
38 Smith.

39  
40 Smith: Yes. Can you keep the aerial map up there? This is, the question regarding  
41 the open space that's currently being used. Now just based on the photos  
42 that the gentleman in the back had presented, it looked like there was a hill  
43 that people hiked up. Is that in the area that's now being proposed as 9E?  
44 Am I getting that that position you know bearing correct?  
45

1 Castillo: Mr. Chair, Commissioner Smith. I haven't seen the photo so I don't know  
2 which spot you are speaking of.  
3

4 Smith: Well I'll just address the public. If you look at the area map up in north,  
5 basically the northwest part of this proposal, it looks like that's an area  
6 where people go out and hike. Is that correct from the public?  
7

8 UNKNOWN: Yes.  
9

10 Smith: That's the area generally when you go and you're hiking and you're biking,  
11 you're riding out there.  
12

13 PUBLIC SPEAKING, NOT AT THE MICROPHONE.  
14

15 Nichols: Mr. Chairman. Please if you have comments, Sir, will you come to the  
16 podium so we can hear your comments? Thank you very much.  
17

18 Smith: Okay, so I know this is a little bit of a drawn out question here but you know  
19 as I look at this dissection, this 90, I'm basically counting like 15 units,  
20 potential home units there. And I know that there is a you know a desperate  
21 need for housing. And this is an area that has been developed and will  
22 continue to develop, but I think I agree with the public that it is important  
23 that we have some open space, that that is part of you know the  
24 infrastructure and the planning when we have these you know these  
25 development projects being brought before us. Whether you agree or not,  
26 our climate is changing. It is. We've had a very hot summers here in Las  
27 Cruces, and we'll continue to. And you know people who purchase homes  
28 in this area want to have a place where they can go and hike and recreate.  
29 We have a lot of public land here. We have a lot of land here. But it still  
30 should be accessible for community by walking or by riding in their  
31 community.  
32

33 After all of that, my question is, to the planner and to the developer. Why  
34 can't you set aside some acres in that northwest corner or that northern  
35 corner of this plan for some open space. It's already being used by the  
36 public that lives there now. And as you build these units these homes, I'm  
37 sure those people who purchase homes would be happy to be able to hike  
38 up there also. So I'm just proposing this question to you, why wouldn't you  
39 want to you know change this plan to include that because clearly it's  
40 something that the public wants and needs.  
41

42 Libbin: Mr. Chair, Commissioner Smith. I will address the green space issue. But  
43 I also need to mention that as a good part of proper planning, when these  
44 master plans are put in place, it needs to be done with enough forethought  
45 that a developer can develop land without having to change each phase  
46 going forward. So it's a portion of proper planning that a master plan, that

1 entitlement can be created with these tracts of land, which are purchased  
2 for development, that they can do that without it being changed every single  
3 time they come forward for a preliminary plat or final plat approval. So that's  
4 one argument that I just wanted to actually make as an argument.  
5

6 The issue with adding additional parks is that mostly the land value,  
7 obviously, right. This land was purchased for development, and nobody is  
8 going to pay for a park. The City is not going to pay the developer for a park  
9 what that many homes would generate. The City will not accept a park  
10 that's less than three acres. So at least three acres would have to be  
11 dedicated to a park. And that's a lot of homes. That's a lot of lots that will  
12 be lost. And also, again, roughly, I'm going to back up my legal argument,  
13 but I'm going to make the point that that is a lot of lots that will be developed  
14 into homes and will be sold. And nobody's going to pay the developer for  
15 that land, what it would generate from three acres of homes. I have to look  
16 to my client to see, we any other? I don't I don't see. We're happy to answer  
17 any other questions. But that's generally why during the master plan  
18 process the location for the park, the size of the park was established at  
19 that time and the number of parks to go with that.  
20

21 Smith: All right. Thank you.

22  
23 Kaiser: Mr. Banegas.

24  
25 Banegas: Just as a point of information, the master plan process as we know in  
26 dealing with various cases over the past several years, is a mechanism that  
27 allows the developer to show the City major thoroughfares that will traverse  
28 the masterplan boundary, the mixture of land uses including open space,  
29 park space, that kind of thing, the densities, intensities of uses etc. So, what  
30 Mr. Libbin is describing is accurate. The master plan does allow a view, a  
31 snapshot, if you will of land uses that are to occur. That master plan process  
32 does involve staff review and recommendation to the Planning and Zoning  
33 Commission. And subsequent to that if it gets approved, then there's a  
34 reasonable level or expectation for approval if they submit a preliminary plat  
35 following their master plan, and they illustrate how they're going to carve  
36 out lots and placing the land uses in accordance with that master plan.  
37 There's a reasonable expectation of approval for that. So to modify it now,  
38 I'm not saying it can't be done, but it would take a master plan amendment  
39 to do that. And I just don't know if you all want to go there.  
40

41 Kaiser: Any other questions from the commission? Comments? I'll just make one  
42 more point. We're in a tough spot up here. The master plan was done.  
43 That's the first part of this process, back in 2000, what did I say, 2006.  
44 Obviously, things have changed. The City has changed since 2006. But  
45 the issue that we're faced up here as the Commission is our hands are kind  
46 of tied because there's already a master plan done. As Mr. Banegas stated,

1 at this phase there's not a lot that we can influence. That being said, I  
2 wholeheartedly agree with some of the comments that were stated here  
3 tonight, in particular, the traffic concerns. The fact that we have a park that  
4 is part of this subdivision or this master plan that is de facto not accessible  
5 by anybody north of Parkland Drive based on the conditions of Parkland  
6 Drive, is deeply troubling and problematic to me. It's something that I've  
7 raised many, many times before. You can ask staff; I raise it every chance  
8 I get. We have failed in that regard. But as it comes to this particular item  
9 before us tonight, I don't know that there's really a whole lot that we can do,  
10 unfortunately. But I would like staff to take some of these issues very  
11 seriously. I have stated it numerous times, the way that we have built our  
12 roads in this City are dangerous to pedestrians, to children, to the elderly,  
13 and to even drivers. There's solutions. These aren't hard problems to  
14 solve. It takes us actually wanting to solve them. And I've heard it. We're  
15 going to hear it again tonight on other items on this agenda. And I just don't  
16 know how many times we have to hear it before things actually change.  
17 Unfortunately, this project is not going to be the one that changes it. But I'm  
18 completely sympathetic to those comments tonight. I hear you. I  
19 understand you. We just, we're in a tough spot as a Commission tonight.  
20 So I just want to put that out there. And unfortunately because of our  
21 agenda tonight, we do need to push forward so that we're not all here until  
22 midnight so I am going to look for a motion to approve.

23  
24 Acosta: I make a motion to approve.

25  
26 Bennett: I second.

27  
28 Baum: Board Member Acosta.

29  
30 Acosta: I vote to approve, yes, based on staff recommendation and Elevate Las  
31 Cruces, and just the need for housing here in our community.

32  
33 Baum: Board Member Smith.

34  
35 Smith: I vote yes based on staff recommendation.

36  
37 Baum: Board Member Porter.

38  
39 Porter: I vote to approve due on staff recommendations and Elevate Las Cruces.

40  
41 Baum: Board Member Murray.

42  
43 Murray: Yes, based off the previous master plan and staff presentation.

44  
45 Baum: Board Member Bennett.

46

1 Bennett: I vote to approve based on staff recommendation, Elevate Las Cruces, and  
2 neighborhood character and compatibility.

3  
4 Baum: Chair Kaiser.

5  
6 Kaiser: Yes, based on staff recommendation and consistency with Elevate Las  
7 Cruces.

8  
9 Baum: Motion passes.

10  
11 **6.3 Case No. 24ZO0500001:** A request to approve a non-administrative replat known  
12 as Clute Subdivision No. 2 Replat No. 1. The proposed subdivision encompasses  
13 4.086 ± acres in size, zoned C-3 (Commercial High Intensity) and located at 1400  
14 S. Valley Drive. The subdivision proposes to subdivide one (1) existing lot into two  
15 (2) new lots that are 1.4070 ± acres and 2.6766 ± acres in size. Submitted by  
16 Precision Surveys Inc., representative. Council District 4.

17  
18 Kaiser: All right, moving on to, I've lost my agenda, item 6.3. Staff, I'll turn it over to  
19 you.

20  
21 Castillo: Good evening Commission. Today we have a property located at 1900  
22 Bataan Memorial East. They are seeking a zone change. The current  
23 conditions of the property is it's located on the south side of the Bataan  
24 Memorial East and west side of Del Rey Boulevard. It currently  
25 encompasses 9.37 plus acres. It's zoned C-2 which is our commercial  
26 medium intensity. It's a vacant commercial building. It's been vacant since  
27 2017.

28  
29 Here's a zoning map of the property. Here's an aerial image of the property.  
30 Here's a proposed site plan for the property. So the proposal is to rezone  
31 from the C-2 to a C-3. This brings the property into compliance with the  
32 2001 Zoning Code as amended, as the C-2 zoning designation only allows  
33 for a maximum of one acre. It will also allow the redevelopment of the  
34 property for a multitenant retail project. The analysis based on this was  
35 there was no health, safety, or welfare issues identified by staff. The zone  
36 change will allow the redevelopment of a vacant commercial building/  
37 property. And the property is accessed via a minor and principal arterial  
38 roadways where C-3 zoning designations are encouraged.

39  
40 At the time of this presentation staff had received no input from the public.  
41 Notice was sent to all surrounding properties within 500 feet as well. Today  
42 staff recommends approval for the zone change to C-3 to bring the property  
43 into compliance with the 2001 Zoning Code. The subject property is located  
44 along two major arterial roadways where high intensity commercial uses  
45 and zoning, such as the proposed designation are encouraged. The  
46 proposed zone change will help ensure the subject property remains



1 sensitive to the character of the existing neighborhood. Based on staff's  
2 analysis of the proposal, the proposed zone change request meets the  
3 intent of Elevate Las Cruces, adjacent uses in zoning districts. It meets the  
4 intent and purpose of Section 38-2 and also fulfills the purpose of the Las  
5 Cruces Municipal Code Section 2-382. Today your options are to vote "yes"  
6 to approve, vote "no" to deny, vote "yes" with conditions, or vote to table.  
7

8 Kaiser: Thank you. Any questions or comments from the Commission? All right,  
9 hearing none. Any members of the public that wish to speak on this item,  
10 please raise your hand. I see one gentleman please come forward.  
11

12 Hernandez: How you doing?  
13

14 Kaiser: Good. Please state your name for the record.  
15

16 Hernandez: Dr. Edward Hernandez.  
17

18 Kaiser: Do you swear or affirm that the testimony you're about to give is the truth  
19 and nothing but the truth under penalty of law?  
20

21 Hernandez: Yes.  
22

23 Kaiser: Go ahead.  
24

25 Hernandez: My only concern is I'm very happy that that building is going to finally be  
26 occupied. You know it's been vacant for a number, for a long time. We  
27 have a lot of homeless now, it's getting worse in that area as well. I'm  
28 getting break ins in my office building. I have had at least two in the last  
29 four or five months. So that's a concern of mine. But the biggest concern I  
30 have is the intersection of Center Court Drive which is directly across from  
31 the Allen Telshor theater's entrance. Their main entrance to their parking  
32 lot, which is going to be just south of where this building is. So basically  
33 directly across the street. My office building is on Telshor, 2810 North  
34 Telshor. And you know, I'm an ophthalmologist. I'm an eye surgeon. So  
35 most of my patients are 60, 70, 80 years, 90 years old. Their reaction time  
36 is down. Their vision sometimes is impaired. And that intersection is pretty  
37 hazardous. I've cut down all my bushes as far as they can go. I've  
38 increased the visibility southward as much as I can, you know well over 100  
39 feet, but when people are coming up from Sam's Club up that hill you know  
40 they're doing 50 miles an hour and they're on them so quickly that we've  
41 had a number of accidents on that intersection. So my concern is with the  
42 increased traffic in that area, what's going to happen to, and there's a  
43 geriatric practice right next door to mine, Dr. Duran's. So I know most of  
44 the traffic will probably occur after we're closed, but not all of it. So that's  
45 my only concern is traffic.  
46

Agenda Item #8.1.

1 Kaiser: Thank you. All right, anybody else wishes to speak on this item? All right,  
2 seeing none. We'll come back to the Commission. Staff, I don't know if you  
3 have a response to that or not.  
4  
5 Castillo: Mr. Chair, Commission. Yes, I do have a response. At this time, it is strictly  
6 just bringing the property into conformance with zoning. At the time of  
7 development, once we've gone through the zone change process, we'll look  
8 at land uses on the property and then develop the necessary either trip  
9 generated models or if necessary what we call a trip traffic impact analysis,  
10 but some type of traffic study will be done at that point.  
11  
12 Kaiser: Thank you. All right. Any other questions from the Commission? All right,  
13 seeing nobody. Looking for a motion to approve  
14  
15 Bennett: I make a motion to approve 6.3.  
16  
17 Smith: I second.  
18  
19 Baum: Board Member Acosta.  
20  
21 Acosta: Yes, based on staff recommendation.  
22  
23 Baum: Board Member Smith.  
24  
25 Smith: Yes, based on staff recommendation and the goals of Elevate Las Cruces.  
26  
27 Baum: Board Member Porter.  
28  
29 Porter: Yes, based on staff recommendations.  
30  
31 Baum: Board Member Murray.  
32  
33 Murray: Yes, based on bringing it up to the standard codes and staff  
34 recommendation.  
35  
36 Baum: Board Member Bennett.  
37  
38 Bennett: Yes, based on staff recommendation.  
39  
40 Baum: Chair Kaiser.  
41  
42 Kaiser: Yes based on staff recommendation and consistency with Elevate Las  
43 Cruces.  
44  
45 Baum: Motion passes.  
46

1   **6.5   Case No. 24ZO5000001:** A request to approve an Infill Development Process  
2   (IDP) request and associated development standard deviations for a proposed  
3   duplex. The development proposes two attached one-story apartments on  
4   property encompassing 0.12 + acres in size, zoned R-1a (Single-Family Medium  
5   Density) and located on the southeast corner of California Avenue and Chaparro  
6   Street at 1201 Chaparro Street within the Infill Development Overlay District.  
7   Submitted by Luke Carboneau, property owner. Council District 3.

8  
9   Kaiser:           All right. Moving on to item 6.5.

10  
11   Banegas:       Mr Chairman, Commissioners. I'm bringing forward a few cases this  
12   evening, but this one involves property located at 1201 Chaparro Street. It  
13   does involve an infill development proposal with the process that's also  
14   affiliated with the Infill Development Process. It seeks to place a duplex on  
15   R-1a zoned property. The property is currently vacant and undeveloped  
16   property. It appears at some point in time to have had an accessory  
17   building. There's a concrete pad on a portion of the property. But it does  
18   qualify for infill consideration and because it's either vacant and/or  
19   underutilized that's what triggers the qualification. It is 0.12 acres in size. '

20  
21                   And this is a map showing the subject property in this location. Chaparro  
22   Street is here, California Avenue along here. All this area that is showing  
23   up appears to be like a light brown, somewhat of a yellow,. is your R-1a  
24   zone. You've got R-2 zoning right across the street on California Avenue.  
25   You've got some R-2C zoning over here. This is where some townhomes  
26   are located. This property in here, even though it's R-1a, if I saw it correctly  
27   it looks to be a fourplex. And then of course over towards Solano Drive  
28   you've got your commercial corridor in a C-2 zoning designation.

29  
30                   And this is just an aerial showing what I've described. You can see the four  
31   units, definitely nonconforming. I don't know at what point those were put  
32   into play there on the property. And this is the triplex here. The townhomes  
33   that I described further north. So the deviations that were requested as part  
34   of this infill. Again, they're seeking to be allowed two dwellings instead of  
35   the one that the R-1a currently permits. Also along the secondary frontage  
36   there is a request to reduce the setback from 15 down to 12 feet. The other  
37   primary setback would meet the 15 foot requirement, and so there's no  
38   issue on that side. That would be the California side. The duplexes are  
39   going to consist of two attached units obviously, two bedrooms each unit  
40   and approximately 887 square feet in size. The ingress and egress and the  
41   parking that is allowed per code at one per unit, will be shared and is also  
42   on the California side. Bicycle parking and landscaping are not required for  
43   single-family and/or duplex development. It's encouraged so that it can tie  
44   into the surrounding neighborhood but not required and therefore not at  
45   issue per this request. All other deviations, well all other standards I should  
46   say as except for those deviations that I've identified, those standards will

1 follow code requirements. This is a site plan showing the property in  
2 question. Chaparro Street here, California over here. Access will be in this  
3 area off of California. Here's their parking, and the duplex unit located here.  
4 Ponding in back. This is where the reduced secondary front yard setback  
5 will be. But aside from that, everything else is a go.

6  
7 A couple of elevations showing front and rear of the proposed duplex and  
8 the sides. Floorplan. Just a couple of snapshots to orient you. This is the  
9 subject property. This is the pad that I referenced, looks to be what probably  
10 was an accessory building at some point in time. This is looking down  
11 California Avenue. These are the triplex units over here across from the  
12 subject property. This is California. And next to that is where the fourplex  
13 unit is. And this is just a shot looking down to Chaparro Street.

14  
15 So in terms of analysis of the proposal, staff did not find the request to be  
16 out of character with the surrounding area, certainly given the land uses that  
17 I've described and that we see out there presently. And those speak to  
18 triplex in an R-2 zone, quadplex in an R-1a zone, and townhomes a little  
19 further in an R-2C zone. So you also add in the commercial uses not too  
20 far away along Solano, and that begins to summarize some of the mixture  
21 of land uses that we see out there. There were no health, safety, and  
22 welfare issues identified by staff review. And public new notice was given  
23 and a letter sent out in accordance with code, and staff received one phone  
24 call and one request, a phone call requesting information which I gave to  
25 them, sent them. But the one phone call that was in support of the request.  
26 They didn't find any issue with what was being proposed whatsoever. The  
27 other one I think was just seeking information and neither pro or con.

28  
29 So staff recommendation regarding this case is conditional approval, and  
30 it's based on findings. The conditions however, I'll speak to those first, is  
31 that the applicant, property owner shall work with the City and potentially  
32 adjacent property owners to extend the necessary utility services to the  
33 subject property. And that's because some of the utilities that will be needed  
34 for this property are in an alleyway. And the applicant has been working  
35 with the adjoining property owner to provide an easement so that those  
36 utilities can be brought over to his property. And that's the reason for this  
37 condition. I believe they've been in contact with that property owner. And I  
38 don't know where that stands. But that's a permitting issue, and that will  
39 have to be addressed prior to issuance of any permit. Also, just the  
40 applicant and property owner will comply with all other development  
41 standards beyond those requested per the IDP.

42  
43 The findings for the case, for this recommendation, is that the vacant  
44 property if we allow development goes back into productive use, and that's  
45 certainly consistent with the infill development plan and the companion  
46 overlay. The property is eligible for IDP processing as per 38-48.A of the

2001 Zoning Code. The proposed density will have no or very little impact, if any on adjoining streets. Both of those are local roadways and staff did not find any issue related to traffic there. The applicant will be required as indicated regarding the utilities to work with the City and potential property owners to provide all necessary utilities to the site. And Elevate supports the proposal via various goals, policies, and actions. And the proposal is consistent also with purpose and intent of the Zoning Code in the criteria for decisions. So your options this evening are to vote "yes" and approve, vote "no" and deny, denial would require new information or findings of fact not identified during staff review and presentation. You could vote "yes" with the conditions that staff stated or add some that you've thought of, that's perfectly fine, and you can vote to table. That's another option. Staff is aware that Mr. Luke Carboneau or representative is in attendance and they can speak to any specific questions that audience members or Commission may have. But other than that, Commissioners, I stand for question.

Kaiser: Thank you. Any questions or comments from Commission? Seeing none. We'll go to public comment. Is there anybody in the audience who wishes to speak on this item? Yes, sir, please come forward. Is there anybody else? Show of hands. All right, seeing none.

Santacroce: Good evening.

Kaiser: Please state your name for the record.

Santacroce: My name is John Santacroce.

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?

Santacroce: I do.

Kaiser: Go ahead.

Santacroce: So I want to talk about this property. I've lived there since 2009. Me and my family are residents of, long term residents of Las Cruces. We've lived in this community for a long time. And we chose to live in this area. We chose this particular house that has to, is sharing a border with this particular project. And Mr. Carboneau, I don't know if I said that wrong. I'm glad that you took that drug house across the street and revamped it. I appreciate that. I really do. But in this particular case, I'm opposed to this. I'm opposed to this because this particular type of development, that's put this neighborhood at risk. We have those high areas of apartments and duplexes and fourplexes, and all of those areas are what's bringing the situations in local area. I don't know if any of you have ever transited the area, we live there, we have to fight drugs every day. We choose to stay

1 there, because we want to make the area better. We want to make it better.  
2 We know our neighbors. We want to shepherd the neighborhood to be  
3 better. And we do not feel that another apartment complex is better. We  
4 also are concerned specifically because it, both of the, if I remember right,  
5 we showed a picture of the back end of that apartment duplex. Is it possible  
6 to bring it back up? We see two pictures here. All right, this one right here.  
7 I believe both of the portraits on inside is that correct? In the draft that we  
8 were given when we called both of the portraits on their outside, and if that's  
9 correct, then one, and my house is front door is set 25 foot back. This is  
10 going to be 25 feet from my actual building, 21 feet from the property line.  
11 So their back porch is going to be in my front yard, at my front door. And  
12 the other unit, it's back porch is going to be at my back porch. So I'm kind  
13 of losing a lot of privacy here. And I would absolutely like to ask, well have  
14 you planned for any privacy for anybody that might be affected of this? Most  
15 likely I'm going to take the brunt of it.

16  
17 Kaiser: Sorry. I have to have you come up to the mic to answer. Any more  
18 comments?

19 Santacrocce: I'm posing those questions. But this will definitely affect the neighborhood  
20 that's already at risk. And we are low income. We are living in the home  
21 and rebuilding it ourselves. We want to stay. We definitely don't need  
22 another apartment complex. What we need is, and I wouldn't be here if it  
23 was a single-family home that was proposed.

24  
25 Kaiser: Okay. Thank you.

26  
27 Santacrocce: Wouldn't even have thought about it.

28  
29 Kaiser: Thank you.

30  
31 Santacrocce: Thank you. I appreciate your time.

32  
33 Kaiser: If the applicant wants to confirm or respond, free to do so. Please state  
34 your name for the record.

35  
36 Carboneau: Good evening Council. Luke Carbonneau.

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

40  
41 Carboneau: Yes, council.

42  
43 Kaiser: Go ahead.

44  
45 Carboneau: So I just wanted to touch base on the, our target tenant is based on the  
46 proximity to NMSU is we go after students. All our tenants are screened. I

1 personally really liked that area so I have no intention of making it worse  
2 than it is. My whole goal is to improve the area. We screen our tenants,  
3 background checks, been a while it's under our management, it's going to  
4 be you know as quality of a tenant as possible. You know in the defense, if  
5 that's something that keeps everybody happy that's something we could talk  
6 about. But other than that, it sounds like we're all on the same page. Okay,  
7 appreciate you. Good tonight.  
8

9 Kaiser: Thank you. All right. So we've got a very packed agenda tonight so we're  
10 going to have to keep this train rolling. So I appreciate your concerns, and  
11 I hope the applicant was able to address some of those. Anybody else who  
12 wishes to speak on this item? Phone call. All right, coming back to the  
13 Commission, any final questions, comments? Commissioner Smith.  
14

15 Smith: Just to address the gentleman's concern about the neighborhood. We're  
16 talking two units here. And you know if two brand new buildings, two brand  
17 new homes are being built in your current neighborhood, and as this  
18 developer says you know he's going to screen you know his tenants very  
19 carefully. You know the positive, and the hope would be that you would get  
20 some good people in the neighborhood. And so that would be good for your  
21 neighborhood. And I know you have concerns now because of the issues  
22 that happen, that currently happening in your neighborhood, but this is how  
23 your neighborhood becomes better when you get better tenants and better  
24 residents in the neighborhood who want to stay there.  
25

26 AUDIENCE MEMBER SPEAKING, NOT AT THE MICROPHONE.  
27

28 Kaiser: I'm sorry, we have a lot on the agenda tonight. We have to move forward.  
29

30 AUDIENCE MEMBER SPEAKING NOT AT THE MICROPHONE.  
31

32 Kaiser: Sir.  
33

34 Nichols: Point of order, sir. You've had your chance to speak and we're taking this  
35 to Commission for their vote.  
36

37 Kaiser: We appreciate you coming out tonight and expressing your concerns, and  
38 we understand them. And hopefully they'll be addressed in due time. Any  
39 other comments from the Commission? All right, looking for a motion to  
40 approve.  
41

42 Bennett: I make a motion to approve 6.5 with conditions stipulated in the packet.  
43

44 Murray: I second.  
45

46 Baum: Board Member Acosta.

1  
2 Acosta: I vote yes to approve with the conditions based on staff findings

3  
4 Baum: Board Member Smith.

5  
6 Smith: I vote yes to approve based on staff recommendation with conditions.

7  
8 Baum: Board Member Porter.

9  
10 Porter: I vote yes based on staff recommendations with conditions.

11  
12 Baum: Board Member Murray.

13  
14 Murray: Yes to approve with conditions based on the staff recommendation.

15  
16 Baum: Board Member Bennett.

17  
18 Bennett: I vote to approve based on staff recommendation, Elevate Las Cruces, and  
19 complies with the infill development.

20  
21 Baum: Chair Kaiser.

22  
23 Kaiser: Yes, based on staff recommendation and consistency with Elevate Las  
24 Cruces

25  
26 Baum: Motion passes.

27  
28 **7.1 Case 22CS0500161:** A request for approval of a non-administrative replat known  
29 as Jose Alonso Lujan Summary Subdivision. The proposed subdivision  
30 encompasses 0.919 ± acres, is zoned R-1a (Single-Family Medium Density) and  
31 is located at 5591 Melody Lane. The subdivision proposes to subdivide one (1)  
32 existing lot into two (2) new lots that are 0.424 ± acres in size each. Submitted by  
33 Libbin Underwood Engineering and Surveying, representative. City Council District  
34 6.

35  
36 Kaiser: Okay, moving on to item 7.2.

37  
38 Castillo: Mr. Chair, Commission. Staff is recommending that the Commission take  
39 a vote to suspend the rules of order and here items 7.1 and 7.2 concurrently  
40 as they relate to each other.

41  
42 Kaiser: Yes, thank you. And I did misspoke. So yes, we will look for a motion to  
43 suspend rules of order so that we can listen to item 7.1 and 7.2 together.

44  
45 Bennett: I make a motion to suspend rules of order for 7.1 and 7.2.



Agenda Item #8.1.

1 Porter: I second.

2

3 Baum: Board Member Acosta.

4

5 Acosta: Yes.

6

7 Baum: Board Member Smith.

8

9 Smith: Yes.

10

11 Baum: Board Member Porter.

12

13 Porter: Yes.

14

15 Baum: Board Member Murray.

16

17 Murray: Yes.

18

19 Baum: Board Member Bennett.

20

21 Bennett: Yes.

22

23 Baum: Chair Kaiser.

24

25 Kaiser: Yes

26

27 Baum: Motion passes.

28

29 Kaiser: Staff.

30

31 Castillo: Good evening Commission. Today we have the Jose Alonso Lujan  
32 Summary Subdivision and waiver to road improvements. The current  
33 conditions on the property is it's currently located at 5591 Melody Lane. The  
34 lot encompasses 0.99 acres. It's currently developed with a home on the  
35 property. It is zoned R-1a which is our single-family medium density. It's  
36 also located within the suburban place type predominantly surrounded by  
37 low density residential development. The primary access is from Melody  
38 Lane but it is adjacent to I believe it was a major collector roadway. Melody  
39 Lane as it exists is a 20 foot wide paved road.

40

41 As you can see here, from the zoning map, the subject property is  
42 highlighted here. This is Mesa Drive, Melody Lane. I also apologize I left  
43 out another road Rexview Road which is to the north of the property. But  
44 once again, here's the developed home on the property. As you can see,  
45 these are images of when the home was being constructed. Looking  
46 directly at it. Then looking westbound along Melody Lane, as you can see

1 Melody Lane is just purely asphalt as it sits. Then the bottom image is  
2 looking eastbound towards the Organ Mountains. So today's proposal is a  
3 nonadministrative replat taking the one existing lot into two lots that will be  
4 0.475 acres and 0.376 acres. Both lots will have direct access to Melody  
5 Lane. In addition to that we are also requesting to waive the road  
6 improvement requirements associated with a subdivision. The subdivider  
7 is required to construct a full cross section including pavement, sidewalk,  
8 curb and gutter, and lighting for both Rexview Road and Melody Lane. The  
9 property owner will dedicate the 225 foot wide tracts of land for right-of-way  
10 but wishes to seek not to provide those road improvements at this time.

11  
12 This is the proposed nonadministrative replat. We have the dedication track  
13 for Rexview Road here, as well as the dedication track for Melody Lane.  
14 What's identified as tract one, which is the second lot, will be a flag lot that  
15 contains access to Melody Lane, versus going through Rexview Drive,  
16 which currently is just roadway easements. Notice was sent to all relevant  
17 agencies and departments; all supported the proposed nonadministrative  
18 replat. Notice was sent to all surrounding properties within 500 feet. Staff  
19 did receive a phone call with general questions regarding the subdivision,  
20 not so much regarding the road waiver.

21  
22 On January 17th, the Development Review Committee or DRC met. After  
23 some discussion regarding the nonadministrative replat, the DRC  
24 recommended approval of the proposed replat. On January 24th, the DRC  
25 met and provided a conditional approval of the waiver to road improvements  
26 for both Rexview Road and Melody Lane based on the following findings.  
27 The newly created lot shall be accessed directly from Melody Lane with no  
28 direct access to Rexview Road. Sufficient emergency and fire access shall  
29 be provided for the properties. In this case the flag lot requirements for a  
30 residential development requires a 12 foot wide opening, they'll be providing  
31 a larger one that will then taper down. The proposed new lots are  
32 compatible with other existing lots and residences along Melody Lane and  
33 Rexview Road. Today staff is recommending approval of the  
34 nonadministrative replat based on the findings. City staff, the proposed  
35 replat complies with the requirements of the Las Cruces Subdivision Code.  
36 It complies with all requirements in the 2001 Zoning Code. Based on staff's  
37 analysis of the proposal, the replat request meets the intent of Elevate Las  
38 Cruces Comprehensive Plan and fulfills the purpose of the Las Cruces  
39 Municipal Code Section 2-382. Today's options are to vote "yes" to  
40 approve, vote "no" to deny, vote to amend, or vote to table.

41  
42 Kaiser: Thank you. And just to clarify, so we've got two separate items, one staff is  
43 recommending approval. The other staff is recommending approval with  
44 conditions correct,

45  
46 Castillo: Mr. Chair. That is correct.

1  
2 Kaiser: Okay. Any questions from the Commission? All right, seeing none.  
3 Anybody in the audience who wishes to speak on this item? All right, seeing  
4 none. We'll go ahead and have to take a motion to restore regular rules of  
5 order to be able to vote on these items separately.  
6  
7 Bennett: I'd make a motion to restore the rules of order for 7.1 and 7.2.  
8  
9 Murray: I second.  
10  
11 Baum: Board Member Acosta.  
12  
13 Acosta: Just to confirm, I'm doing two votes. Just one.  
14  
15 Kaiser: Just one so we can go back to regular rules of order.  
16  
17 Acosta: Got it. I'm sorry. Yes.  
18  
19 Baum: Thank you. Board Member Smith.  
20  
21 Smith: Yes.  
22  
23 Baum: Board Member Porter.  
24  
25 Porter: Yes.  
26  
27 Baum: Board Member Murray.  
28  
29 Murray: Yes.  
30  
31 Baum: Board Member Bennett.  
32  
33 Bennett: Yes.  
34  
35 Baum: Chair Kaiser.  
36  
37 Kaiser: Yes.  
38  
39 Baum: Motion passes.  
40  
41 Kaiser: All right now looking for a motion to approve item 7.1 and this is, the staff's  
42 recommending just approval. Correct.  
43  
44 Castillo: Mr. Chair. That is correct. This is for the nonadministrative replat.  
45  
46 Bennett: I make a motion to approve 7.1

1  
2 Murray: I'll second.

3  
4 Baum: Board Member Acosta.

5  
6 Acosta: I vote yes to approve based on staff recommendation and Elevate Las  
7 Cruces.

8  
9 Baum: Board Member Smith.

10  
11 Smith: I vote yes based on staff recommendation.

12  
13 Baum: Board Member Porter.

14  
15 Porter: I vote yes based on staff recommendations.

16  
17 Baum: Board Member Murray.

18  
19 Murray: Yes, based off staff recommendation.

20  
21 Baum: Board Member Bennett.

22  
23 Bennett: Yes, based on staff recommendation.

24  
25 Baum: Chair Kaiser.

26  
27 Kaiser: Yes, based on staff recommendation.

28  
29 Baum: Motion passes.

30  
31 **7.2 Case 23CS4000103:** A request for approval of a 100 % waiver to the required road  
32 improvements associated with the proposed non-administrative replat known as  
33 Jose Alonso Lujan Summary Subdivision at 5591 Melody Lane. The proposed  
34 Subdivision requires the applicant to provide all road improvements to the adjacent  
35 roadways; Rexview Road and Melody Lane. The applicant is proposing to provide  
36 the required dedication, but no improvements. Submitted by Libbin Underwood  
37 Engineering and Surveying, representative. City Council District 6.

38  
39 Kaiser: All right, looking for a motion to approve item 7.2. And this is the one with  
40 conditions.

41  
42 Bennett: I make a motion to approve 7.2 based on conditions stipulated in the packet.

43  
44 Murray: I second.

45  
46 Baum: Board Member Acosta.

1  
2 Acosta: I vote yes to approve item 7.2 based on the outlined conditions in the packet.

3  
4 Baum: Board Member Smith.

5  
6 Smith: I vote yes based on staff recommendations and the conditions outlined by  
7 staff.

8  
9 Baum: Board Member Porter.

10  
11 Porter: I vote yes based on staff recommendations with conditions.

12  
13 Baum: Board Member Murray.

14  
15 Murray: Yes based off staff recommendations and presentation.

16  
17 Baum: Board Member Bennett.

18  
19 Bennett: I vote to approve based on staff and DRC recommendations.

20  
21 Baum: Chair Kaiser.

22  
23 Kaiser: Yes, based on staff recommendation and consistency with Elevate Las  
24 Cruces.

25  
26 Baum: Motion passes.

27  
28 **7.3 Case 23ZO5000153:** A request to approve an Infill Development Process (IDP)  
29 request to allow for site deviations for the development of a commercial property  
30 located at 420 Mesilla Street. The subject property is zoned ADO-6 (Railroad  
31 Corridor from the Alameda Depot Overlay) and encompasses 0.137 ± acres.  
32 Submitted by L&M Asset Management Inc., representative. City Council District 4.

33  
34 Kaiser: Okay, moving on to item 7.3. This is a request to approve an Infill  
35 Development Process 420 Mesilla Street.

36  
37 Castillo: Good evening, once again. Today we're looking at a property located at  
38 420 North Mesilla Street who is requesting to use the Infill Development  
39 Process. The current conditions of the property is that it is a vacant  
40 undeveloped lot located within the Alameda Depot Neighborhood and Infill  
41 Overlay District. The current zoning designation of the property is ADO-6  
42 which is in the Alameda Depot Overlay and it's the railroad corridor. The  
43 property currently encompasses 0.137 acres in size.

44  
45 Here's an aerial image of the property. Here's the zoning designation  
46 showing ADO-6. The code requirements for the Infill Development Overlay

1 is the presence of a structure that has no active utility service, the presence  
2 of a multiunit commercial or residential structure with sustained high  
3 vacancy rates and underdeveloped land. This also includes a vacant  
4 property as well, or land uses that is less dense intense than the current  
5 zoning allows.  
6

7  
8 So today's proposal is the development of a storage or warehousing  
9 accessory to an office. The applicant is proposing a two story office space  
10 with attached storage or warehousing. The total building footprint is going  
11 to be 2,899 square feet and they're seeking deviations to site development.  
12 The deviations that they're seeking today are going to be from surface  
13 parking requirements per Section 38-49.3. F which is found in our Alameda  
14 Depo Overlay. That says that there should be no surface parking closer  
15 than the rear facade of the building. And they are proposing to provide the  
16 surface parking in front of the building facing Mesilla Street. Another  
17 deviation is going to be the parking requirements based on the land use  
18 table which is Section 38-33. Based on the uses provided a minimum of  
19 five parking stalls is required. Due to the size of the lot they are only able  
20 to provide four parking stalls, one of those being ADA compatible or  
21 accessible. They're also requesting a deviation to the driving aisle  
22 requirements. Being next to parking stalls a minimum required 27 foot two-  
23 way driving aisle is required. Once again based on the development and  
24 the size of the lot, they can only provide an 18 foot two-way driving aisle  
25 and are requesting to use 12.5 feet of public right-of-way as an additional  
26 portion to backup into. They're also requesting a deviation to the  
27 requirement of landscaping under Section 32-268 and Section 32-281. The  
28 32-281 is going to be the location criteria requirement which states that 50%  
29 shall be located with the front portion of the property as well as landscaping  
30 of adjacent medians and parkways which aren't limited to residential,  
31 commercial office, or industrial construction. The applicant is requesting to  
32 relocate the criteria to the sides and rear of the property as they won't be  
33 able to use the parkway as it will be used for driving purposes.  
34

35 Here's a proposed site plan. As you can see, this is going to be the office  
36 spaces here and then the warehousing in the back. Here's the four provided  
37 parking stalls with the one ADA compliant parking stall. This portion right  
38 here from the edge of the parking stall down to the property line is the 18  
39 feet that they have currently right now. The remaining 12.5 including the  
40 four and a half foot sidewalk gives them 17 feet of public right-of-way, which  
41 where we would like to see landscaping as part of the code requirements.  
42 However they need this additional space to backup into. But they will be  
43 providing the necessary required trees and shrubs along the sides of the  
44 building.  
45

1 This is kind of like the floor plan layout as well as an elevation of what the  
2 proposed development would look like. So staff has a recommendation of  
3 approval based on the following findings. The existing lot is located within  
4 the Infill Development Overlay, and is a vacant, undeveloped lot making it  
5 eligible for the IDP under Section 38-48A. The proposal is consistent with  
6 surrounding properties and is located within the Alameda Depo Overlay's  
7 mixed use environment that allows for low intensity, low and medium  
8 intensity office and commercial, and limited residential uses. Based upon  
9 staff's analysis of the proposed IDP, the request meets the intent of Elevate  
10 Las Cruces and is located within the urban neighborhood which promotes  
11 high development intensities along major thoroughfares, especially those  
12 with transit services. The proposed IDP request fulfills the City's infill policy  
13 plan and meets the purpose of the Las Cruces Municipal Code Section 2-  
14 382. Based upon staff's analysis, the proposed IDP request fulfills the intent  
15 and purpose of the Alameda Depo Neighborhood Plan as well.

16  
17 Public input was sent to 500 feet. Staff also did review all the proposed  
18 IDP, showed no impact on health, safety, and/or welfare, but did encourage  
19 to economic development within the City core. Staff had received several  
20 inquiries related to the infill, and the possible proposed land uses that would  
21 go on the property. Today, your options are to vote "yes" to approve, vote  
22 "no" to deny, or vote yes with conditions, or vote to table.

23  
24 Kaiser: Thank you. Any questions or comments from the Commission? I have a  
25 couple. There's an alley access to the back of this property. Why could the  
26 parking be located behind the buildings to bring the building facade closer  
27 to the street like the rest of the Alameda Depot District?

28  
29 Castillo: Mr. Chair. Code requirements while yes they're in the Alameda Depot, it  
30 also does defer back to our code. Our off street parking requirements under  
31 Section 38-58 and it does not allow for commercial developments to have  
32 primary access from an alley.

33  
34 Kaiser: Okay. And then in the staff report I think there was mention of actually might  
35 have been the applicant letter that stated that they didn't expect, it was in  
36 the staff report, I stand correct. That there wasn't going to be much traffic  
37 or parking demand with this development. So was it considered just having  
38 them have off street parking.

39  
40 Castillo: Mr. Chair. Based on the classification of Mesilla Street with it being  
41 classified as a collector roadway, they are not allowed off street parking. Or  
42 I should rephrase that as parking on the street.

43  
44 Kaiser: Got it. Well that's really disappointing. Because if you look at this  
45 neighborhood, and this is probably one of the most walkable neighborhoods  
46 that we have in the City of Las Cruces, and I think this site plan just does

1 an incredible disservice to that. I mean it doesn't match anything about the  
2 rest of the neighborhood. We walk up and down the streets, even across  
3 the street, you've got the building that abuts right up to the back of the  
4 sidewalk. I mean really the only outlier is the building right next door on the  
5 corner. It's just unfortunate. I guess there's no way around that. Seems  
6 like it's a wasted opportunity. We're just shooting ourselves in the foot there.  
7 All right. I will open it to the public comment. Is there anybody who wishes  
8 to speak on this item? I see one individual. Please come forward. Please  
9 state your name for the record.

10  
11 Kadeem: Hi. My name is Patricia Kadeem. And I own the property that is to the north  
12 of this property.

13  
14 Kaiser: Okay. And do you swear or affirm that the testimony you're about to give is  
15 the truth and nothing but the truth under penalty of law?

16  
17 Kadeem: Yes, I do.

18  
19 Kaiser: Go ahead.

20  
21 Kadeem: And a while back when that property came up for sale I inquired about the  
22 purchase of that property. Because of the fact that I work with  
23 developmentally disabled adults and I was thinking about using that  
24 property to create a garden for my clients to be able to use so that they  
25 could participate in gardening and growing some of their own fruits and  
26 vegetables. And I was told at that time that I could not purchase that  
27 property if I was not willing to put utilities on that property, which included  
28 electric, sewer, and water because it has absolutely no utilities to it. And  
29 gas if that was necessary for what I was doing. I asked them even if all I  
30 did was put a tool shed on that lot, if I could do it without having to put  
31 utilities. And they said no, I could not. So I didn't purchase that property  
32 because the cost of the development of it was greater than really what the  
33 benefit was going to be for purchasing the property. So I don't think that it's  
34 fair that he would be able to purchase that property. And I believe he said  
35 not put any utilities on it. If he does not put utilities on that, how can he  
36 support lighting in the storage area? How can he support an office that  
37 would require a bathroom? So you know, I just don't think as a business,  
38 we're required to have these things for our employees and I don't think that  
39 that would be fair that this project would not have to have those items  
40 available. Also, yes, that road is a very busy road. And when we remodeled  
41 our building, we were required to put in you know significant parking and  
42 that kind of stuff. I actually have a garden on the north side of my building  
43 was a lot of plants and those kinds of things in it. And I have a drainage  
44 pond. And with the size I have a, my building is fairly large. So there's a lot  
45 of water that is displaced during a rainstorm, and my back pond fills up. And  
46 it doesn't sound like this project would require any kind of ponding area.



1 However, with the amount of water that the building would displace, I think  
2 that that would also be a problem in that area, because it would probably  
3 come over into my ponding area because of the location of it and cause  
4 possible flooding to parts of my building.  
5

6 Also, I didn't realize that the property had actually sold. And there is a  
7 wooden fence that's falling down on that property. And I was sitting too far  
8 away to see the structure here, but I didn't see anything about any type of  
9 fencing. Now the house that is to the direct south of this property was  
10 broken into and items were stolen at the time that it was being constructed,  
11 which was in the last few years. I have two small storage buildings where I  
12 had tools stored on my property, those buildings were broken into and items  
13 stolen out of there. The building that is directly across Hadley Street from  
14 me that is a drywall supply store, they have a lot of tools and everything,  
15 and their building has been broken into multiple times. I guess my time is  
16 up.  
17

18 Kaiser: Yes. Thank you very much. Appreciate it.  
19

20 Kadeem: All right. Thank you.  
21

22 Kaiser: Anybody else in the audience who wishes to speak on this item? All right,  
23 seeing none. I'll comeback. I know staff wants to address some of those  
24 concerns.  
25

26 Castillo: Mr. Chair, Commission. Yes, at this point we are requesting certain  
27 deviations from development standards as well as site requirements. The  
28 applicant at the time of applying for a building permit will need to follow all  
29 building code requirements. They would need to put in the necessary utility  
30 or not utilities, but yes the necessary utility lines for any of the development  
31 that goes on there. Going back to the site plan here, the applicant is also  
32 seeking to do underground storage for drainage to the property. There will  
33 be an outlet here and then the tanks will be underground.  
34

35 Kaiser: And then when those tanks fill up, where does the water flow out of?  
36

37 Castillo: It should flow out. I don't know exactly where it would flow out, but it would  
38 flow into the necessary City requirements.  
39

40 Kaiser: Okay. Thank you. Any other questions or comments from the  
41 Commission? Seeing none. Looking for a motion to approve.  
42

43 Bennett: I make a motion to approve 7.3.  
44

45 Smith: I second.  
46

1 Baum: Board Member Acosta.

2  
3 Acosta: I vote yes to approve based on staff recommendation.

4  
5 Baum: Board Member Smith.

6  
7 Smith: Yes, I approve based on site visit and staff recommendation.

8  
9 Baum: Board Member Porter.

10  
11 Porter: I vote yes based on findings.

12  
13 Baum: Board Member Murray.

14  
15 Murray: Yes, based on infill of a vacant lot and staff presentation.

16  
17 Baum: Board Member Bennett.

18  
19 Bennett: I vote to approve based on Elevate Las Cruces, staff recommendation, and  
20 this complies with the infill development.

21  
22 Baum: Chair Kaiser.

23  
24 Kaiser: No, based on I don't believe the requested deviate from the landscaping  
25 requirements is consistent with the character of the neighborhood.

26  
27 Baum: Motion passes.

28  
29 **7.4 Case 23VO0500158:** A request to approve a variance to the minimum landscaping  
30 requirements for a parcel of land encompassing 19.778 + acres in size, located  
31 with two zoning districts, M-1/M-2C (Industrial Standard-Conditional) and LCIIIP  
32 (Las Cruces Innovation and Industrial Overlay Zone District), and located at 8993  
33 Robert Larson Boulevard. Submitted by Ceso Inc. on behalf of Love's Travel Stops  
34 & Country Stores Inc., property owner. Council District 4.

35  
36 Kaiser: Okay, moving on to item 7.4.

37  
38 Banegas: Mr Chairman, members of the Commission. This is a variance case  
39 involving property out near what we call the LCIIIP, the Las Cruces Industrial  
40 Innovation Overlay District over near the airport. It's property at 8993  
41 Robert Larson Boulevard. Some of the case specifics is the property is at  
42 the southwest corner of Crawford Boulevard and Robert Larson Boulevard.  
43 It currently is one parcel due to a subdivision replat that occurred late last  
44 year. So as a result of that there's two zoning districts that pertain to this  
45 case. The first one is M-1/M-2C, that C represents a condition back in the  
46 day when it was zoned M-1/M-2 that required a master plan that has been

1 satisfied. So M-1/M-2C and the other one is LCIIIP, the Las Cruces  
2 Innovation Industrial Overlay District. There's a dash C that's associated  
3 with that, because that dash C on that portion is for commercial use, which  
4 is what we're talking about this evening.

5  
6 The property in its entirety is 19.7 plus or minus acres. And the property is  
7 going to be redeveloped, there is going to be in the front portion, by that I  
8 mean the Crawford portion, the new Love's Truckstop, and then in the back  
9 is the Speedco aspect to the development. And I will be showing you that  
10 here shortly. So this is the front piece, Crawford Boulevard is here, the  
11 airport, of course is off the map but over in that vicinity. But Crawford here,  
12 Robert Larson along this alignment there, of course, this is our interstate  
13 nearby. So this is the portion that's M-1/M-2C and this is the LCIIIP-C that I  
14 referenced. So Love's Truckstop here, Speedco there. That property line  
15 right here does not exist. If you want to consider that a separation of zones,  
16 that's fine, but it's all one parcel.

17  
18 So code requirements for this variance case, we got to look at Chapter 36,  
19 which is our design standards. And that's in Article IV. And it specifically  
20 states that when you're developing property in the M-1/M-2 zoning district,  
21 you're required to provide 15% of the landscaped area and associated  
22 vegetation quantities. So we look at the entire site minus the square footage  
23 of the building, any storage areas, etc., and we subtract that square footage  
24 from the entire site square footage, multiply that times 15% and that tells us  
25 how many square feet needs to be landscaped. Then there's formulas to  
26 determine how many trees, shrubs, ground cover, etc. So that's what that  
27 associated vegetation quantities represents. We also have due to the LCIIIP  
28 zoning in Chapter 38, which is our zoning code, Article V, there's a  
29 requirement for LCIIIP that speaks to a 10% requirement for landscaped  
30 area. And it too points to a specific formula to determine trees, shrubs, etc.

31  
32 This is an aerial map showing the property. It's a little bit dated. And I'll tell  
33 you why here in a minute, but this portion is the Love's, what will be the  
34 Love's property, Truckstop development here. This is the area where 15%  
35 is required. This back here is where 10%. And if you look at carefully  
36 enough, I know it's shaded out a little bit, but it does show some scrub etc.  
37 But at this point in time it has been completely bladed. There could have  
38 been opportunities had they left some of the natural vegetation alone to  
39 exclude that square footage from the calculations. But at this point that's  
40 off the table.

41  
42 The applicant's request is to provide as indicated, the two uses on the  
43 property and what they'd like to be able to do is not follow the 15% and the  
44 10% but a total, grand total of 5% landscaping area. The variance in that  
45 5%, they would provide the appropriate amount of vegetation but obviously  
46 at a reduced amount overall. This is just a little table showing the request

1 representation what it means to trees, shrubs, etc. And this is the portion  
2 here that speaks to the M-1/M-2C. And you can see how many trees are  
3 required, 42, what they're proposing what the deviation is. Five gallon  
4 shrubs etc. And then one gallon shrubs, etc. And then this portion speaks  
5 to the LCIP requirements and some of the deviation being requested for  
6 both trees, five gallon shrubs, and one gallon shrubs. And in certain areas  
7 there's a substantial deviation overall.

8  
9 So this is a landscape plan. The code does speak to requiring 25% along  
10 the frontages, so along this roadway here's where some of the landscaping  
11 needs to be distributed up to 25%, and then in the frontage along Crawford  
12 Boulevard. But you can see and maybe this one's a little better, that some  
13 of the trees and shrubs are a little bit sparse. Obviously, there's limitations  
14 as to what they're seeking there. This is the building where Speedco would  
15 go and the Love's Truckstop. Back here's their stormwater management  
16 pond for impervious surface.

17  
18 So the applicant justification for the request is based on the following points.  
19 There's concern on their part that there could be inadvertent damage to the  
20 landscaping due to the large trucks that would go to the site and either be  
21 serviced, fueled that kind of thing. But there's other trucks, other vehicles,  
22 private vehicles that would also use the facility as well. But that's one of  
23 their concerns. They also feel that locating the amount of landscaping that  
24 they're proposing in the front improves the aesthetics, which they would be  
25 required to do at the percentages I mentioned. They also feel that the large  
26 area needs to allow for the operation of the amenities that they offer. They  
27 also feel that the provision for landscape is a considerable financial burden.  
28 And according to information staff obtained it represents 10% of the budget.  
29 They also feel that the irrigation water is scarce in in this area and so limiting  
30 landscaping would help with that.

31  
32 So this is just some of the photos that they provided showing some of the  
33 tread tires going over some of the landscaped areas and causing damage.  
34 Obviously, there's a broken water pipe there, some dug up turf. And then  
35 here one of the boulders that was placed right at this location, best I can tell  
36 has been hit by a truck in its turning movement and knocked the boulder out  
37 of the place it's intended for and into the sidewalk.

38  
39 So in terms of code, or staff analysis, we looked at the zoning provisions as  
40 it relates to variances. And we have three criteria for hardship that's  
41 identified in the Zoning Code. The first one is physical hardship relative to  
42 the property. And that typically speaks to topographic constraints, right-of-  
43 way takes that may have been created through City development  
44 processes, roadways, etc. And we find that none of those exist relative to  
45 the property in terms of hardship. In terms of the second criteria, which  
46 speaks to the potential for spurring additional economic development, the

1 staff finds that allowing less landscaping would not spur economic  
2 development so we excluded that from consideration in our  
3 recommendation to you this evening. And then the third criteria is monetary  
4 hardship. And we recognize that that could provide some hardship, but at  
5 10% of the total budget it didn't seem to kind of register on an equal level  
6 as not doing a big part of the project in its entirety.  
7

8 So staff recommendation this evening is a recommendation of denial. We  
9 find that there's no significant health, safety, or welfare issues during the  
10 review process. The criteria or the variance request itself doesn't meet the  
11 criteria outlined in the Zoning Code, Section 38-10, those are the provisions  
12 or the thresholds for hardship that I've identified. The Crawford Boulevard  
13 as the primary roadway within the enhanced landscape, that's Chapter 5 of  
14 the LCIP master plan, that speaks to that. And what that's calling for is a  
15 very aesthetically appealing frontage along Crawford. And we just don't feel  
16 that the amount of landscaping they're recommending they be allowed to  
17 do would benefit that provision, that policy. And then finally, the variance  
18 doesn't generate economic benefit to at either the neighborhood or City  
19 wide level and therefore, we just don't see a need to deviate that  
20 substantially from the requirements that's written. Those were the findings  
21 that staff identified. I believe the applicant is in attendance, may want to  
22 speak to some of these issues or may have a presentation of their own. But  
23 that concludes staff's presentation. I'll stand for questions.  
24

25 Kaiser: Thank you. Before we go to the Commission, does the applicant wish to  
26 speak or have a presentation? State your name for the record.  
27

28 Van Dyke: Be glad to. Kym Van Dyck.  
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 Van Dyke: I do.  
34

35 Kaiser: Go ahead.  
36

37 Van Dyke: To Chairman and to the board members. I thank you for your time. I'll  
38 briefly ask for a little bit more time than three minutes since this might be a  
39 little bit different than a public comment.  
40

41 Kaiser: Yes, as the applicant you can.  
42

43 Van Dyke: Okay. Yes. And then if you do, I don't know if this is a public comment. Let  
44 me just apologize. First of all, this isn't my project, another real estate  
45 project manager had this project. She's tied up in City Council meetings  
46 tonight and asked me to jump in here since I lived for 30 years here, now I

1 live in Utah. I've been an employee with Lowe's for 27 years. And let me  
2 just start right away with a couple of the comments from City staff of my  
3 request of asking you all to please consider our variance. A variance is  
4 there for a reason. I think our situation out there on the hill is a little bit  
5 different. If you would have driven out there today, you would, and you guys  
6 live here, I don't have to tell you anything you don't know, it blows endlessly  
7 up there when you have your weather. And we're right on the corner. I  
8 went out there, landed late last night, got out there this morning. I haven't  
9 been in town for four and a half, five years. I used to run that store. And I  
10 wanted to take a look because we've been here for over 30 years. I think  
11 we've been a good member of Las Cruces for a long, long time, providing  
12 jobs and sales tax revenue. And just being a good partner out there for  
13 people traveling to Las Cruces and through Las Cruces, cars and truckers.

14  
15 And as you heard me pay say it's Love's Travel Stops. We don't consider  
16 ourselves a truck stop because we cater to everybody, the cars and the  
17 trucks. So going out there I drove all the way out on Robert Larson, past all  
18 the businesses and I think it starts, and I didn't remember this, I think there's  
19 the City landfill out there. Am I correct? Past the prison, there's a landfill.  
20 There is trash starting from there all the way down the interstate as far as I  
21 went, especially when you start topping the hill, on the right hand side is the  
22 roadrunner and a stop place I think.

23  
24 So my point is, I would say, I hope you really consider what we're trying to  
25 ask for is we're rebuilding that facility that has been vital in a way to the  
26 community and us and to our employees, to something even much better.  
27 And the size of it will be great. The comments of, I'm concerned, I've done  
28 this for a long time, ran stores for eight and a half, have worked in real estate  
29 for 17 and done 80 to 100 locations for Love's. That the back side, the  
30 south side and the north side of that new addition, as close as we - my  
31 problems is with the shrubs, mainly with the shrubs. Go back out there,  
32 every mesquite brush along that interstate has plastic bags and trash in it  
33 and you can't hardly get it out. If I could ask for that variance to lean towards  
34 us not putting in the shrubbery. The rock is great, looks great, helps along  
35 the north and south side for sure. Of the future semitruck parking area, I  
36 think it would help a lot to not let that trash accumulate because it becomes  
37 a big burden for us trying to get it out if we can. And I noticed, I didn't do  
38 this formula, but I noticed some of the landscape shrubbery were needle  
39 point agave. You can't go look at all the brushes that already have the  
40 mesquite out there that no one's taking it out of because it's difficult, that  
41 one's going to be difficult. And so will the other two that are in there, the  
42 purple sage that is a California native bush, not a New Mexico brush. I think  
43 those go three to eight feet tall, it's going to be tough. If you look at the  
44 diagram, if someone would like to please bring it up from the City again,  
45 showing the site plan you can see where the trucks will drive in the back off  
46 of Crawford, they're going to drive in here and we've got shrubbery,

shrubbery, a lot of shrubbery, more shrubbery. All of that truck traffic coming in there, it's misplaced. They're going to run over those shrubs just like they should a tire track tracking off. Pretty tough for them to see a scrub down underneath them on that area. I would ask that at least you consider not making us put shrubbery on that backside. And I guess it's a 10% over here in the back area. Again, this is going to be a catch all. All you have to do is look across the street and to the west of us and to the right of us. I would ask that there would be some leniency in the percents along those two areas of shrubbery. I think we're fine with everything else. Kind of tough to go out there and look at neighboring businesses, airport. I know maybe they were there before us 30 years ago, and they weren't. They didn't have to do this. It seems like we're building something that's going to be really nice. And now we're being into a new code, because I didn't see any landscaping to this degree out there. I'd be glad to answer questions if I may. Or I'll end.

Kaiser: Thank you very much. All right, any questions, comments from the Commission?

Smith: I just have a question for staff. I'm a cyclist and I ride out to that area all the time, heading out to Corralitos and through Love's and you know The wind does blow there a lot. And you know, the applicant is correct there's a lot of trash out there, just from the wind you know people just on the highway. And my question with staff it's like, I mean is it really critical that we have that much like shrubbery and landscaping out there? I mean I know it's part of you know the regulation but it just doesn't seem like it's that critical to have it. I mean it is a gas station.

Banegas: Yes, Mr. Chairman, Commissioner Smith. The purpose as outlined in the plan, the LCIP plan being that the property is the corner of a major intersection, kind of a gateway if you will to the industrial park, the emphasis at least in the plan is to kind of showcase the entry properties. And you know there was even mention of a walkway, pedestrian walkway along Crawford kind of seems a little unusual being that there's major trucks traversing but further down you get into other type uses that are perhaps not as intensive. But the one of the ways that the plan and then the overlay considers getting to the gateway concept that was thought through is to provide landscaping and to provide that type of amenity to showcase the property.

Kaiser: Along those lines, this is adjacent to the west industrial park, is that correct?

Banegas: Correct.

Kaiser: And as part of that master plan there's been some really cool green infrastructure concepts incorporated into it. So I'm curious, was there any

1 conversations with the applicant or even among staff about incorporating  
2 some of those elements into something like this?

3  
4 Banegas: Mr. Chairman, members of the Commission. Adam Ochoa, this is his case.  
5 I don't know if he specifically had conversations with Love's regarding that  
6 specific issue. I'm not aware of that. But I do know he definitely was  
7 considering the overall site, what had transpired, some of the grading, that  
8 kind of thing as kind of a concern.

9  
10 Kaiser: Yes, I mean I'm concerned just by the fact this is what a 19 acre site in total,  
11 and I don't know, 85% of that's asphalt. I mean, just as problematic for me  
12 for a number of reasons. So I am not interested in seeing you know a total,  
13 you know going from the 10 to 15% all the way down to a total of 5%. But,  
14 I mean seems like for being really honest, no one's walking out there.  
15 There's no pedestrian connectivity out there. You know but there is an  
16 impact, just from stormwater alone. Even if the site has been mostly  
17 degraded at this point, you're still going to be generating a ton of runoff. It's  
18 going to be hot. You know I will be interested in seeing maybe some  
19 ingenuity here. I mean that's a pretty big stormwater management area. I  
20 mean, certainly you could do low impact development, maybe some low  
21 impact development in other places on the site that at the end of the day,  
22 maybe you don't get to the 15%, 10%, but I think we can do a heck of a lot  
23 better than the 5%, especially with 19 acres and 85% of that give or take  
24 being concrete. That's just one my perspective.

25  
26 Castillo: Mr. Chair. So as Vince was saying that this is kind of essentially a gateway.  
27 The City does plan, and if Vince can go to a different aerial image. Over to  
28 the right hand side of Crawford, so basically the eastbound side or the east  
29 facing side of Crawford, in that corner roughly where the arrow was briefly,  
30 the City is in discussions of creating a type of park and gateway entrance.  
31 So there is going to be a sign as well as a small park providing some  
32 greenery, picnic tables, and you know the main gateway sign saying Las  
33 Cruces Innovation and Industrial Park, so that is going to go on. So we  
34 would kind of want the property to mirror what's going on that way.

35  
36 Kaiser: Yes, I mean I certainly don't disagree. I mean I think the landscaping, I'm  
37 not saying that, get rid of it, I think you can incorporate landscaping in other  
38 ways through green infrastructure. It's better than a dirt hole filled with rock.  
39 I think we can do better. I think there's room for innovation here. I think  
40 you've got the West Mesa Industrial Park there as a good model. I can't  
41 see why you know we couldn't get a little bit creative here, especially we're  
42 talking 19 acres and you know I don't think, the calculations might be on  
43 one of these documents somewhere, but it's a heck of a lot of concrete and  
44 I just don't, I think we can do better than 5% landscaping. If that means  
45 incorporating green infrastructure, I mean, I'd be open to that concept, that  
46 idea. All right, any other questions/comments from Commission? All right,



## Agenda Item #8.1.

1           seeing none. Anybody in the audience that wishes to speak on this item?  
2           All right looking for a motion to approve.  
3  
4   Bennett:     I make a motion to approve 7.4.  
5  
6   Smith:       I second.  
7  
8   Baum:        Board Member Acosta.  
9  
10   Acosta:     I make a motion to approve 7.4, the variance based on economic hardship  
11                and I guess if site plan.  
12  
13   Baum:        Board Member Smith.  
14  
15   Smith:       I vote to deny based on staff recommendation.  
16  
17   Baum:        Board Member Porter.  
18  
19   Porter:      I vote to approve based on new findings and I feel like it a little bit of Elevate  
20                Las Cruces.  
21  
22   Baum:        Board Member Murray.  
23  
24   Murray:      I vote to deny based on staff recommendation, the lack of landscaping for  
25                gateway.  
26  
27   Baum:        Board Member Bennett.  
28  
29   Bennett:     I vote to deny based on staff recommendation.  
30  
31   Baum:        Chair Kaiser.  
32  
33   Kaiser:       No, based on staff recommendation.  
34  
35   Baum:        Motion fails.  
36  
37   Kaiser:       Staff.  
38  
39   Banegas:     Mr. Chairman. Point of order. What I'm, correct me if I'm wrong, but I  
40                believe I heard two motions in the voting, one to approve one to deny etc.  
41                So was there an original request to approve the case. That, yes. And then  
42                someone denied it.  
43  
44   Kaiser:       So you're saying there wasn't a second motion.  
45

1 Banegas: Well, it sounded to me that some of the members were making motions as  
2 part of their votes, maybe I miss heard.

3  
4 Kaiser: That's not my interpretation.

5  
6 Banegas: Okay.

7  
8 Nichols: Speaking with legal and the recorder we're thinking there was a four to two  
9 vote to deny. Is that correct? Okay.

10  
11 **7.5 Case 24ZO5000003:** A request to approve an Infill Development Process (IDP)  
12 request and associated development standard deviations for a proposed 15-unit  
13 apartment complex. The development proposes three two-story buildings  
14 consisting of five apartment units each on property zoned R-1a (Single-Family  
15 Medium Density). The subject property encompasses 1.12 + acres in size and is  
16 generally located east of the BNSF Railroad tracks on the south side of McClure  
17 Road at 725 McClure Road within the Infill Development Overlay District.  
18 Submitted by Amado and Lucinda Rivas – Mesilla Valley Properties LLC, property  
19 owner. Council District 4.

20  
21 Kaiser: Okay moving to our final item this evening. This is item 7.5 a request to  
22 approve Infill Development Process at 725 McClure Road. Staff back to  
23 you.

24  
25 Banegas: Sorry for that last one. My ears are playing tricks on me. Get we're all a  
26 little tired. I'm tired. So this last item involves property that you all have  
27 seen previously at 725 McClure Road. It is an Infill Development Process  
28 involving a 15 unit apartment complex. Previously, since this is familiar, you  
29 were considering a 20 units. So this is a change from the initial submittal,  
30 and we're now talking 15. The code does allow resubmittal of new. This is  
31 intended to be a new request. It's not a carryover of the old, and that's why  
32 they were allowed to submit within the timeframe they did.

33  
34 So the property is zoned R-1a. It's our single-family medium density zoning  
35 district. It's currently vacant and undeveloped property. There was a  
36 residential structure on it, demolished back in October, I'm sorry August of  
37 2022. As part of the original 3.63 acre lot there was a subdivision that came  
38 in called October Sky in 2021. And they split the property into two. Part of  
39 the property which is under consideration here is a 1.12 acre parcel that's  
40 after dedication of a 15 foot strip along the frontage of that piece. The other  
41 2.5 acres was purchased by the City for drainage improvements, a project  
42 to improve drainage in that neighborhood in that area. So as a result, the  
43 subject property is vacant. It's within the boundary of for infill development  
44 and thus a qualifying parcel.

1 Additional current conditions, the neighborhood is primarily single-family  
2 with most developments supported by the R-1a zoning district. Several of  
3 the R-1a properties appear to be nonconforming in use. For instance,  
4 there's a duplex, a quadplex, and some multifamily in the form a mobile  
5 home park within the R-1a district. The duplex, there's a duplex lot that's  
6 R-2 that's approximately 1,000 feet northeast of the lot and then there's an  
7 apartment complex within an R-3 zone about 1,150 feet southeast of the  
8 subject lot. The property is within the suburban neighborhood place type  
9 that's pursuant to our Elevate Las Cruces Comprehensive Plan. And it is  
10 characterized, the place type is characterized as providing low to moderate  
11 density residential with intermixed commercial uses. And the land uses that  
12 specifically are characterized in that place type, it speaks to single-family,  
13 multifamily type dwellings, retail, office, institutional, and public type uses.  
14

15 McClure Road is designated as a major collector roadway and that's  
16 pursuant to not only Elevate but the Mesilla Valley MPO's land use or street  
17 classification map. The primary purpose of collectors in general is to collect  
18 traffic from the local roadways in the neighborhoods and then distributes  
19 that traffic to arterials. The arterials in this matter is Valley Drive along the  
20 west side and of course Alameda on the east. There was currently some  
21 traffic count information that was collected and identified on the Mesilla  
22 Valley MPO website. Those are the most recent counts they have collected  
23 for that. They count them or do their traffic counts has an annual average  
24 weekday trip numeric or I guess count. And what I found as part of that  
25 collection is the following, Valley Drive, this is McClure Road, so from Valley  
26 Drive to Carlyle Drive, that segment is identified as having 3,727 peak hour  
27 or weekday trips I should say, per day. 2019 was the year it was collected.  
28 From Carlyle drive to Highland Avenue is 4,521, that was collected in 2018.  
29 And then from Highland to Alameda Boulevard is 3,864 collected in 2019. I  
30 did have a call regarding these counts and how they're a little dated to which  
31 I checked with MPO staff and they try to do a three year cycle on their  
32 counts. Certainly within a five year period of time those are acceptable  
33 timeframes for counts to be used for development purposes when they use  
34 traffic generation or TIA's, that kind of thing. So these numbers, although  
35 they don't necessarily follow the three year timeframe that MPO tries to  
36 achieve, they're within the five year timeframe, certainly within it rather  
37 closely.  
38

39 McClure Road is estimated as a level of service of C. Level of service is  
40 basically a yardstick to help describe operational conditions of either a  
41 roadway in its entirety or segments thereof. Looks at speed and travel time,  
42 traffic movement, interruptions that might exist along the roadway, comfort  
43 and convenience. And again, estimating a level of service for McClure, in  
44 talking with various staff members, it's anticipated that it would come in  
45 pretty close to a level of C. And this is just an illustration that came from  
46 Transport 2040. It's something that they use. Level of service can be

1 identified and earmarked for automobile, bicycle, pedestrian, and bus or all  
2 four collectively. But in simplistic terms, I'm not a traffic engineer so I'm not  
3 going to get into the weeds with this. But in some simplistic terms, the rating  
4 scale for level of services from A to F. In fact, as shown here, they're  
5 grouping two levels per graphic illustration. But you'll see that the A/B which  
6 is the best level of service for any given roadway, you see a very, could be  
7 a busy roadway but in this case, it's not. That's because there's not a lot of  
8 traffic that travels this roadway. You don't see a lot of cross traffic trying to  
9 get across to the other sides, etc. There's not a lot of traffic conflicts. Then  
10 you get into a level of C and D and you begin to see traffic backing up a little  
11 bit. It's definitely getting more congested, but still functional. And then you  
12 get into your E and F, and typically when we get to F we're talking gridlock  
13 in certain instances, and not very successful roadway design as a result.  
14 And you could do the same for a bicycle pedestrian and bus. Staff is  
15 certainly aware that you know bicycle facilities, there's a sharrow portion of  
16 bicycle facilities along McClure. In fact, there's bicycle path as per the bike  
17 map of the MPO that shows facilities going from Valley Drive over to the  
18 railroad tracks, and then from the railroad tracks further east is what is  
19 considered to be at some future date or actually today as they continue to  
20 improve a bike boulevard or a shared facility. So that's why they have the  
21 sharrows, they need to be restriped admittedly, but that does exist within  
22 those segments.

23  
24 There is also a multiuse lane that goes south along the Armijo Lateral, which  
25 is in the vicinity, I'll get to a map here shortly. and is anticipated to go down  
26 across McClure, on the south side of McClure along the property in question  
27 over to Second Street, which is across the railroad tracks and then further  
28 down all the way to Amador.

29  
30 So this is the zoning map that speaks to the area in question. You'll see R-  
31 1a is a predominant zone in this area. This is that R-2 zone that I spoke to.  
32 And then off the map a little bit further south is where those multiunit  
33 apartments, the R-3 zoning designation exists. But along this area you  
34 certainly see an abundance of R-1a zoning. These are the properties here,  
35 I believe here, and here, and I believe here where you began to see the  
36 introduction of multifamily dwellings on the properties, elsewhere though it's  
37 it appears single-family in nature. And this is an aerial showing some of the  
38 surrounding development. This was the other portion of the parcel that got  
39 subdivided through the October Sky subdivision that I mentioned. And this  
40 is the piece in question.

41  
42 A couple of photos looking directly at the site, along McClure Road looking  
43 east and the property is here where the cursor is, and along McClure Road  
44 looking west. Railroad tracks are right about here. So the proposal that  
45 has come in is a 15 unit apartment development. There will be two points  
46 of ingress and egress. In fact, I can kind of summarize the proposal in that

1 what was submitted back under the 20 unit proposal looks pretty similar to  
2 what is being submitted with the 15 unit proposal site plan. Two points of  
3 ingress/egress. There's going to be three five unit apartment buildings, two  
4 stories each building, and each unit is roughly 884 square feet in size. They  
5 are proposing 29 automobile parking stalls and eight bicycle parking stalls  
6 and those meet current code requirements. There's also a dog park, open  
7 space, and landscaping that's shown in front of the property to help screen  
8 and buffer the multifamily buildings on the south side of the property.  
9

10 The specific deviations in table form, R-1a standard along the top, what the  
11 requirement is and the requested standard. So for the rear setback R-1a  
12 zone calls for 20 foot minimum setback, they're requesting seven feet. The  
13 density is eight dwelling units per acre, maximum in the R-1a zone. Based  
14 on what they are requesting at 15 units, it comes out to 13.4 dwelling units  
15 per acre. And obviously the number of dwellings, one maximum in the R-  
16 1a currently and they're requesting 15. And except for these deviations all  
17 other code requirements will be followed.  
18

19 This is a site plan showing the most recent submittal. These three buildings  
20 haven't deviated from their location when you look at the original proposal,  
21 they have eliminated the fourth one here. So these with five units each  
22 constitute your 15 unit. They have open space located here landscaped,  
23 grass. You've got ponding areas on either northern corners of the property,  
24 northeast and northwest. You've got one on the southwest corner of the  
25 property. This is the dog park. As reflected you can't see the notation but  
26 that is to be grassed in as well. All the parking is primarily along the  
27 buildings themselves. And these are your access points here. This along  
28 here represents your 15 foot dedication; I should say for future road  
29 improvements. During the October Sky subdivision process when it went  
30 to our Development Review Committee, it was mentioned that that 15 feet  
31 would be used for the multiuse trail that I mentioned where the trail goes  
32 down to Armijo Lateral to the south side of McClure and connecting over to  
33 Second Street. So that's how this dedication factors into that.  
34

35 So the proposal also shows the floor plan as anticipated here. Each of  
36 these is to two story unit, so you have your living quarters of course on the  
37 bottom with their bedrooms up top. So you just stack this on top of that one.  
38 And this is just an elevation façade of the front of each of the buildings that  
39 are being proposed.  
40

41 So in terms of analysis, staff did not feel based on what was submitted and  
42 based on further analysis of the area that the proposal was substantially out  
43 of character. We did not fill it was substantially out of character with the  
44 surrounding area. Certainly with the land uses, nonconforming or otherwise  
45 that I identified. When asking some of the engineer staff on hand about  
46 traffic and trips per day and peak hour trips per day, etc., some rough traffic

1 generation estimates placed it at 25. That's peak hour trips, basically three  
2 times a day. That's the type of traffic that this proposal would either bring  
3 in to the site or leave the site. Trip generation model will be requested at  
4 the time of permit submittal should this be approved. And they'll have to  
5 show that that 25 is a realistic number, maybe it's a little more, but certainly  
6 based on the number of units it does not appear to be the case. So it's likely  
7 that that number will not trigger the need for a TIA when a permit comes  
8 through, should again this be approved. Just to give you an idea when one  
9 is required is if there's a calculation through the trip generation of 100 peak  
10 hour trips per day, that could trigger a TIA. It can also be at the DRCs  
11 discretion. And it could also be at the traffic engineers discretion, given  
12 some other criteria like square footage. When we talk of commercial  
13 buildings, which this is not, you know certain square footages would trigger  
14 one. And all those seem to not be triggering the need for a TIA based on  
15 our development standards. The reviewers in this proposal did not see any  
16 significant health, safety, or welfare issues associated with the proposed  
17 IDP specifically. There's considerable support via the IDP through our  
18 Elevate Las Cruces Comprehensive Plan. In fact, this is kind of one of the  
19 rare cases that you'll find a really high degree of support in the goals,  
20 policies, and actions. And oftentimes, you'll find also some policy that's  
21 contrary to the proposal, and you can find some of those but the number of  
22 positive over negative you know there's a considerable difference and a lot  
23 of support for that in the comp plan.

24  
25 You also have you know just if you look at the densities that are outlined in  
26 the place type designation, it talks about density descriptors or descriptions,  
27 single-family it talks about four to 12 dwelling units per acre, well, they're at  
28 13.4, so just a little bit above. But from a multifamily designation it's looking  
29 at a range of 15 to 30, and they're below it. So if you look at that density  
30 equation it's lending a lot of support there too.

31  
32 So in terms of public notice and input, due to the nature of this case, much  
33 like the earlier case, early notification was a required element of notice. And  
34 the applicants were given the list of property owners and they have  
35 complied with that. There's also the case notice that staff uses for every  
36 case we have, and that was sent out and staff did receive numerous e-mails  
37 and phone calls in opposition of this case. The opponents cited traffic  
38 concerns, road design deficiencies, proposed high density development  
39 versus the low density that exists in the area, increased crime,  
40 neighborhood incompatibility, and McClure Road speeding, potential area  
41 development and by that they're referring to potential development along  
42 Valley Drive for instance that might use McClure as a through road.

43  
44 So staff's recommendation this evening to the Commission is conditional  
45 approval based on findings. The conditions, first of all, speak to the  
46 applicant/owner working with the City in the installation of the pro rata share

1 of roadway improvements adjacent to the subject property. And again that'll  
2 probably likely be the multiuse trail to help complete that segment. The  
3 applicant/owner shall comply with all other development standards beyond  
4 those deviations requested pursuant to the IDP. So findings for that  
5 recommendation is as follows, the development of the vacant property to  
6 productive use is consistent with the Infill Development Plan and the  
7 corresponding overlay. It is eligible for the Infill Development Process as  
8 per Section 38-48A of the Zoning Code. It's supported by various goals,  
9 policies, and actions that I spoke to. Support speaks to place type densities,  
10 promoting growth in older areas of the City, promoting and facilitating infill  
11 development, variety of housing types, property sizes, etc, etc. So there's  
12 a lot there to show support. And then via the October Sky subdivision, I  
13 touched on that, the 15 foot right-of-way to help facilitate the trail  
14 improvements. That's going in. The proposed a number of units, if you look  
15 at the proposal itself will have little impact on McClure Road as a whole in  
16 terms of traffic patterns. McClure Road is classified as a major collector.  
17 And even though there are right-of-way constraints and variable paving  
18 widths that exist, you know that is an understandable concern, but again  
19 based on the peak trips for this proposal, it does not look like it's going to  
20 be a make or break type situation for the success of McClure at this point in  
21 time.

22  
23 The previous proposal was deemed excessive and problematic for the area.  
24 And just to refresh everyone's memory, the P&Z, the motion to approve  
25 failed because of a two/two tie. It was later appealed to City Council and  
26 that failure to approve was upheld by the Council. There was a reduction  
27 in five units from the original proposal. And it was stated that there was a  
28 threshold of 15 units that could be considered as meeting the intent of the  
29 various codes, policies, etc. And that's what they have come in with is  
30 something along the lines of 15 units. And finally, the IDP meets the intent  
31 of Elevate Las Cruces and is supported by the purpose and intent outlined  
32 in the Zoning Code and the criteria for decisions. And your options this  
33 evening is to vote "yes" and approve, vote "no and deny, recognizing that  
34 new findings of fact will have to be presented and that those of staff are in  
35 support of the request. You can vote "yes" with the condition staff has  
36 indicated or some additional ones if you wish, and you can vote to table.  
37 And that concludes staff's presentation. And I believe Lucinda Rivas is in  
38 attendance or other representative to speak on behalf of the proposal. That  
39 concludes staff's presentation.  
40

41 Kaiser: Thank you. Does the applicant wish to make a statement or give a  
42 presentation?

43  
44 O'Carroll: Good evening. my name is James Carroll.  
45

1 Duran: Good evening chairman. I'm Lucinda Durn. I'm also with Mesilla Valley  
2 Properties.

3  
4 Kaiser: And do you swear or affirm that the testimony you're about to give is the  
5 truth and nothing but the truth under penalty of law?  
6

7 O'Carroll: I do.  
8

9 Kaiser: Go ahead.  
10

11 O'Carroll: So good evening, everybody. I don't really have much more to say than  
12 what staff has already mentioned here. Honestly, I know there's a lot of  
13 opposition to this from the neighborhood, which is really unfortunate. Green  
14 space was a really high item listed throughout a lot of the development  
15 earlier tonight. And as you can see on the site plan, I'm not quite sure how  
16 to revert back to that. We've really done our best here to actually implement  
17 a lot of green grass space, dog park area, actually that center area is going  
18 to be multifunctional. So actually, as a matter of fact that's going to be  
19 grass, trees, we're going to have some canopies, some grills. I mean  
20 honestly, I don't know what more we could do to actually make this a better  
21 area for the community. I know traffic is an issue for neighbors. That's  
22 Public Works. That's not Community Development. So I think 15 is a very  
23 generous number here for everybody. Aside from that, I mean, I'm open to  
24 answering your questions. I don't know if Lucinda here would like to touch  
25 base anymore.  
26

27 Duran: I just kind of wanted to go back to when we purchased this property. It was  
28 an abandoned house. And when we walked in it had so much drug  
29 paraphernalia in it. We really thought we were doing the neighbors a favor  
30 by purchasing this and wanting to develop it. I'm actually quite shocked at  
31 the opposition that we had been faced with and the threats. So we put a  
32 huge fence around it to try to keep out the vagrants and they cut a hole in it  
33 and they burned it to the ground. And so now it's been empty this whole  
34 time. And we've been really trying to do something good with it. Mr. Rivas's  
35 mom lives a block away. And it was her idea for us to purchase this. So  
36 my cousin lives on McClure and he says, the traffic is, it's a thorough way,  
37 it is there's no denying that. The traffic is heavy during rush hour. And  
38 when high school gets out, but on weekends, it's quiet. Other than that, it's  
39 quiet. Putting 15 units, we have another plot, we have another complex.  
40 And we have students, we have nurses, we have you know people that work  
41 on shifts, we have people that work from home. There's no saying that all  
42 of our tenants are going to be leaving at eight o'clock, and causing a lot of  
43 congestion. That's just not true. And I personally am going to be screening  
44 them. We're not going to, you know there was rumors about low income,  
45 that's not true, we're going to be a good neighbor to them just as much as  
46 we want to be a good neighbor to my cousin, and a good neighbor to Mr.



1 Rivas's mother. And we're going to raise their property values. I promise  
2 that. And that's basically just what I wanted to say.

3  
4 Kaiser: Thank you to both of you. If you have questions, don't go far. Any questions  
5 from the Commission?

6  
7 Murray: Can I ask three quick questions of you guys. Three quick questions, is the  
8 deviation from the 20 foot back setback for the additional green space in the  
9 front? Is the property still gated as the original proposal? And then since  
10 you're emphasizing the green spaces, that's something only for the  
11 apartment users or is that for the community as a whole?

12  
13 O'Carroll: So the setback actually, you asked about the rear space, correct? Yes. So  
14 that rear space there, that's a setback that we were asking to deviate from  
15 because we came so far off the right-of-way on McClure. I believe that was  
16 the reasoning. If not, we can definitely scooch our buildings forward. That's  
17 not an issue by any means. It is gated as well. So the entire perimeter of  
18 this area is a gated community, essentially. Based off some crime statistics  
19 and whatnot we've pulled we feel it'd be best interests of them. And then  
20 lastly, is your question regarding the green space. Yes, because it's gated,  
21 obviously, it only be accessible to this this park complex. We would  
22 encourage obviously; some you know benches and whatnot in the front  
23 area. I mean we're not against anything of that means.

24  
25 Kaiser: I've got just a question for staff. So going back to the trail element of this.  
26 I'm having a hard time kind of understanding how beneficial that is when  
27 you sort of zoom out to the full context of McClure Road, the whole stretch  
28 has been identified as a bike boulevard. And if you look at the entire  
29 context, we know and I think it was even stated in the staff report that we're  
30 probably never going to see the full right of road required per its  
31 collector designation, right. The only way that's ever going to happen is if  
32 the City chooses to use eminent domain, and that's a lot of parcels. And so  
33 I'm just kind of struggling to see how all this connects together. If you look  
34 at this parcel on its own, you pull it, let's say you put the trail there, what is  
35 it connecting to? It doesn't connect to anything. And the likelihood of  
36 eventually connecting to something seems pretty low given that really  
37 you've got one larger parcel that could potentially be redeveloped at which  
38 time you would get right-of-way, but that's no guarantee. And then beyond  
39 that you're never going to see the full 85 foot right-of-way away or whatever  
40 it is. So I'm just trying to understand how the trail request here actually fits  
41 into the concept of a bike boulevard. That's the question. We'll stop there.

42  
43 Banegas: Mr. Chairman, members of the Commission. In terms of staff's review of  
44 the MPO's bicycle plan, that's one issue because it shows bike lanes  
45 coming long here, stopping right at this point, and then from this point here  
46 at the railroad tracks over to Alameda, that's where it's identified as the bike

1 boulevard and/or shared facility where you see sharrows, etc, in certain  
2 locations. But that's one aspect of it. The Parks and Recreation multiuse  
3 plan or multiuse trail plan I should say, identifies the trail coming along the  
4 Armijo Lateral here, down to the south side of McClure, coming across on  
5 the south side, and this is where that 15 foot comes in. This is the portion  
6 that the City would be responsible for and is committed to doing, and then  
7 connecting on Second Street. And that's where the trail would continue all  
8 the way down to Amador. So one document identifies this as the trail  
9 connection all the way down to Amador. But the other MPO bike plan shows  
10 the facilities as identified, so it's kind of two separate things, but that 15 foot  
11 helps tie in the bike trail or the multiuse trail for that purpose.  
12

13 Kaiser: Okay. I think so I guess just to level set here, so the Active Transportation  
14 Plan, this is what they identify. This is their definition of a bike boulevard,  
15 "beyond signs and markings, bike boulevards generally feature features at  
16 the top of there, such as speed humps, curb extensions, diversion  
17 treatments, select bike boulevards can be implemented as cool corridors to  
18 offer a truly comfortable biking experience." So I guess just going back to  
19 the full context, it's, to me it's not just that section between the trail west to  
20 Second Street, but it's going all the way to Alameda. And it just seems like  
21 the trail component is sort of contradictory to what a bike boulevard is as  
22 defined by the Active Transportation Plan. But even more so I think the  
23 important thing is, and I know we're going to hear this from some members  
24 of the audience tonight, and you've spoken to it a little bit in the comments  
25 that you received, is the whole point of a bike boulevard is to have the  
26 shared facility that emphasizes the non-automobile travel. And to do that  
27 you implement traffic calming measures, which slows traffic and actually  
28 ends up if done correctly would divert or discourage through travel by an  
29 automobile, which I think is what a lot of residents are concerned about,  
30 rightly so. And so I think the bike boulevard concept makes a lot of sense.  
31 And I'm just, it seems like the trail piece here sort of doesn't quite fit with  
32 that conceptual notion. And the fact that you're never going to get that going  
33 all the way to Alameda, to me it seems like maybe we ought to focus on  
34 what is the long term opportunity of this section of McClure, and maybe use  
35 that pro rata share to do more of the bike boulevard conceptual elements  
36 versus a trail. So that's just my statement. I'm not necessarily asking for  
37 you to respond, but that's just kind of where I'm coming from. When you  
38 kind of look at this as a full neighborhood context.  
39

40 Castillo: Mr. Chair. To actually respond to yours. The Active Transportation Plan or  
41 ATP does call out the eastern portion of McClure as a bike boulevard, but it  
42 also calls it out as being able to be marked as sharrows. So it would actually  
43 function as both.  
44

45 Kaiser: Yes, but let's not confuse the two. Sharrows do not equal a bike boulevard.  
46 A bike boulevard ...

1  
2 Castillo: I understand that. But it does call out in the ATP as being able to function  
3 as both, or one, or the other.  
4

5 Kaiser: Okay, I mean I look at the Active Transportation Plan, it's very clear, the  
6 whole stretch from I guess the railroad tracks east to Alameda is a bike  
7 boulevard. And a sharrow is not a bike boulevard. And I think a bike  
8 boulevard implemented correctly would actually resolve a lot of what I think  
9 we're going to hear about tonight and have heard about certainly in the last  
10 iteration of this, is these traffic concerns. This project has nothing to do, the  
11 traffic concerns exist now. Whether this is 15 units or one single-family  
12 home, the traffic problems are there and they'll persist. And I think there's  
13 an opportunity here to use this as a little bit of a catalyst to get closer to the  
14 ideal state that I think a lot of residents have been asking for, for quite some  
15 time. And I think there's an opportunity here to look at it in the fuller context.  
16 And I just want to be very clear on the record that a sharrow is not a bike  
17 boulevard. Those are two very distinct things. So anyway, I'll get off that.  
18

19 Any other questions, comments from the Commission? All right. We will  
20 go ahead and open up to public comment. Can I get a show of hands those  
21 who wish to speak? We have many folks, 16, or 19. So here's what we're  
22 going to do. We're going to give everybody two minutes to speak. And  
23 before we do that, I would just like to do a quick poll, just so we have an  
24 understanding of who is for this project. Can I get a raise of hands for  
25 anyone that's for that, is for this project. All right. Seeing none.  
26

27 Raise of hands everyone that's against this project. Okay. So I'm going to  
28 ask that we're respectful in our comments tonight. And I also would like to  
29 ask that we eliminate the cross talk. When people are speaking, there's  
30 one person at the podium and that person is the speaking, they have the  
31 microphone. Because when there's crosstalk, we have a hard time hearing.  
32 But more importantly, the person that has to go do the minutes for this  
33 meeting is going to have a hard time putting those minutes together. So  
34 respect for that, I will ask that the crosstalk be nonexistent. Also I would  
35 like to respect everybody has opinions that they would like to share, there's  
36 going to be a lot of overlap. I understand that everyone's going to have two  
37 minutes. And I'm going to give you the to the full two minutes. But bear in  
38 mind, there's a lot of us. And you know, at some point, we have to make a  
39 decision on this case. So just keep that in mind as you hear people speak,  
40 you know let's try to get through this as best we can. So I would just  
41 appreciate that cooperation. So I'm going to go ahead and give everybody  
42 two minutes starting over here. So go ahead.  
43

44 Gonzales: Hello. My name is Ramon Gonzales.  
45

1 Nichols: In addition to the comments that the Chair just made about speaking to this  
2 item. We do have this listed as an agenda item for the Infill Development  
3 Process, approval for Infill Development Process for the development,  
4 standard deviations. So that means it wouldn't be talking about redesigning  
5 the streets and those type of issues. In other words we want to stay on  
6 topic for what the agenda item is, if you could please. And we will be  
7 changing it to three minutes in lieu of two, because we have given every  
8 other case three minutes this evening.  
9

10 Kaiser: Thank you. And sorry could you state your name for the record? I'm sorry  
11 to cut you off there.  
12

13 Gonzalez: Roman Gonzalez.  
14

15 Kaiser: And do you swear or affirm that the testimony you're about to give is the  
16 truth and nothing but the truth under penalty of law?  
17

18 Gonzalez: Yes.  
19

20 Kaiser: Go ahead, sir.  
21

22 Gonzalez: Hello, Chairman and Councilmembers. I wanted to first let you know that  
23 me and my wife live right over here. And we just finished purchasing this  
24 home. And we didn't know, I mean there was one single home where they  
25 said they knocked it down. And from going to that to 15 units seems  
26 extreme. Also, on this picture, I see that Second Street right here, is way  
27 bigger than the street right over here across the tracks. We don't have  
28 streetlights. There was an accident here the other day. And right over here  
29 is the private road next to what they want to build. And this is our home  
30 right here. Right here. Right here. So every time we want to drive out, it's  
31 a you know partial, like a dirt road. And our utilities are right out here on the  
32 road, my water, our gas, and my mailbox is across the street on my  
33 neighbors property. And this property over here, one owner owns all this  
34 area. There's three homes. And he also runs utilities on the left side of that  
35 private road, water, gas. And as far as I know this is the last, the biggest  
36 farm that we have inside Las Cruces left. So I mean, previous talk to this,  
37 it's a good idea and all that to develop and for Las Cruces and everything, I  
38 just have a problem with the zoning and the 15 units that they really want.  
39 So I mean, they could develop it as is. But I think the community's against  
40 the 15. Thank you guys.  
41

42 Kaiser: Thank you. All right, and we're just going to move from  
43

44 AUDIENCE MEMBER SPEAKING, NOT AT THE PODIUM.  
45

1 Kaiser: Yes, we can do that. Since you took public transit we'll make that  
2 accommodation. Yes, sir. Could you state your name for the record?

3  
4 Weiler: My name is Yuram Abdullah Weiler.

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 as well?

8  
9 Weiler: Yes.

10  
11 Kaiser: Go ahead.

12  
13 Weiler: My wife and I live at 700 Sombrero Court, which is diagonally across the  
14 BNSF railroad from this property that's under discussion. I basically have  
15 four items that I wish to point out here. And all of this information is from  
16 previous sessions regarding this property that people on your staff have  
17 brought up that, in my opinion, has not been adequately addressed. One  
18 of the first and primary is the fact that this lies in a flood prone zone. Former  
19 deputy director of Public Works, Tony Trevino, who is a professional  
20 engineer, stated that the area experiences heavy flooding, even with small  
21 amounts of rain. The problem results from French drains being the only  
22 method of flood control. As a result, the rain has no place to go but into  
23 other people's properties and onto the road. And in recognition of this  
24 problem, the City bought the other two-point something acres of this  
25 property in order to put in a flood control area. It would seem not  
26 unreasonable that before any construction is done on this property  
27 whatsoever, that flood problem needs to be addressed, period. Because  
28 anything that's put on that property is going to take away from the land area  
29 that can absorb moisture. That's number one.

30  
31 Number two, what is being referred to as traffic ingress and egress from the  
32 property. I'm rather astounded by some of these pictures, especially the  
33 ones showing, looking what would be west on McClure Road, it seems to  
34 completely overlook the presence of the BNSF tracks. Visibility is restricted.  
35 Accidents occur when people are making left turns off of McClure Road  
36 going on to Second Street, you can see the debris in the streets. Now,  
37 when the railroad crews come through and dress that track, they risk, they  
38 raise up the crossing, it keeps getting higher and higher. So whatever  
39 visibility there is such that at Second and McClure people making a left turn  
40 are having trouble and getting into accidents. How much more so in this  
41 case? Someone coming out of this proposed development going to the left  
42 getting onto McClure. Literally one of the, how shall I put it, more  
43 enthusiastic drivers trying to see if they can do an Evil Knievel maneuver  
44 going over the tracks may possibly have a head on with somebody coming  
45 out of this development. As aside you know maybe some kind of left turn  
46 lanes or something of that nature. And I see it by the clock I'm already

1 running out. I beg your indulgence. Just a couple of seconds here, please.  
2 Housing density, I've just heard that the housing density is okay. Well by  
3 your own figures it would appear to be before with 20 units, 11 times the  
4 surrounding area. Eleven times the density by my own off the wall  
5 calculation, now it would be seven or eight times. This is okay.  
6  
7 Kaiser: Thank you, sir. Appreciate your comments.  
8  
9 Weiler: Please.  
10  
11 Kaiser: We've got ..  
12  
13 Weiler: I understand but there's one more very important thing you completely  
14 overlooked. That's the amount of train traffic going down.  
15  
16 Nichols: I'm sorry sir. You'll have to leave the podium. We have to be fair to others.  
17  
18 Weiler: The railroad should be addressed. This is a significant issue.  
19  
20 Kaiser: We understand. Thank you.  
21  
22 Weiler: Thank you.  
23  
24 Kaiser: And then was there a second? Did you both want to speak?  
25  
26 UNKNOWN: No, sir  
27  
28 Kaiser: Okay. Coming back to where we left off, so what we're going to do is if you  
29 can just keep track of the order, we'll go this direction, snake our way  
30 through. Please state your name for the record.  
31  
32 Peralta: Rosaura Peralta.  
33  
34 Kaiser: And you swear or affirm that the testimony you're about to give is the truth  
35 and nothing but the truth under penalty of law?  
36  
37 Peralta: Yes.  
38  
39 Kaiser: Go ahead.  
40  
41 Peralta: Okay, so I wanted to let you guys know first of all that this was our third  
42 meeting and I did not once receive a notice from the City that we were going  
43 to have this meeting. Back in February, the beginning, I got a call from Mr.  
44 Kevin Wilson, asking me personal questions. And I did tell him that I was  
45 the actual owner of that home. And he never stated that we were having  
46 another meeting. So we hung up and then he called again and told me

1           sorry for the conversation that was taking place that he was actually talking  
2           about another resident in front. So I don't know. And then plus the collision  
3           that we had, head on collision in the beginning of February and then we  
4           also had a little kid that got hit by a car hitting her, but when he swerved  
5           there was another lady pushing her stroller and almost hit the lady across  
6           the street on McClure. This happened at the beginning of February. That's  
7           it thank you.

8  
9   Kaiser:       Thank you. Can you state your name for the record?

10  
11   Wheeler:     David Wheeler.

12  
13   Kaiser:       And do you swear or affirm that the testimony you're about to give is the  
14           truth and nothing but the truth under penalty of law?

15  
16   Wheeler:     Of course.

17  
18   Kaiser:       Go ahead.

19  
20   Wheeler:     I'm at 603 McClure, right in front of these folks. Nice to meet you. Boy,  
21           she's right. How many times do we have to go through this? And you put  
22           on a good argument, I'll give you that much. If I ever have to deal with my  
23           soul you're the guy, because you can make it seem really nice. But here's  
24           the deal. We want good neighbors. I don't think that no neighbors is a good  
25           thing. But too many neighbors is a bad thing. Right there, I'm looking at it  
26           right here. The families that had this property since the 1810. So long ago.  
27           It's really unfortunate that, well what's the Las Cruces, the Celebrate Las  
28           Cruces. What's t the big home improvement, what is it called? Elevate Las  
29           Cruces. You know, all the name of this program, you go into this old, old  
30           neighborhood that enjoys it you know just the way it is and the thing is you're  
31           right, the traffic is bad now. Adding more cars is going to be worse. Listen,  
32           I want them to build. You know they have every right to build. I bought  
33           duplexes. You know, why not have six houses, six couples, six families.  
34           You talk about you know breaking the zone density on this thing. It's already  
35           breaking it by the other guy said like seven times. I'm you know, they bought  
36           that property and they wanted to build on it and I understand that. But no  
37           one else heard anything about this. No one knew anything about this. We  
38           have, God I don't remember, I kind of off track, it's late now. Been sitting  
39           here for two hours. But you know, we're not against having these people in  
40           here. It's just we want to make sure that no one else gets hurt. Bikers aren't  
41           going to McClure are already taking their lives in our own hands. And you're  
42           right, it is a problem already. But I don't want to make it any worse. And  
43           the guy behind me, and this fella here, need that driveway. They need this  
44           whatever it, driveway right there to get to their house. The way they were  
45           building before they're going to take away that driveway. They can't make  
46           me sell them property to have their driveway. So I'm not, whatever man. I

1 hope you don't approve this because I think it's too much. I think if you  
2 update it and make it for like six, like three duplexes, three buildings, but  
3 duplexes then they get their buildings, fine, because we're never going to  
4 see them after they build this. We're never going to see them again. Thank  
5 you.

6  
7 Kaiser: Thank you. All right, next up.

8  
9 Carrillo: Hello. My name is Rosie Carrillo.

10  
11 Kaiser: And do you swear or affirm that the testimony you're about to give is the  
12 truth and nothing but the truth under penalty of law?

13  
14 Carrillo: I do.

15  
16 Kaiser: Go ahead.

17  
18 Carrillo: My name is Rosa Carrillo and I have been a resident of McClure for her 46  
19 and a half years. My husband has lived there, born and raised, for 73 years.  
20 We just want to stay there. Opposition is not about improvement. It's a  
21 safety issue. As you can see the points that we're concerned about, they  
22 have already been shown. We did a PowerPoint, but apparently we don't  
23 have time for that. We have a video showing the accident. As you saw the  
24 studies and the traffic increase. Adding more density will only increase  
25 more accidents and the possibility. My husband and I have encountered  
26 near head-ons just by turning to the right and a car passing. There's no  
27 passing lanes, restrictions. So any, it's a free for all. We hear the cars, rev  
28 their cars are over the railroad tracks on through McClure, in front of our  
29 house. We live right smack in the middle of it across from the neighbors  
30 that just spoke, and we see them speed. We saw the child in the video, if  
31 you, I have the PowerPoint, but I don't know where it, you know why it's not  
32 up but it shows the child hit on the bike and almost striking like Isabelle said.  
33 The bike path mentioned in previous hearings as you saw it, it's very  
34 dangerous. It's a suicide bike path. Because like you said it's a collector  
35 road. It's a speeding road. People speed and they pass. And with the  
36 accidents that have happened it's proven. Just adding more density to this  
37 road will add more danger to this road. And it's a collector road. It's a funnel  
38 road. All these Fields of Dreams events, and all these people that work in  
39 White Sands or go up, they in us that road to travel through there to get to  
40 the highway. So it is very busy and very dangerous. For time sake, I'm just  
41 going to kind of cut, go through this and to state this thing. I can say I for  
42 one would rather see an eyesore out of my window than a dead body. And  
43 while that may seem like a dramatic statement, adding dense population  
44 just further exasperates the problem and a fatality. But it is only a matter of  
45 time. And when that does happen I wonder if this moment, this proposal,  
46 this hearing will be noted as the catalyst that put that event into motion.



1 Adding these signatures historically to that death certificate. I must ask  
2 when will we put lives over the almighty dollar? Thank you for your time.

3  
4 Kaiser: Thank you. Please state your name.

5  
6 Mattox: Linda Mattos. I'm ...

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

10  
11 Mattox: Yes, I do Mr. Chairman.

12  
13 Kaiser: Go ahead.

14  
15 Mattox: I would like to make a quick note that there was an electronic petition passed  
16 around on McClure and I live on Golden and I canvassed Carlyle. I didn't  
17 hear any reference to you having received that electronic petition. I heard  
18 about phone calls and e-mails. But I'm bringing that to your attention. Like  
19 I said, I live on Golden Drive. And the way I get out of my cul-de-sac is I  
20 turn left and go toward McClure or turn right and go toward Hoagland. My  
21 concern is not knowing maybe where that egress is going to be. Is it going  
22 to be directly across from Carlyle to get onto McClure? We already have  
23 increased congestion and traffic from the other development on the west  
24 side of the railroad tracks years ago. And I think we've kind of reached our  
25 max. And if there is traffic in this new developed area that can't get down  
26 Alameda, what's it going to do? It's going to cross on Carlyle and then jam  
27 up Hoagland. And there's already congestion back from Alameda on both  
28 of those streets where there's no light and it causes the side streets then to  
29 have to be used. And a lot of times the congestion gets to the point where  
30 you can't use the side streets, has been my experience. The way I  
31 calculated you know the 15 units, you've got two adults that work, maybe  
32 you have a kid, and they go to work. So that's maybe three trips a day,  
33 three times 30 is 90, then you have visitors. And I see that there's parking  
34 inside the gated community, which is great. But that already puts us up  
35 doesn't it to the 125 trigger number for the TIA, or whatever you referred to  
36 it. So I think we're already at maximum, if that, we definitely are over the  
37 maximum if that does go in. My concern also is the width of McClure. There  
38 is, at 606 there is a power pole on each side of that road and there is no  
39 grace. And you know that's something the developer can't do anything  
40 about. There's also no grace on the width of the abutment that goes over  
41 the ditch bank, and maybe that's BLM stuff. So again, we're restricted with  
42 those two lanes, and that's a setup. And I've attended each of these  
43 sessions, and they talked about emergency access at one point, they said  
44 they could make do. And so this added development, you know I don't know  
45 what the front's going to look like and how it's going to change the make do  
46 emergency access, but I need emergency access to my home if I have an

1 emergency. I don't feel safe walking down McClure. I like to walk the ditch  
2 banks but I go another way, because the street, I did not, I don't feel safe.  
3 Thanks.

4  
5 Kaiser: Thank you. All right, going to the next row. Yes, come on. Please state  
6 your name.

7  
8 Pai: Presanna Pai.

9  
10 Kaiser: Do you swear or affirm that the testimony you're about to give is the truth  
11 and nothing but the truth under penalty of law?

12  
13 Pai: I do.

14  
15 Kaiser: Go ahead.

16  
17 Pai: So if you look at this place, I've been a resident of Las Cruces for 22 years.  
18 We have taken care of this family, me and my wife Dr. Pai. Now, so again,  
19 this is not about not in my backyard. Like David said, have some reasonable  
20 homes if you want to six, seven, whatever you want in that acre, a single-  
21 family home or a duplex. But I live is I own the green portion that you see,  
22 other than right in front of McClure. I own the rest of the green, it's 10 acres.  
23 The only access to that is that narrow pathway. Okay. Now, if you read the  
24 Elevate Las Cruces on page 58 to 77, all my developments, commercial  
25 developments which I do for Memorial or for Mountain View, Elevate asks  
26 me even if I don't, if someone else wants a land next door, I need to give  
27 access to them, left/right so that it isn't you know people don't put a wall  
28 there saying you cannot go on my parking lot. So if you look on Camino  
29 Coyote, all the developments have shared access. Now, in this case, what's  
30 going to happen is you have that one acre you're going to put 15 on it, you  
31 have a narrow pathway and you blocked the entire 10 acres for further  
32 development. So this is not increasing housing, it is not increasing anything  
33 because you're going to lock out a complete 10 acres for that one acre by  
34 not allowing that path. What should have been done is we should have sat  
35 together; we should have seen that we can expand that particular spot so  
36 that both can be developed at some point. Right now I'm not developing it,  
37 but at some point I will have to develop it because the water is getting  
38 restricted and eventually the trees are going to die there. There is no way  
39 out. EBID is only giving us one watering. There is not enough ground water  
40 to keep those things alive. I'm barely keeping them alive. But ultimately  
41 they will have to be developed to single-family homes. At that point, that  
42 whole thing will be locked as a dust bowl. Now every house there had the  
43 same problem. The two homes which, it's not two homes it's one home  
44 separate. There was also be drug paraphernalia. I invested in it and I  
45 cleaned it up. All the homes are that way. So it's nothing special. But the  
46 amount of traffic, there's a 90 unit coming up on Three Crosses, which will

1 use McClure. Ninety. One on Valley which is going to be 315 units, which  
2 will be using McClure. So my point is, if it is not, it's not complying to Elevate  
3 in spirit or law, it's not even congruent to it because we should have at least  
4 sat and expanded the driveway to make everybody comfortable and be able  
5 to develop it for further use. Otherwise, you're going to have a big dust ball  
6 there when I'm gone. Okay, thank you.

7  
8 Kaiser: Thank you. Please state your name for the record.

9  
10 Marca: Jerry Marca.

11  
12 Kaiser: Do you swear or affirm that the testimony you're about to give is the truth  
13 and nothing but the truth under penalty of law?

14  
15 Marca: Absolutely.

16  
17 Kaiser: Go ahead.

18  
19 Marca: My main concern with this project is safety. There are no sidewalks to be  
20 seen anywhere in that area. Pedestrians are at the mercy. The only thing  
21 missing on McClure is a flagman. It is a racetrack. When our high school  
22 lets out, like I say the only thing missing is a flagman. All the way to  
23 Alameda. There are again, no sidewalks. Whatever everybody has said.  
24 Safety and you're going to jam 15 more units in there, at least two people  
25 per unit, possibly two cars. Traffic study is outdated. 2019, five years old.  
26 There certainly has been an increase in traffic since that traffic study was  
27 done. Thank you for your time.

28  
29 Kaiser: Thank you. I'm sorry we've got to keep going through this. There's a lot of  
30 people that wish to speak. Please state your name for the record.

31  
32 Ruzal: My name is Hal Ruzal.

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

36  
37 Ruzal: Yes, I do.

38  
39 Kaiser: Go ahead.

40  
41 Ruzal: Okay, my name is Howard Ruz. And I live on McClure speedway. Some  
42 people call it McClure Road, that's because you haven't been there. It's  
43 ridiculous. Adding 15 more units, it's just going to exacerbate a problem  
44 that is severe to begin with. I hope you guys realize that. Now, we got a  
45 zoning law in the City of Las Cruces. Zoning laws are put in place for a  
46 social good, i.e., a reduction of traffic, keeps neighborhoods from getting

1 too overcrowded. This zoning law is for the public welfare, the public  
2 benefit. These laws benefit society as a whole. What's a variance? A  
3 variance is some developer wanting to break the law. That's all it is. We  
4 got a law here. And this clown decides I want to put tons of apartments  
5 here.  
6  
7 Nichols: Excuse me, sir. Be respectful of the speakers and ..  
8  
9  
10 Ruzal: Okay.  
11  
12 Nichols: And watch your language please.  
13  
14 Ruzal: Okay council members. Do you guys want to aid and abet this person from  
15 breaking the law? You want to help them break the law? That's what I'm  
16 saying, asking. I mean that's what we have. We have a variance is a  
17 breaking of the law. I hope you guys realize that. Who is this developer  
18 think he is breaking the law? Who is he think he is? That's why I ask. So  
19 I beg the powers that be which are you guys to reject his variance that only  
20 benefits one person and is a detriment to the whole community at large.  
21 Thank you.  
22  
23 Kaiser: Thank you. Okay, going to the next row.  
24  
25 Lappinga: My name is Don Lappinga.  
26  
27 Kaiser: And you swear or affirm that the testimony you're about to give is the truth  
28 and nothing but the truth under penalty of law?  
29  
30 Lappinga: I do.  
31  
32 Kaiser: Go ahead.  
33  
34 Lappinga: A lot of what I was going to say has already been said so I'm going to be  
35 very brief. And I live on 320 McClure and I'm a cyclist so I appreciate your  
36 comments. The main concern I have is changing these variances. What's  
37 it going to do to the other properties on McClure? 307, it's not abandoned  
38 The fellow lives in California. It's a large lot. And he hasn't been there. And  
39 also what we lovingly call McClure ruins right across from me, 323 to 325  
40 is abandoned for about 20 years. That's a very, that's going to be a very  
41 attractive sight to developers hungry eyes, once we figure out what  
42 happened. So changing this what does that do to the floodgates of  
43 changing other properties on McClure. We also have Kismet and McClure  
44 which is a vacant lot. So that's my concern. Living in a beautiful  
45 neighborhood with single-family. I'm the block captain. I know everybody.

1 And I love that neighborhood. And I'd like to see it stay the way it is. Thank  
2 you.

3  
4 Kaiser: Thank you. All right is there another speaker in that row? All right. So did  
5 we skip you or did move forward because we're ...

6  
7 AUDIENCE MEMBER SPEAKING, NOT AT THE MICROPHONE.

8  
9 Kaiser: Okay. Is there anybody, we're trying to stay in some logical order here.  
10 Was there anybody beforehand that wished to speak? No. Okay, so you're  
11 the last person on this side of the room. Then we'll go to this side of the  
12 room. Please come forward.

13  
14 Nations: Hi, my name is Justin nations.

15  
16 Kaiser: And do you swear or affirm that the testimony you're about to give is the  
17 truth and nothing but the truth under parallel of law?

18  
19 Nations: Yes.

20  
21 Kaiser: Go ahead.

22  
23 Nations: Tonight, I will be referencing two articles which can be found in Las Cruces  
24 development code, published by the Las Cruces City Council in the Las  
25 Cruces, New Mexico codes of ordinance. I would like to reference Chapter  
26 37, Article V, Chapter 38, Article I which are devoted to the infill subdivision  
27 process and the zoning code. Under Chapter 37, Article 5 a criteria for  
28 decisions concerning all requests the Planning and Zoning Commission  
29 shall review the comprehensive plan future land use plan, and other  
30 applicable plans and codes determining whether the request will impair an  
31 adequate supply of lights and air to adjacent property or adversely affect  
32 adjoining properties. Unreasonably increase traffic on public streets.  
33 Increase the danger of fire or endanger public safety. Constitute a spot  
34 zone. Adversely affecting adjacent property values. Spotting zoning means  
35 singling out a lots or small area for a zoning change out of harmony with the  
36 comprehensive plan and surrounding land. Using it to secure special  
37 benefits for particular property owner without regard for adjacent  
38 landowners rights. The intent of this code is to encourage the most  
39 appropriate use of the land, promoting the health, safety and general  
40 welfare of the community to improve each citizens quality of life. The  
41 regulations with this code are deemed necessary. Residents of McClure  
42 Road and the surrounding neighborhood have consistently opposed this  
43 development proposal due to the concerns about inadequate infrastructure,  
44 increased crime, frequent traffic accidents, and overall the detriment to the  
45 area. These ordinances were established by the City of Las Cruces to  
46 ensure that all citizens and community members have a voice, specifically

1 regarding major changes in the building and land development. As  
2 mentioned earlier, Mesilla Valley Properties development proposal on  
3 McClure Road falls under the definition of spot zoning. While Mesilla Valley  
4 Properties claims motivation for growth and improvement in the area,  
5 current residents in McClure and the surrounding neighborhood vehemently  
6 oppose their plan citing inadequate infrastructure, rising crime, frequent  
7 traffic accidents, and the overall negative impact of the community. It is  
8 evident that the primary beneficiaries of the development are the builders  
9 themselves not the surrounding community. Approving this IDP would  
10 constitute spot zoning. According to the City's codes and ordinances, the  
11 request for the zone. Okay. I'll just leave it there. All right.  
12

13 Kaiser: Thank you. All right coming over to my right hand side of the room. We'll  
14 start at the very back and we'll go forward.  
15

16 Ames: I'm Mary Ames.  
17

18 Kaiser: And do you swear or affirm that the testimony you're about to give is the  
19 truth and nothing but the truth under penalty of law?  
20

21 Ames: I assure swear.  
22

23 Kaiser: Go ahead.  
24

25 Ames: Well, people have said most things. I'm trying to keep this on task. I do  
26 want to thank the good neighbors for all of the hard work they put in. A lot  
27 of the things that they've done behind the scenes, they didn't get to speak  
28 to or show you tonight. Because of the petition for the second request for  
29 variance, there was a comment there that pointed out the conflict of interest.  
30 And I took that up and I have requested the state attorney general to send  
31 some forensic accountants to do some investigation of all the developments  
32 that have been approved. Somebody's lining their pockets. It seems to me  
33 from what I've seen your God is called development. And in a few years,  
34 you're going to be drinking dust. So I have another online petition  
35 change.org. We have well over 60 signatures. But right now everybody's  
36 talking as if this is a done deal, and it probably is. There were promises  
37 made when the first sale happened. The developer came in thinking it's  
38 going to be an easy shot. My concern is what's going to happen during the  
39 construction period. How long is this going to take? Will they be done in a  
40 month? Will they be done in five years? You don't know. And how much  
41 destruction of McClure Road or the bicycle boulevard as the Bougies of  
42 Elevate want to call it. What's that going to cause us? I really thought when  
43 I moved here that Las Cruces was a nice cute little town. And I am so sorry  
44 I moved here. I am so sorry I invested in a home, that I improved the home  
45 and quite frankly I can't wait to get the fuck out of dodge.  
46

1 Kaiser: Thank you. Okay, who is next in the last row. No, I'm sorry we need to  
2 keep going. Was there someone in the, okay, coming to the row in front.  
3 Yes, come on down then.  
4

5 S. Archuleta: Hi. My name is Sarah Archuleta.  
6

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

10 S. Archuleta: Yes, sir.  
11

12 Kaiser: Go ahead.  
13

14 S. Archuleta: So a few things that I just want to address, especially with the TIA, a couple  
15 of things that like you may not be able to answer now. That's fine. But just  
16 some things to consider is when this data was pulled, if it was during the  
17 school year, or if it was during the summer and how that affects his  
18 projection for the average daily traffic. Another thing to consider since that  
19 was five years ago, there have been changes, of course, population  
20 increase, I'm sure that was taken into account. However, the school year  
21 has been extended. And so we are as the Las Cruces public schools, right,  
22 it has been extended to more of a year round type structure, more school  
23 days in a year. That's beside the point. But anyway, that will affect those  
24 numbers I would imagine. So one thing to consider there. So I think a new  
25 kind of traffic impact analysis would be very beneficial. Especially I mean,  
26 I live on Carlyle. We've been living there for a few years now. We have just  
27 anecdotally have seen an increase in traffic. But of course, I'm a math  
28 person, I do believe that the data is important. And I do think that the data  
29 needs to be reevaluated.  
30

31 I appreciate the developers effort to make some changes and everything to  
32 try to bring some green space. It seems like they do care. However, I think  
33 as far as the community goes, clearly there's lots of opposition. Our  
34 problem isn't so much with, at least in my opinion isn't so much with  
35 appearances, are we going to be able to see the apartment complexes, its  
36 safety and that's something that's been spoken about. And I am, tomorrow  
37 I'll be nine months pregnant, and we have a little boy on the way and hearing  
38 that a child has been struck or nearly struck on McClure terrifies me. And  
39 so to me, I'm sorry. It's very important to take safety into account far more  
40 than appearances and how much money we can make. I'm not concerned  
41 about the increase in my home value. I am concerned about the safety of  
42 my future children and living in this area. And so as far as one of the points  
43 that was made was that this could be a catalyst for change for having  
44 improved traffic, like potentially putting a stoplight, putting things in place  
45 that will be better for the community and better for McClure and for Carlyle.  
46 I live on Carlyle the traffic there's awful. Traffic on Hoagland is terrible. It

1 is not safe. I don't feel safe walking on McClure. This could be a catalyst.  
2 But I think what's more important is putting that safety first as opposed to  
3 putting the development first. So in terms of creating this catalyst, the traffic  
4 needs to be addressed before any development begins. And that's kind of  
5 where I see it. Thank you.

6  
7 Kaiser: Thank you.

8  
9 J. Archuleta: Hello. My name is Jacob Archuleta

10  
11 Kaiser: Do you swear or affirm that the testimony you're about to give is the truth  
12 and nothing but the truth under penalty of law?

13  
14 J. Archuleta: Yes, sir.

15  
16 Kaiser: Go ahead.

17  
18 J. Archuleta: So Mr. Chairman and members of the Commission. As far as the Elevate  
19 Las Cruces movement, we clearly see incentives for highly profitable rental  
20 complexes, outdated master plans for concrete jungles, but not much  
21 movement for shared community gardens, additional parks, no additional  
22 walkways to Benavidez Park. But I think the community's just asking to fix  
23 existing issues that all of our neighbors have mentioned. It also sounds like  
24 no action is done for any R-2, -3 violations that occur and maybe that should  
25 be fixed first. This is my first meeting. And I've noticed a trend  
26 unfortunately. So of course there's no (*inaudible*) in general. We're a  
27 neighborhood of residential homes. And an apartment complex will not only  
28 disrupt the residential needs, but will increase the probability of increased  
29 congestion on the road, increased risk to people walking, and no safe way  
30 for children to walk to the three schools and parks in the area. Like my wife  
31 had just mentioned. If there's already a congestion problem, I see that to  
32 approve anything that increases congestion is irresponsible to Las Cruces  
33 residents. More families are moving into the neighborhood, which means  
34 more kids and I'm concerned for children's safety in general. The  
35 congestion has gotten so bad that I've seen people drive along the railway.  
36 So the estimates for 2019 is simply irresponsible and not correct now. We  
37 need to have that correct data. This is not consistent with the character of  
38 the neighborhood. And along with everything else, here agrees this will only  
39 create more problems. I have not seen one infill development plan that  
40 seems to agree with the constituents or residents but only beholden to the  
41 outdated master plans that were created at a time where climate change  
42 and less emissions, walking, biking, hiking, were apparently not a concern.  
43 Just because these requests are not profitable should not mean that they  
44 are not doable. I propose if we approve variances, we must also approve  
45 clear existing issues like bike lanes on McClure to the safety, to the schools  
46 and parks, a stoplight to help with traffic and safety crossing the street,



1 speed bumps. You know and then if we want to go above and beyond like  
2 you guys had mentioned in the, or you have pictures of it, but you know  
3 maybe community gardens. But 29 additional vehicles added to that road  
4 is a bit much considering no recent traffic statistics. Of course, the  
5 additional bike racks are a joke because we can't safely ride bikes. We  
6 would need to increase the quality of life here in Las Cruces not just the  
7 quantity. So if you cannot solve the existing issues, we implore you as your  
8 constituents to not add more. Thank you.  
9

10 Kaiser: Thank you. Please state your name for the record.

11  
12 Dennis: Deborah Dennis.

13  
14 Kaiser: Do you swear or affirm that the testimony you're about to give is the truth  
15 and nothing but the truth under penalty of law?  
16

17 Dennis: I do.

18  
19 Kaiser: Go ahead.  
20

21 Dennis: Good evening. I wish to speak to the issue of traffic and security. I live on  
22 Palmer road which is to the south of McClure. And my concern is that  
23 Community Development, Public Works never takes in consideration the  
24 larger picture of traffic, it's only limited to a small area within the  
25 development. I'd like to call your attention to the fact that the road  
26 immediately to the south of McClure is Linda Vista, followed by Palmer,  
27 followed by Ethel. Those are all dead end streets. We have no way out  
28 except on Alameda. Palmer and Linda Vista both dead end on the lateral,  
29 and Ethel dead ends at Holy Cross. Living on Palmer means that we are in  
30 the only area in the entire City where on one end Alameda, we have  
31 Alameda Elementary School, and on the dead end we have Holy Cross  
32 Church. And I can tell you after 45 years, that traffic is a nightmare. You  
33 want to talk about only 15 more units that are going to empty out onto  
34 Alameda. Come any morning you want and you're going to see the traffic  
35 backed up to Three Crosses all the way down to Picacho because of the  
36 school traffic of Holy Cross funneling in from all parts of the City into our  
37 narrow streets of Palmer and Ethel. They come in their SUVs with one child,  
38 drop them off, and they're always in a hurry or late for work. And if you think  
39 it's only on weekends, think again, because Holy Cross has activities every  
40 single day, seven days a week, either at the church or at the school. So it  
41 is constant. Ethyl has been on the ICIP list for five years to be  
42 reconstructed. And that is happening right now. They're in the design  
43 phase. They expect to do that work beginning sometime this summer, or  
44 late fall. And what it's going to do is it's taking four feet out of the street to  
45 accommodate ADA compliant sidewalks and so forth. So our streets are

1 being narrowed at the very time that you're going to be funneling traffic on  
2 to Alameda from McClure. Thank you.

3  
4 Kaiser: Thank you. All right, this will be our final speaker.

5  
6 Ruprecht: Good evening, Mr. Chair, and Commissioners. My name is Jo Rupprecht.  
7 And I do so swear. I'm longtime resident of the neighborhood, and of Las  
8 Cruces and Mesilla at one point. I'm battling cleanup and so I've got three  
9 very quick comments that pick up on things said by others, but not fully  
10 stated perhaps. One is about the train traffic that the gentleman wanted to  
11 comment about before he was out of time. What we've noticed in the  
12 neighborhood is that the trains have become more frequent, again with the  
13 end of the COVID crisis. And they have upped the speeds and extended  
14 the length of the trains so that the train traffic will be obstructing McClure  
15 and other intersections in a greater way than it has been experienced  
16 before.

17  
18 Another quick comment, the gates that are noted as being for this  
19 development do not lend themselves to the character of the neighborhood  
20 in terms of it being an open and shared space. I understand the gates in  
21 terms of perhaps security or some other concerns. Well, we have on  
22 Miranda another apartment area called the Miranda where they have gates.  
23 Two gates, similar drive path to what's proposed here. When one of those  
24 gates isn't functioning everything's coming out one of those gates. About  
25 half the time, one or the other of the gates is damaged and not functioning.  
26 In this case with the McClure situation, when that gate is closed, and  
27 somebody's trying to go into this development, they're going to be holding  
28 up traffic because the gates are not very far set back from the roadway,  
29 from what I can see on the diagram. So I think that's a problem. And I  
30 would hope that perhaps they'll consider not gating it so that there is easier  
31 and more efficient access and egress on this property.

32  
33 The third thing is even quicker. There are 29 parking spaces allowed but  
34 there's 15 units. So they're planning isn't even providing two parking spaces  
35 for each unit, a guest and a resident. So I think they're shy of parking  
36 spaces if they look at the reality of it. I don't think many people are going to  
37 want to buy into the idea that they have only one and a half spaces or one  
38 and three quarters spaces to use.

39  
40 Okay, now this is the bigger comment. I want to applaud each of the  
41 speakers this evening from the neighborhood in how they've organized the  
42 comments for you, because they really have come in with this diverse set  
43 of perspectives, and with some very specific comments to City staff. And  
44 so in my perspective the residents are showing greater vision and greater  
45 attention to the overall issues than the City staff is. The City staff is  
46 constraining their comments to the present situation that severely damages

1 this 10 acres plot that the gentleman was talking about. That's not pie in  
2 the sky as far as we wonder if this, that land will be developed. And there  
3 needs to be some attention paid to what happens with not just this property,  
4 but the other properties around as things develop.

5  
6 Kaiser: Thank you. That's done. I'm going to go ahead and close public comment.  
7 But I do also just want to extend my thanks to everybody tonight and your  
8 cooperation in getting through these comments. Really appreciate it. Are  
9 there any other comments from the Commission? Commissioner Smith.

10  
11 Smith: I'm going to issue an apology right now. And it's getting late. And I know  
12 you've been here a long time and you've waited a long time to have an  
13 opportunity to speak on this issue. So I'm just going to make a few points  
14 here. And I'm going to try and make them as quickly as possible. First  
15 point, contrary to the woman who is now, she left, but you know as far as  
16 you know decisions already being done, it's a done deal, that's not true in  
17 any sense. All of the City here, we are residents of this City. We love this  
18 City. And we have the same concerns that you have about the  
19 neighborhoods that we live in. So I just wanted to make that point.

20  
21 Second of all, I've been a resident Las Cruces for 25 years. Twenty years  
22 ago I was a Las Cruces police officer. I am very, very familiar with the  
23 issues on McClure and Hoagland. I used to go on shift and what am I,  
24 depending on the day, the first place I went to was right off Hoagland,  
25 Hoagland Drive I think it was, Road. There's a side street right before you  
26 get to Alameda that parents and students would dodge and there was a  
27 home right on the corner that the homeowner had two daughters. And they  
28 complained to me that no one will stop at that stop sign. And would I actually  
29 sit on this dead end street, and if they actually stopped at the stop sign and  
30 took a look to the left and right as you're supposed to do when you get to a  
31 stop sign. They would see me sitting there in my unit. I wrote so many  
32 tickets at that corner. I wish I could remember the name of the side street  
33 but it's off Hoagland right before you get to Alameda. So I'm disappointed  
34 that after 20 plus years the issues on Hoagland and issues on McClure  
35 continue to happen. I'm just surprised that the City hasn't really taken the -  
36 because this isn't about this 15 unit complex. It's about the safety of that  
37 area and the streets of that area. There's a high school there. There's an  
38 elementary school there. There's a church nearby. And the infrastructure  
39 of that street, McClure in particular has not changed in a very long time.

40  
41 Another point I want to make is, and this is personal. My oldest son before  
42 he relocated to Santa Fe, lived on Debby Circle, and I'm sure you know  
43 what that is, if you live in that neighborhood you know what Debby circle is.  
44 And you know I'm a grandparent of five kids, I have five grandkids, four of  
45 them lived off Debby Circle and McClure. And whenever I visited I had to  
46 deal with that traffic and I know what it's like. It is a speedway. I live on

1 Melendres. We call Melendres, the Melendres 500. You call it you know,  
2 the McClure speedway. I'm familiar with that. So we sit here as a  
3 Commission, not as someone who's you know in a position to not have a  
4 heart and understanding of what it means to be a citizen of this town, and  
5 issues that you have. And so I thank you too, for bringing you know your  
6 issues to the forefront, because they've continued to happen for a long, long  
7 time. And I'm hoping that as we go forward, this City is growing, there will  
8 be more development in this area. But how it's done, and how we approach  
9 it where the citizens matter, the safety matters, our children matter. We  
10 can't grow in a good way unless we address these issues. Thank you.

11  
12 Kaiser: Any other comments or questions? I'll just sort of end on one note and sort  
13 of echo Commissioner Smith and his comments. There is a serious housing  
14 affordability issue. We know it. We all know it. It's now nationwide following  
15 the pandemic. There is no community that has managed to escape it,  
16 including us. But the answer to that issue is not to not build housing. We  
17 desperately need housing. And we need more than single-family housing.  
18 We just had an item earlier tonight where we had similar issues that were  
19 being voiced by those residents. And their argument was not here. Here,  
20 we have a similar argument, not here. So then the question becomes,  
21 where? Where do we build housing? We have to build it somewhere. And  
22 I think there's a lot of consensus that's come out of the planning process  
23 with Elevate Las Cruces and other recent policy documents that suggest  
24 going out further into the desert isn't what we want. This is a prime  
25 opportunity to invite new residents into a community, into a neighborhood  
26 that would have an opportunity to walk to downtown. They'll have an  
27 opportunity to walk to the elementary school. They'll have an opportunity  
28 to walk to the church. And yes, it is not safe, it is currently not safe. And I  
29 feel you when you say that. I know you probably don't believe me, but I do.  
30 And I'm just as angry and frustrated and fed up with the situation as well.  
31 And so I see this as an opportunity for us to collectively channel that  
32 frustration. And let's see some change here. But it's not about this 15 units.  
33 These same issues, these safety issues that you're describing, they will  
34 continue regardless of whether or not the applicant decides to build 15 units  
35 or one unit. They won't go away. So we have to make decisions. And I  
36 feel like there's good ways to go about it. And this is an opportunity to have  
37 a project that's within the downtown, not the downtown corridor, but within  
38 the urban core. And I think this is going to be a positive in this  
39 neighborhood. I think it's going to bring some new energy. And I think we  
40 have an opportunity to seize on the fact that this applicant is going to have  
41 to provide some funding to address the issues of McClure Road. So let's  
42 collectively find some innovative strategies to make that happen. Leverage  
43 this influx in cash that's ultimately required to make that happen. So that's  
44 my position and I just wanted to rather than just give you my vote to at least  
45 explain where I'm coming from. So with that, we will go ahead and look for  
46 a motion to approve.

1  
2 Acosta: Motion to approve 7.5.

3  
4 Smith: Second

5  
6 Baum: Board Member Acosta.

7  
8 Acosta: I vote yes based on staff recommendation.

9  
10 Baum: Board Member Smith.

11  
12 Smith: I vote no. I just still feel that the infrastructure of that road is just not there .  
13 All this time still too dangerous for further development. As much as we  
14 need housing, as much as I love being downtown, as much as I love seeing  
15 downtown grow, I just think that they, we have to continue to work in that  
16 area, on the road infrastructure before we can yuk have this type of  
17 development.

18  
19 Baum: Board Member Porter.

20  
21 Porter: I vote no, due to new findings, infrastructure, and safety concerns.

22  
23 Baum: Board Member Murray.

24  
25 Murray: I vote yes, based on Elevate Las Cruces and staff recommendation.

26  
27 Baum: Board Member Bennett.

28  
29 Bennett: I'm voting to deny because of public safety concerns due to inadequate  
30 infrastructure on McClure.

31  
32 Baum: Chair Kaiser.

33  
34 Kaiser: Yes, based on staff recommendation and consistency with Elevate Las  
35 Cruces.

36  
37 Baum: Chairman. We have a tie, which means it fails.

38  
39 Kaiser: All right. I just want to reiterate; I thank you all for coming out and being  
40 part of this process. I know it's been a late night. So thank you for your  
41 cooperation and your patience.

42  
43 **10. DISCUSSION**

44  
45 **11. STAFF ANNOUNCEMENTS**  
46

1 Kaiser: Staff. Do you have any announcements?

2  
3 Nichols: Mr. Chairman. No announcements this evening. And thank you very much  
4 for your attention to all the cases this evening.  
5

6 **12. ADJOURNMENT (9:40)**  
7

8 Kaiser: All right. Thank you very much. And looking for a motion to adjourn.  
9

10 Smith: I move that we adjourn.  
11

12 Bennett: I'll second.  
13

14 Kaiser: All in favor.  
15

16 MOTION PASSES UNANIMOUSLY.  
17

18 Kaiser: Thank you all. We'll see you in March.  
19  
20  
21  
22

23  
24 \_\_\_\_\_  
Chairperson



**Planning & Zoning Commission 2/27/2024**  
**CASE 24ZO5000003 INFILL DEVELOPMENT PROCESS**

|                              |                                                                                                                              |
|------------------------------|------------------------------------------------------------------------------------------------------------------------------|
| <b>STAFF CONTACT:</b>        | Vincent Banegas, Interim Planner (575) 528-3085, <a href="mailto:vbanegas@lascruces.gov">vbanegas@lascruces.gov</a>          |
| <b>OWNER:</b>                | Mesilla Valley Properties LLC                                                                                                |
| <b>REPRESENTATIVE:</b>       | Lucinda Rivas                                                                                                                |
| <b>DISTRICT:</b>             | District #4                                                                                                                  |
| <b>SITE ADDRESS:</b>         | 725 McClure Road                                                                                                             |
| <b>EXISTING ZONING:</b>      | R-1a (Single-Family Medium Density)                                                                                          |
| <b>REQUEST:</b>              | Approval of IDP and associated deviations to allow for a multi-family development fifteen (15) units on property zoned R-1a. |
| <b>RELATED APPLICATIONS:</b> | N/A                                                                                                                          |
| <b>RECOMMENDATION:</b>       | <b>Conditional Approval</b>                                                                                                  |

**SUMMARY OF REQUEST CASE 24ZO5000003:** The applicant is requesting approval of an Infill Development Process (IDP) with associated deviations to allow for construction of a 15-unit apartment complex in an R-1a (Single-Family Medium Density) zone. Currently, the R-1a zone for this site allows one single-family residence. The property is ± 1.12 acres in size and is located on the south side of McClure Road east of the BNSF Railroad tracks.

**SUMMARY OF RECOMMENDATION:**  
Staff is recommending **Conditional Approval** based on the findings listed below:

- The IDP request was previously submitted and denied in that applicants were seeking approval for twenty (20) units which was deemed excessive and problematic for that location.
- A reduction of units via this request (proposed 15) seeks to address/reduce previous concerns regarding development scale, density, and traffic impacts.
- The density proposed will have a nominal impact on McClure Road traffic patterns.
- McClure Road is identified as a major collector by the Elevate Las Cruces Comprehensive Plan and the Mesilla Valley Metropolitan Planning Organization (MVMPO). The roadway exists within constrained right-of-way having variable widths.

- Via the October Sky Subdivision, fifteen feet (15') of additional right-of-way has been dedicated for a future multi-use trail, sidewalk and/or other requested right-of-way improvements adjacent to the subject property. Said improvements will be required at time of development of the parcel.
- The proposal aligns with the Elevate Las Cruces Comprehensive Plan in context to several goals, policies, and actions.
- Per the comprehensive plan, the property is within the Suburban Neighborhood place type which supports a gross density of 4-12 dwelling units per acre (du/ac) for single-family development and 15-30 du/ac for multi-family development. The proposed density for this proposal is 13.4 du/ac.

The staff recommended **conditions** for approval are as follows:

- The applicant/property owner shall work with the City and install their pro-rata share of right-of-way improvements which may include a multi-use path or sidewalk along the portion of right-of-way which fronts the subject property.
- The applicant/property owner shall comply with all development standards beyond those development standard deviations requested per this IDP.

**PROPOSAL AND LAND USE HISTORY**

---

**PROJECT DESCRIPTION:**

The applicant is seeking an IDP proposal to develop the vacant property, currently zoned R-1a, into a 15-unit apartment complex. At present, the R-1a zone allows a maximum of 1 dwelling unit per lot regardless of size. The site will be developed with three buildings, each having five units, thirty automobile parking stalls, and eight spaces for bicycle parking. The structures are designed for two-story occupancy, and each unit is approximately 844 square feet in size. Except for the number of units, the maximum R-1a density threshold, and the required minimum rear-yard setback, the proposed development will follow all other development standards within the 2001 Zoning Code, as amended.

| R1-a Standard     | Requirement  | Requested Standard |
|-------------------|--------------|--------------------|
| Rear Yard Setback | 20' min.     | 7 feet             |
| Density           | 8 du/ac max. | 13.4 du/ac.        |
| # Dwellings       | 1 max.       | 15                 |

**LAND USE HISTORY:**

The property had an existing vacant single-family dwelling that was demolished in August 2022. The subject property was part of a larger ± 3.63-acre parcel that was subdivided via the October Sky Subdivision mid-2021. The City of Las Cruces purchased ± 2.51 acres for a drainage project. Currently, the applicant is seeking redevelopment of the remaining ± 1.12-acre vacant lot for a 15-unit apartment complex.



## **ZONING DECISION CRITERIA AND POLICIES**

| <b>POLICY</b>                                                                              | <b>DOES IT COMPLY?</b> |
|--------------------------------------------------------------------------------------------|------------------------|
| <b><u>Neighborhood Character and Compatibility</u></b>                                     | Yes                    |
| <b><u>Elevate Las Cruces Comprehensive Plan</u></b>                                        | Yes                    |
| <b><u>Mesilla Valley Metropolitan Planning Organization (MPO) Thoroughfare Plan</u></b>    | Yes                    |
| <b><u>Compliance with Infill Development: Section 38-48</u></b>                            | Yes                    |
| <b><u>Criteria for Decisions: Article 2, Section 38-10 (C) of the 2001 Zoning Code</u></b> | Yes                    |

### **NEIGHBORHOOD CHARACTER AND COMPATIBILITY:**

The surrounding neighborhood is primarily single-family with most of this development pattern supported by R-1a (Single-Family Medium Density) zoning. That said, there are several R-1a zoned properties near the subject property that appear to be nonconforming in use. These properties have duplex, quadplex, and multi-family (mobile home park) uses on them within the R-1a district. A parcel zoned R-2 (Multi-Dwelling Low Density) is approximately 1,038 feet northeast of the subject property and is developed as a duplex property. The nearest R-3 (Multi-Dwelling Medium Density) zoning is  $\pm$  1149.9 feet southeast of the subject property and is developed as a multi-family apartment complex called The Miranda. Given the make-up of existing uses in the area, it is not unreasonable to consider the IDP proposal compatible in terms of overall neighborhood character.

### **COMPLIANCE WITH ELEVATE LAS CRUCES COMPREHENSIVE PLAN:**

According to the Future Development Map in the Elevate Las Cruces Comprehensive Plan, the subject property is within the Suburban Neighborhood Place Type. Per the place type description, "the Suburban Neighborhood Place Type is characterized as providing low-to-moderate density residential land uses intermixed with areas of commercial development. Predominant land uses include single-family, multi-family development, retail and office uses, and other ancillary institutional and public uses such as schools, parks, and places of worship."

The following goals, policies, and actions from Elevate Las Cruces are relevant to the proposed IDP:

#### 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
  - 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.
- Goal: CE-2: Areas of Special Consideration
  - Policy: CE-2.1, Promote infill development strategies to sustain the city's established neighborhoods and historic residential areas.
- Goal: CE-4: Complete Neighborhoods
  - 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-4.1.3, Encourage single-family attached and multi-family housing options in transitional areas between single-family detached housing and neighborhood centers, corner commercial sites and civic spaces.
- Goal: CE-5: Building and Site Design
  - 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.
  - Policy CE- 5.3 Ensure that development concepts provide an interconnected network of pedestrian facilities linking streets, buildings, parking, and public gathering spaces.

### Community Prosperity

- Goal: CP-9: Housing Diversity
  - Policy: CP-9.2, Promote denser housing options in the urban neighborhood, downtown, town centers, neighborhood centers, and mixed-use corridors identified in the future development map.
    - Action: CP-9.2.1, Review and enhance infill policies to encourage more development activity in the infill area.

### Community Livability

- Goal: CL-2: Neighborhood Conservation
  - Policy: CL-2.2, Encourage redevelopment of vacant property within neighborhoods.

Due to the level of support for the proposal from the Elevate Las Cruces Comprehensive Plan, and reconsideration/modification of the IDP by the applicant to help address neighborhood concerns, staff feels the conditional approval recommendation is reasonable and consistent with the development vision that the comprehensive plan lays out for this area. Moreover, other plans like the Affordable Housing Plan and Housing Needs Assessment recognize 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 INFILL DEVELOPMENT OVERLAY:**

The purpose of the IDO is to implement land use and development policies as established in the infill policy plan. Specifically, the purpose of this overlay zone is to provide a streamlined review process for the development of vacant and underutilized parcels or those parcels ready for redevelopment within the urban core area of Las Cruces regardless of the property's zoning. The goal is to develop active uses that are compatible with surrounding land uses while promoting economic development in the central part of [the] city, in accordance with the comprehensive plan. Flexibility in the application of development standards to help achieve (re)development in the target area is implied if neighborhood compatibility is maintained, and any potential adverse impacts minimized.

The IDP can be used for the following types of requests: Variances, Special Use Permits, Planned Unit Developments, Subdivisions, Building Permits, Sign Permits and Business registrations.

The Planning and Zoning Commission shall consider an IDP proposal based on the criteria and authority granted it by section 38-10 of the 2001 Las Cruces Zoning Code, as amended. In addition, the Goals, Objectives, Policies, and Design Matrices within the city's comprehensive plan shall be used to guide decisions. IDP proposals may contain various applications but shall be considered as a unified proposal when applicable, and, as such, the Planning and Zoning Commission should evaluate whether the project advances the purposes of the regulatory and policy documents referenced above. The Planning and Zoning Commission may approve, approve with conditions, or deny any IDP proposal brought before it. The Planning and Zoning Commission shall not postpone an IDP proposal unless agreed to by the applicant.

This proposal qualifies as an IDP in that the property is vacant. However, both staff and the Planning and Zoning Commission must consider the surrounding area when making a recommendation and ultimately a decision on the proposal. City staff has considered the reduction of units and the site modifications proposed and believes that these adjustments help alleviate several of the concerns raised in the previous submittal. Staff did advise the applicant of other considerations that might further reduce area concerns, but the applicant decided to proceed with the changes made and reflected in this packet.

**CRITERIA FOR DECISIONS:**

- Impairment of adequate supply of light and air to adjacent property;
- Unreasonable increase in potential traffic;
- Increase the danger of fire or endanger the public safety;
- Determent of orderly and phased growth;
- Impairment of the public health, safety, or general welfare of the city;
- Establishment of a spot zone; or the
- Contradiction of the purpose and intent of the zoning code, sign code, design standards and other companion codes.

**DEVELOPMENT STANDARDS**

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**SITE COMPLIANCE FOR CURRENT USE:**

The subject property is vacant, zoned R-1a, and encompasses ± 1.12 acres. The R-1a zone allows a minimum lot size of 5,000 square feet. In that the property is currently vacant, the property is deemed compliant.

**SITE COMPLIANCE FOR PROPOSED USE:**

As per the lot size stated above, the property easily exceeds the minimum lot size requirement for the R-1a zoning district. Additionally, the proposed height of development will not exceed the 35-foot maximum height allowed. The proposal will deviate from established development standards as reflected in the Project Description section of this report. Deviations will allow a higher density than what is currently allowed.

The applicant will be required to provide adequate parking for the use. While a single-family home is required to provide 2 parking stalls (usually within a garage or driveway), a 15-unit complex is required to provide 1.5 parking stalls per unit. On-street parking is not permitted along McClure so the design will need to accommodate 24 parking spaces. The site plan reflects provisions for thirty (30) automobile parking stalls (APS) and four (4) bicycle parking stalls (BPS).

**ADEQUACY OF PUBLIC FACILITIES AND SERVICES:**

City water, gas and sewer serve the current site and have the capacity to serve the proposed units provided all city utility standards are met during development. The Mesilla Valley Metropolitan Planning Organization and Elevate Las Cruces identify McClure Road as a major collector. Collector roadways typically accommodate between 1,000 and 6300 Annual Average Weekday Trips (AAWDT). AAWDT is the total counted traffic per street segment divided by the number of weekdays in the year. The most recent traffic counts reflect an AAWDT for the McClure segment from Valley Drive to Carlyle Drive of 3727, the segment between Carlyle Drive and Highland Avenue at 4521, and the segment between Highland Avenue and Alameda Boulevard at 3864.

Additionally, based on the proposed use, staff has estimated that 25 peak hour trips per day could be generated by the proposed development. Based on this approximation, McClure Road should be able to accommodate the minimal increase in traffic with no significant reduction in the level of service (LOS). Based on observation of roadway performance by various CLC staff, the level of service for McClure Road is estimated to be at or close to a LOS 'C'. LOS is a measurement tool that helps describe operational conditions with a roadway in terms of speed and travel time, traffic movement, traffic interruptions, and comfort and convenience. McClure Road has right-of-way of variable width with paving widths ranging from about 23 feet to 33 feet depending on the road segment considered. Sidewalks are not available adjacent to the subject property. The nearest sidewalk/walking path is on the west side after the railroad tracks.

There are existing residences adjacent to the right-of-way which will make it difficult to develop the road in the future to meet the 85-foot right-of-way width standard for collectors. It is very likely that McClure will continue to maintain its' collector functional classification status even though the issue of constrained right-of-way exists. Constrained right-of-way scenarios like this one are not unique to McClure Road. Many other roadways in Las Cruces have similar issues. This IDP proposal will add traffic to McClure Road but not to any degree whereby McClure Road fails.

**FLOOD PLAIN:** The subject property is not in a special flood hazard area.

#### **STAFF AND PUBLIC COMMENTS**

---

##### **STAFF COMMENTS:**

Staff has examined the modifications to the IDP from its' previous submittal and is recommending Conditional Approval. No other reviewing entity raised concerns over the proposal.

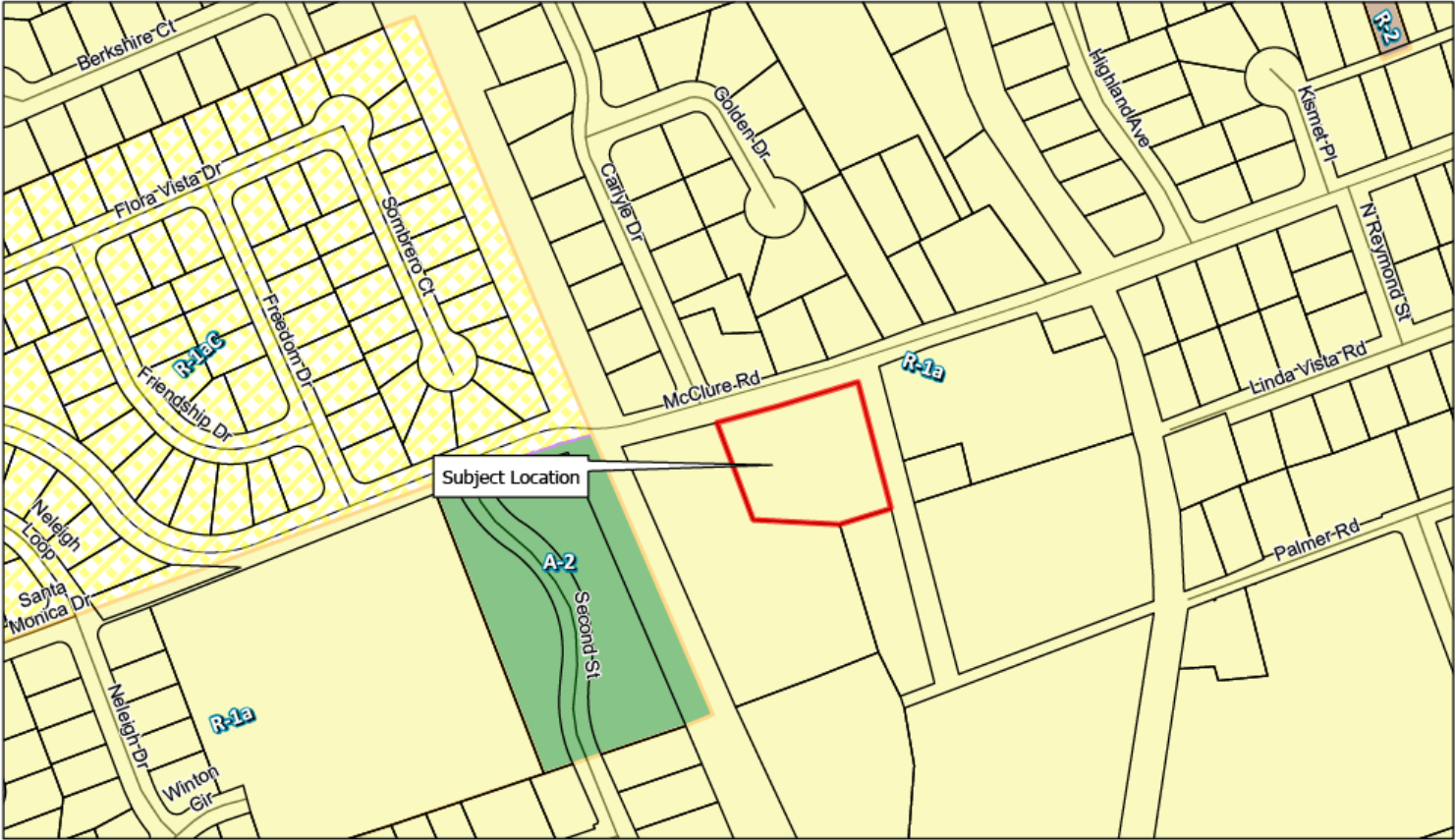
##### **PUBLIC NOTIFICATION AND INPUT:**

Notice of a Public Hearing was mailed to all property owners within 500 feet of the subject property on February 9, 2023. Staff also required that the applicant carry out early notification once again regarding the new proposal. In either notification effort, staff have not received any input from the public. Any correspondence received after the drafting of this report will be provided to the Planning and Zoning Commission prior to the public hearing or will be referenced during presentation of the case.

##### **ATTACHMENTS:**

1. Zoning Map
2. Aerial Map
3. Staff Comments
4. Applicant's Proposed Elevations and Site/Landscape Plans
5. Justification letter
6. Public input documents

**ATTACHMENT 1**  
**Zoning Map**



Note: Subject property is outlined in red.



Aerial Map



Note: Subject property is outlined in red.

## **ATTACHMENT 3**

### **Staff Comments**

**Department: Planning**

Status: APPROVED W/ CONTINGENCIES

- The applicant/property owner shall work with the City and install their pro-rata share of the multi-use path, sidewalk, and/or other requested improvement along the portion of right-of-way which fronts the subject property.
- The applicant/property owner shall comply with all development standards beyond those development standard deviations requested per this IDP.

**Department: Long Range Planning**

Status: APPROVED (Status carried forward from previous submittal in that trail and land use issues are still valid)

**Department: Transportation**

Status: REVIEW NOT REQUIRED

**Department: Engineering**

Status: REVIEW NOT REQUIRED

**Department: Utilities**

STATUS: APPROVED

**Department: EBID**

STATUS: REVIEW NOT REQUIRED

**Department: Fire**

Status: APPROVED

**Department: City MPO**

Status: REVIEW NOT REQUIRED

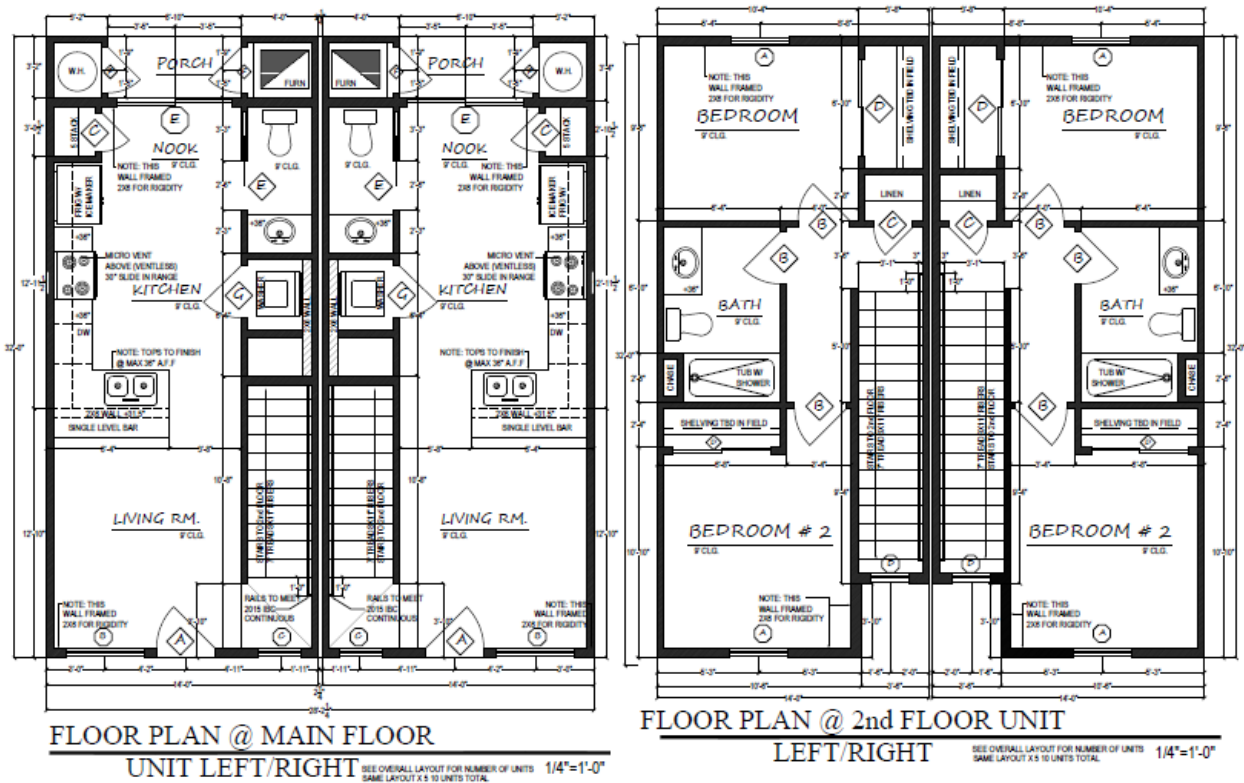
Department: **Flood**

Status: Approved

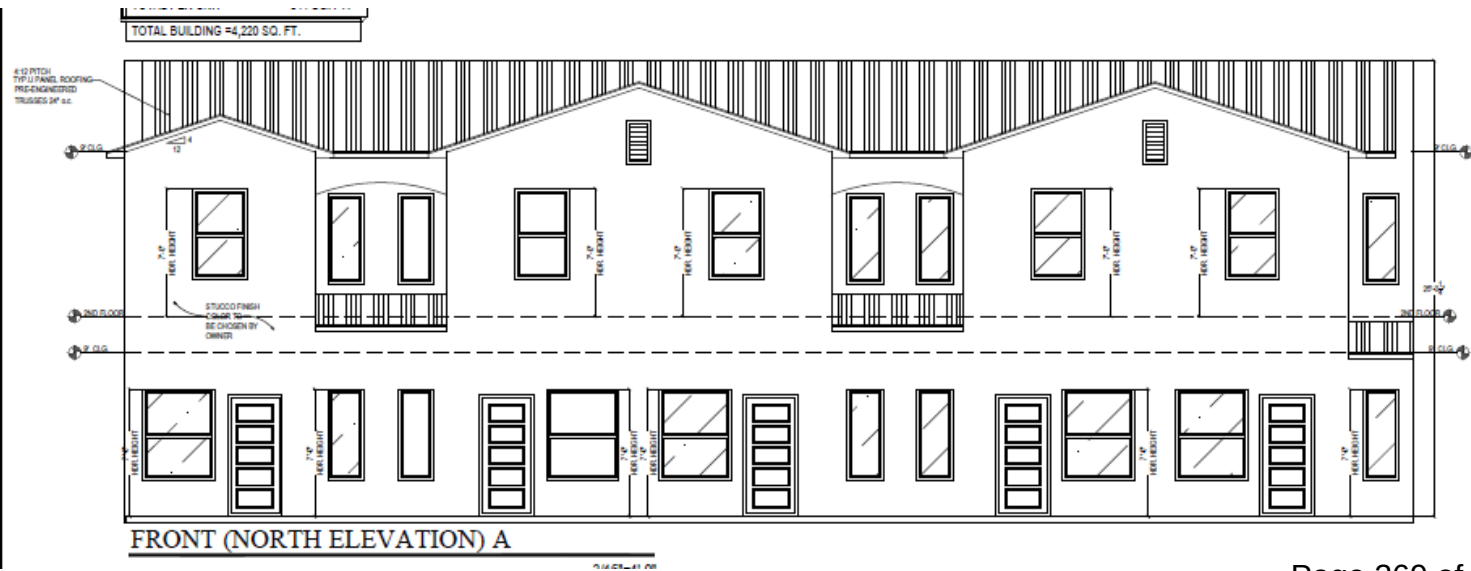


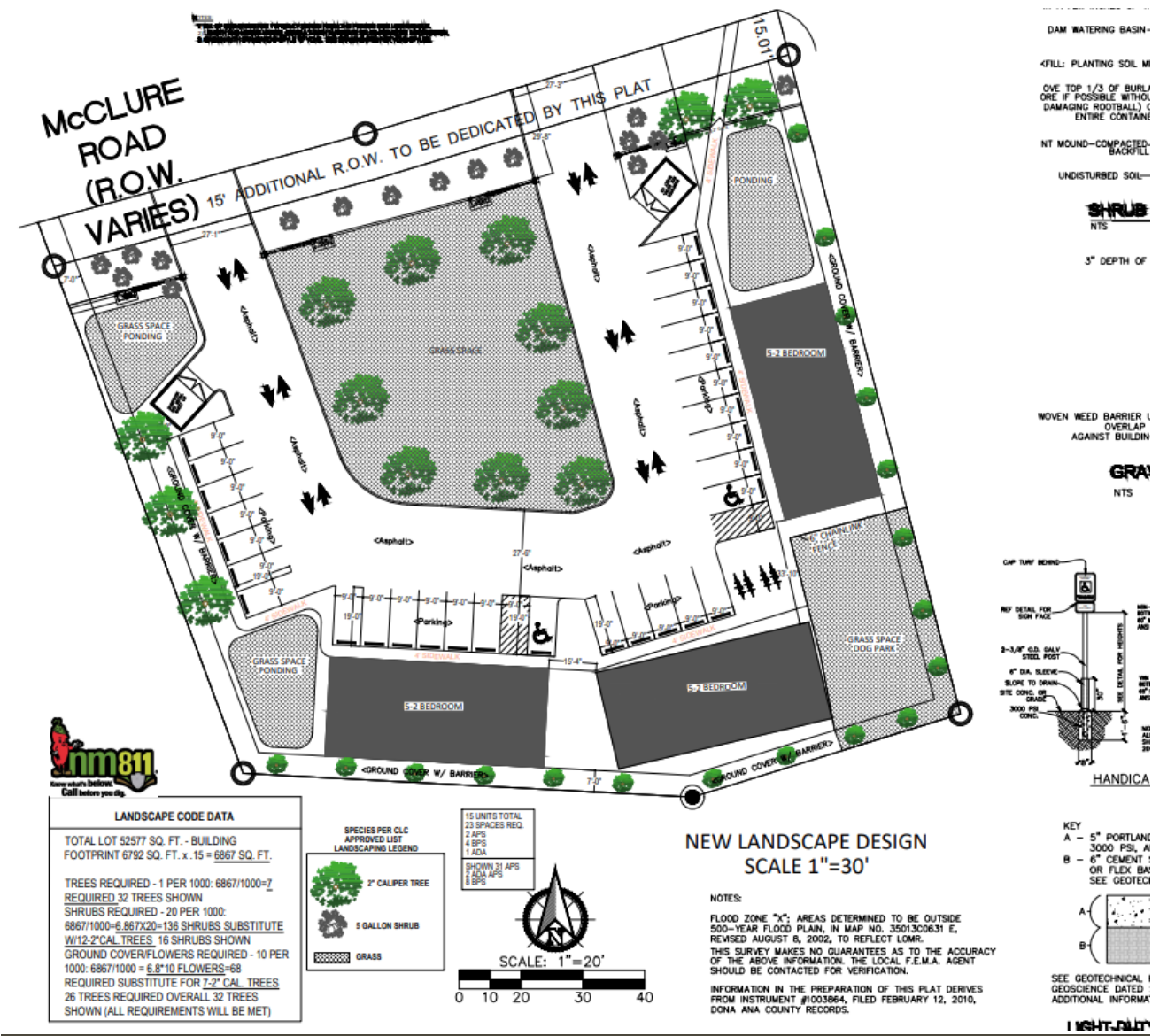
ATTACHMENT 4

Applicant's Proposed Elevations & Site/Landscape Plan



|                               |             |
|-------------------------------|-------------|
| AREA:                         |             |
| HEATED 1st FLOOR              | 402 SQ. FT. |
| HEATED 2nd FLOOR              | 397 SQ. FT. |
| TOTAL HEATED AREA             | 799 SQ. FT. |
| PORCHES                       | 45 SQ. FT.  |
| TOTAL PER UNIT                | 844 SQ. FT. |
| TOTAL BUILDING =4,220 SQ. FT. |             |





## **Attachment 5** **Justification letter**



P.O. Box [1200](#) | Fairacres, NM | 88033 | (575)800-4910

### **Infill Development Proposal**

Mesilla Valley Properties is requesting a zone change to R-2 variance in density form allowed 15 to 20 unites to support the missing middle housing types for 725 McClure Road in Las Cruces. Mesilla Valley Properties is proposing a 15-unit townhome complex.

Attachment 6  
Public input

LD

Lucinda Duran <Lucinda@meva-con.com>  
To: Vincent Banegas; James Vaccaro <james@meva-con.com>  
Cc: Amado Rivas <arivas@meva-con.com>; allurehomeslc@gmail.com

Tue 2/13/2024 11:25 AM

2024 Early Notification to Neig...

329 KB

2024 Mailing List.xlsx

11 KB

2 attachments (340 KB) Save all to OneDrive - City of Las Cruces Download all

Start reply with:

Thank you!

Thank you for the information.

Thanks for the update.

Good morning Vincent,

Yes, I did send all the neighbors the early notification letter and was previously uploaded on Accela. If you recall, you questioned it my wording within the letter. Please see the attached letter and mailing list.

I also have received 2 calls from concerned neighbors not about our project but regarding the possible increase in traffic. We have 2 family members within a block of the property, and they recognize that McClure Rd. is a through-way street within the city that sees high traffic only during rush hour, but this is typical all over the City on this type of type of streets.

PE

Pia English <faladog@gmail.com>  
To: Vincent Banegas

Mon 2/12/2024 5:27 PM

You don't often get email from faladog@gmail.com. [Learn why this is important](#)

Dear Mr. Banegas,

I live at 314 McClure Road. I am opposed to the infill variance request for 725 McClure Road. This proposed development will increase traffic and crime on our street. There is already a 90 unit development scheduled to be built across from Mayfield High School. McClure Road cannot sustain more traffic.

We bought our homes here for a reason. We are a single family residential neighborhood. Thank you.  
Pia English 575 526-8921.

Reply

Forward

Agenda Item #8.1.

DL

Donald Lappinga <donaldlappinga@gmail.com>  
To: Vincent Banegas

😊 ↶ ↷ ⋮

Thu 2/15/2024 8:41 AM

[You don't often get email from donaldlappinga@gmail.com. Learn why this is important at <https://aka.ms/LearnAboutSenderIdentification> ]

Hello Mr. Banegas,

In relation to the variance request at 725 McClure, can you update me on any other plans/request for high density multi family housing along the corridor on Valley North of Picacho up to the vacant land across from Mayfield High School. We are on McClure Rd near Alameda and are dealing with high density and dangerous traffic on McClure increasing from the extensive housing developments westward. Our neighborhood street is becoming a main artery from these areas.

Thank you. Don Lappinga  
320 McClure Rd.

Sent from my iPhone

↶ Reply

↷ Forward

## Agenda Item #8.1.

Dear Mr. Banegas,

This email is for the purpose of opposing an Infill Development Proposal to allow a 15-unit apartment complex on the property at 725 McClure Road. My wife and I have lived at 700 Sombrero Court for over five years.

According to former Deputy Director of Public Works Tony Trevino, a licensed professional engineer, this area has experienced heavy flooding, even with small amounts of rainfall for decades. My wife and I have both witnessed this. Flooding in this area has been a problem as French drains are the only means of flood control. As stated by the city in a [news flash](#) published 30 April 2022, "**the rain has had nowhere to go except onto the roadway and into nearby homes and properties.**" The acquisition of land is the first step in resolving the problem."

On April 18, 2022, City Council approved a [resolution](#) to purchase the above-captioned property for the purpose of improved flood control in the area. The vote in favor of the resolution was unanimous. Now, it seems that the flood control issue has been ignored. Any construction on this property, particularly multi-family dwellings and associated parking areas, would exacerbate the existing flooding problem.

A [proposal by the same developers](#) for a 20-unit apartment complex was denied by the Planning and Zoning Commission on 27 June 2023 citing "**unreasonable increase in potential traffic and increase the danger of public safety** with the limited ingress and egress to McClure." Furthermore, the proposal would "**contradict the purpose and intent of the Zoning Code** and can **impair the public health, safety and/or general welfare** of the City."

An [appeal of this decision](#) was turned down by city council on 5 September 2023 with a 4-to-3 vote, noting that the proposed **density is too intense for the existing neighborhood**, given that "The requested twenty (20) dwelling units on one (1) lot is more than triple the allowed density of properties zoned R-1a. Additionally, the proposal is **eleven (11) times denser than the adjacent neighborhood** that is predominantly built out with one (1) single-family home per lot."

Current zoning appears to permit only one (1) single-family dwelling on the 1.22 acre site. I believe that this is appropriate and consistent with the surrounding area. Unfortunately, there appear to be forces intent on pushing this development proposal forward despite the wishes of most people in the neighborhood, who, like me, hope to see this proposal denied once and for all.

Sincerely,

Yuram Abdullah Weiler  
700 Sombrero Court  
Las Cruces, NM 88007  
(575) 523-0557



McClure Resi <mclureresident@gmail.com>  
To: kasanchez@bigby.com; Mayor: Cassie Mc Clure  
Cc: Vincent Barragan; lucinda@meva-con.com; taunmoepau@las-cruces.org; Johana Bencomo; Becki Graham; wmattee@las-cruces.gov; Eric Enriquez; Ito Pitt; taunmoepau@las-cruces.gov; donaldspilling@gmail.com; jsmith@las-cruces.gov

Some people who received this message don't often get email from mclureresident@gmail.com. [Learn why this is important.](#)

CC:

1) The Office of Governor Michelle Lujan Grisham, 490 Old Santa Fe Trail Room 400, Santa Fe, NM 87501, Phone: (505) 476-2200

2) Attorney General Raúl Torrez, 1175 Commerce Dr, Suite A, Las Cruces NM 88001, Phone: (575) 339 -1120

3) Karl Sanchez K Fox News via [ksanchez@abc7n.com](mailto:ksanchez@abc7n.com)

4) Rep. Gabé Vasquez, 1517 Longworth House Office Building, Washington DC 20515, Phone (202) 225-2365

4) GSA, Compliance - 1-844-GSA-4111

All:

This is the third attempt to convert the zoning of this parcel which is little over 1 acre to multi family property with variances. I will explain why this is incorrect.

This is in effect the fourth attempt because the first attempt was to build this multifamily without a permit, and by disrespecting the Las Cruces city officials by throwing them under the bus claiming a they had given a nod - lie

b) the sale of the other parcel to the city was conditioned on being able to build a multifamily and an email to prove it - a bold face lie debunked by city officials.

c) Mr. Armando Rivas would not sell to the city if he had known he would not secure a rezoning - another lie.

The first attempt resulted in a red tag. City officials had to visit three times before he removed his earth moving equipment and filled in all the trenches he had made. He ignored their warnings two times. Mr. Armando Rivas then dropped a few city officials' names who were aware of this project. This resulted in residents attempting to make a connection with the city official and the developer. It was unknown till then and may be unfair to the official, but it was Mr. Armando Rivas who claimed it in the first place and disrespected the official. This application has Ms. Lucinda's name and we are not sure who is helping with the design of this project and if they are aware of the situation.

You want to reward this developer? Any other developer would be barred from any state or any other contracts for attempting to circumvent rules. He has no sense of community development and thinks he can muscle his way through.

We as community members don't understand the fixation of this property and the amount of time that has been devoted to this project which has been opposed and reported by press and TV.

None of the concerns that have been brought up in the last three meetings have been alleviated. It has worsened. Traffic, crime, thefts, attacks, trespassing all have increased.

The roads don't have curbs and gutters and no dedicated cycle paths. This was acknowledged by Community Development, Police Chief (escalating YOY speeding tickets), Fire Chief during the last two hearings.

It is going to worsen with projects that are shortly coming online in the surrounding areas.

This seems very odd that whenever is encouraging this builder for a small piece of land is going against the wishes of the community the third (in reality fourth) time.

We as a community have reached out to the Governors and AGs office too. We will exercise our voting rights this Nov '24 if the governor and other elected members don't have a single ounce of respect for the wishes of our community in this matter, it is clear that they don't respect the fundamental item in the minds of their constituents and citizens - personal safety.

Please don't excuse this behavior saying that we need more housing. That has been a perpetual problem. It is a single family area and if the developer wants to build a reasonable number of single family homes on that parcel, the community can come to an understanding. Ignoring the effect this 1 acre parcels impact on the area when there are so many multi acreage areas in Sonoma Ranch and other affluent areas that are untouched is unfair and borderline punishment for being poor.

Please reject this for the fourth time. Please don't reward this developer.

Thank you  
Residents of McClure



Mesilla Valley Properties LLC  
PO Box 1200  
Fairacres, NM. 88033  
(575)800-4910

March 15th, 2024

Vincent Banegas  
Interim Planner, Community Development  
City of Las Cruces  
700 N Main  
Las Cruces NM, 88001

**RE: Planning & Zoning Commission Case #24ZO5000003:** Appeal of Infill Development  
Process denial for Proposed 15-Unit Townhome Housing.

Dear Mr. Banegas,

I am writing you today to express strong opposition to the motion put forth by the Planning and Zoning Commission (**Case #24ZO000003**), to deny the infill development of a 15-unit townhome complex ("October Sky"), located at 725 McClure Rd. We respectfully request this matter be remanded and presented to the City Council.

This appeal is being submit for the following reasons:

- I. During the presentation, Board Member Vanessa Porter left the room briefly and was absent for a significant amount of the time, or otherwise for the entirety of the staff presentation expressing the support for this project, having returned to hearing only opposition. Furthermore, we are strongly questioning Ms. Porter's decision in comparison to her previous statements on May 30<sup>th</sup>, 2023. Ms. Porter had stated if we reduced the quantity down to 15 units from the proposed 20, she would approve and support it. However, when this project was presented on February 27<sup>th</sup>, 2024, with the reduction to the 15-units, as well as received support from the community development staff, she denied it. According to her reasoning, her decision was based off "new findings". As far as we know, between May 30<sup>th</sup>, 2023, and February 27<sup>th</sup>, 2024, the only differences in findings are that we received support from community development staff, and that we reduced the density from 20 units to 15 units.
- II. During the presentation, Board Member James Bennett left the room briefly and was absent for a significant amount of the time, or otherwise for the entirety of the staff presentation expressing the support for this project, having returned to hearing only opposition. Furthermore, we are strongly questioning Mr. Bennett's decision in comparison to his previous statements on May 30<sup>th</sup>, 2023, where Mr. Bennett approved





our project, at that time we did not have support from community development staff and at the time was presented with 20 units. However, on February 27<sup>th</sup>, 2024, Mr. Bennett denied this project when we had reduced the density to 15 units and gained support from community development staff.

- III. We would like to echo comments from both Board Member Smith and Chair Kaiser stated during the recent P&Z Meeting, directly to the City Council by a PowerPoint Presentation and Verbally. While this will be in various sections throughout the meeting, primarily we are seeking to revisit comments mentioned within Pages 68 and 69 of the drafted meeting minutes from February 27<sup>th</sup>, 2024. Both Chair Kaiser and Board Member Smith have very rational comments in different aspects, we wish to further expose these conversations for consideration to what is the future of Mc Clure Rd, and its community; considering it has not been addressed in over forty years.

### **Conclusion**

The development of October Sky Townhomes located at 725 McClure Rd has been unable to put forward a project that meets Planning & Zoning Commission approval. This project follows many aspects of Elevate Las Cruces policies and special considerations. Due to the denial from the Planning & Zoning Commission, we are submitting this appeal letter to present our case directly to City Council. Our team is highly motivated to escalate this project as necessary. We have listened to the requests and denial reasoning in the past; from both the Planning & Zoning Commission and City Council, only to fulfill those concerns and receive yet another denial.

On behalf of Mesilla Valley Properties:

A handwritten signature in blue ink, appearing to be "Lucinda Rivas".

Lucinda Rivas  
Business Development Manager  
[lucinda@meva-con.com](mailto:lucinda@meva-con.com)



# City Council Action and Executive Summary

**3070; Council Bill 24028**

**Type of Action:**

- ☐ Resolution
- ☒ Ordinance
- ☐ TIDD Resolution

|                     |                                                                                                                                                                                                           |                          |                    |
|---------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------|--------------------|
| <b>District:</b>    | <input type="checkbox"/> 1 <input type="checkbox"/> 2 <input type="checkbox"/> 3 <input type="checkbox"/> 4 <input type="checkbox"/> 5 <input type="checkbox"/> 6 <input checked="" type="checkbox"/> N/A |                          |                    |
| <b>1st Reading:</b> | June 3, 2024                                                                                                                                                                                              | <b>Adopted:</b>          | July 1, 2024       |
| <b>Drafter:</b>     | Leeann DeMouche                                                                                                                                                                                           | <b>Department:</b>       | Financial Services |
| <b>Program:</b>     | Finance Administration                                                                                                                                                                                    | <b>Line of Business:</b> | Director           |
| <b>Title:</b>       | <b>AN ORDINANCE AMENDING ORDINANCE 2698, FOR THE DEDICATION OF A MUNICIPAL HOLD HARMLESS GROSS RECEIPTS TAX.</b>                                                                                          |                          |                    |

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

**PURPOSE(S) OF ACTION:**  
To amend Ordinance 2698.

**BACKGROUND / KEY ISSUES / CONTRIBUTING FACTORS:**  
During the 2019 State Legislative Session, House Bill 479 (HB479) passed, which de-earmarked certain municipal and county local option Gross Receipts Taxes (GRT) imposed on any person engaging in business in the municipality. The GRT increment of .375% imposed by Ordinance 2698, Section 4, states municipal hold harmless gross receipts tax is to be dedicated toward any specific purpose or area of municipal government services, including but not limited to police protection, fire protection, public transportation or street repair and maintenance. HB479 states the GRT revenues imposed by Ordinance 2698 are now de-earmarked or unrestricted.

On April 23, 2021, an overview of HB479 was presented to the Finance Select Committee by the Financial Services Department (Finance). During the presentation, the committee recommended that Finance bring forward the municipal GRT ordinances to Council, unrestricting the imposed GRT. This GRT ordinance was heavily dedicated to debt. For the FY2025 Budget, the hold harmless GRT is being used for the general operations of the municipality. Finance is asking to amend Ordinance 2698 to be de-earmarked and unrestricted.

**PLAN(S):**  
None

**COMMITTEE/BOARD REVIEW:**  
Finance Select Committee

**DOES THIS AMEND THE BUDGET?:**  
☐ Yes  
☒ No

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

Agenda Item #8.2.

☐ Yes

☒ No

**Does this action align with Elevate Las Cruces?**

☒ Yes

☐ No

**OPTIONS / ALTERNATIVES:**

1. Vote "Yes"; this will approve the Ordinance, de-earmarking of the municipal hold harmless GRT making this GRT unrestricted and placed into the general fund.
2. Vote "No"; this will not approve the Ordinance, however the House Bill 479 supersedes and the GRT will be unrestricted and placed into the general fund.
3. Vote to "Amend"; this would allow the Council to modify the Ordinance and direct staff.
4. Vote to "Table"; this could allow the Council to postpone consideration of the Ordinance.

**REFERENCE INFORMATION:**

Ordinance 2698

**ORDINANCE 3070; COUNCIL BILL 24028**

**AN ORDINANCE AMENDING ORDINANCE 2698, FOR THE DEDICATION OF A MUNICIPAL HOLD HARMLESS GROSS RECEIPTS TAX.**

The City Council is informed that:

**WHEREAS**, Ordinance 2698, was enacted on July 1, 2014, establishing a hold harmless gross receipts tax (GRT) increment of three-eighths of one percent (.375%) for the dedication and purpose of municipal hold harmless government services; and

**WHEREAS**, the State Legislation passed House Bill 479 (HB479) that declared the de-earmarking of certain municipal and county local option gross receipts taxes; and

**WHEREAS**, HB479 unrestricted the dedication and purpose of this GRT from hold harmless government services to the general fund.

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

**(I)**

**THAT** Section 4 of Ordinance Number 2698, to be effective July 1, 2024, is hereby amended to read: Section 4. Dedication. Revenue from the municipal hold harmless gross receipts tax will be unrestricted.

**(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

APPROVED

\_\_\_\_\_

ATTEST:

\_\_\_\_\_

**Moved by:**

**Seconded by:**

**AYES**

**NAYS**



# City Council Action and Executive Summary

3071; Council  
Bill 24-029

Type of Action:  
☐ Resolution  
☒ Ordinance  
☐ TIDD Resolution

|              |                                                                                                                                                                                                                                                                  |                            |                            |                            |                                       |                            |                              |
|--------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------|----------------------------|----------------------------|---------------------------------------|----------------------------|------------------------------|
| District:    | <input type="checkbox"/> 1                                                                                                                                                                                                                                       | <input type="checkbox"/> 2 | <input type="checkbox"/> 3 | <input type="checkbox"/> 4 | <input checked="" type="checkbox"/> 5 | <input type="checkbox"/> 6 | <input type="checkbox"/> N/A |
| 1st Reading: | June 17, 2024                                                                                                                                                                                                                                                    |                            |                            | Adopted:                   | July 1, 2024                          |                            |                              |
| Drafter:     | Adam Ochoa                                                                                                                                                                                                                                                       |                            |                            | Department:                | Community Development                 |                            |                              |
| Program:     | Community Planning                                                                                                                                                                                                                                               |                            |                            | Line of Business:          | Community Planning                    |                            |                              |
| Title:       | AN ORDINANCE APPROVING A ZONE CHANGE FROM C-2 (COMMERCIAL MEDIUM INTENSITY) TO C-3 (COMMERCIAL HIGH INTENSITY) FOR A PROPERTY ENCOMPASSING 2.567 + ACRES AND LOCATED AT 2605 BATAAN MEMORIAL WEST. SUBMITTED BY KARY BULSTERBAUM, REPRESENTATIVE. (24ZO0500035). |                            |                            |                            |                                       |                            |                              |

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

**PURPOSE(S) OF ACTION:**  
Zone change.

**BACKGROUND / KEY ISSUES / CONTRIBUTING FACTORS:**  
The City Council is required to review and take final action on zone changes per Section 38-10 B. 2. b. and 38-13 A. of the 2001 Zoning Code, as amended. A zoning district is a specifically delineated area where land use regulations uniformly govern the use, placement, spacing, density, bulk, height, and size of buildings and/or land.

The applicant is requesting a zone change from C-2 (Commercial Medium Intensity) to C-3 (Commercial High Intensity) for property approximately 2.567 acres in size and located at 2605 Bataan Memorial West. The purpose for the proposed zone change is to bring the property into compliance with the 2001 Zoning Code, as amended and allow for future development of the vacant/undeveloped property.

The subject property is considered non-conforming as it does not meet a C-2 zoning district development standard of a maximum lot size requirement of 1 acre. The proposed zone change request to C-3 (Commercial High Intensity) would bring the property into compliance with the 2001 Zoning Code, as amended. When the subject property was initially zoned C-2 in 1988, the C-2 zoning designation was the most intense commercial zone in the City of Las Cruces and it had no maximum lot size requirement just like the current and proposed C-3 zoning designation.

The property is located along Bataan Memorial West in an area of the City of Las Cruces where a variety of high intensity commercial land uses and zoning exist and are allowed. The property has direct access to Bataan Memorial West a classified minor arterial roadway as designated by the MPO Thoroughfare Map and the Elevate Las Cruces Future Thoroughfare Map where large-scale commercial development is encouraged.

According to the Future Development Map in the Elevate Las Cruces Comprehensive Plan, the subject parcel falls within the Suburban Neighborhood Place Type. The Suburban Neighborhood Place Type is characterized as providing low-to-moderate density residential land uses intermixed with areas of commercial development.

### Agenda Item #8.3.

The uses surrounding the subject property are congruous to the suburban place type. Additionally, various comprehensive goals and policies support the proposed zone change and it should not pose any conflict with the existing neighborhood.

On April 23, 2024, the case was heard by the Planning and Zoning Commission at their regular meeting. The Planning and Zoning Commission voted 4-0-0 (one Commissioner vacancy, two Commissioners absent). The zone change was approved on the consent agenda.

#### **SUPPORT INFORMATION:**

[Exhibit A - Site Plan](#)

[Exhibit B - Findings](#)

[Attachment A - P&Z Staff Report](#)

[Attachment B - 04-23-24 P&Z Minutes](#)

#### **PLAN(S):**

Other, 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 Ordinance and affirm the P&Z recommendation for approval. The subject property located at 2605 Bataan Memorial West will be rezoned from C-2 (Commercial Medium Intensity) to C-3 (Commercial High Intensity).
2. Vote "No"; this will deny the Ordinance and will reject the recommendation made by P&Z. The current C-2 (Commercial Medium Intensity) will remain.
3. Vote to "Amend"; this could allow the City Council to modify the Ordinance by adding conditions as deemed appropriate.
4. Vote to "Table"; this could allow the City Council to table/postpone the Ordinance and direct staff accordingly.

**ORDINANCE 3071; COUNCIL BILL 24-029**

**AN ORDINANCE APPROVING A ZONE CHANGE FROM C-2 (COMMERCIAL MEDIUM INTENSITY) TO C-3 (COMMERCIAL HIGH INTENSITY) FOR A PROPERTY ENCOMPASSING 2.567 + ACRES AND LOCATED AT 2605 BATAAN MEMORIAL WEST. SUBMITTED BY KARY BULSTERBAUM, REPRESENTATIVE. (24ZO0500035).**

The City Council is informed that:

**WHEREAS**, Kary Bulsterbaum, representative, has submitted a request for a zone change from C-2 (Commercial Medium Intensity) to C-3 (Commercial High Intensity); and

**WHEREAS**, the subject property is approximately 2.567 acres in size, is vacant/undeveloped, and the proposed zone change will bring the property into compliance with the 2001 Zoning Code, as amended; and

**WHEREAS**, the proposed C-3 (Commercial High Intensity) zone is consistent with the Suburban Neighborhood Place Type per the Elevate Las Cruces Comprehensive Plan; and

**WHEREAS**, the Planning and Zoning Commission, after conducting a public hearing on April 23, 2024, recommended that the zone change request be approved by a vote of 4-0-0 (one Commissioner vacancy, two Commissioners absent).

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

**(I)**

**THAT** the land as reflected in Exhibit "A", attached hereto and made part of this Ordinance, is hereby zoned C-3 (Commercial High Intensity).

**(II)**

**THAT** the zoning is based on the findings contained in Exhibit "B", attached hereto and made part of this Ordinance.

**(III)**

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

**(IV)**

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

**DONE AND APPROVED this** day of



APPROVED

\_\_\_\_\_

ATTEST:

\_\_\_\_\_

**Moved by:**

**Seconded by:**

**AYES**

**NAYS**

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**FINDINGS**

- The subject property is currently zoned C-2. The proposed zone change request to C-3 would bring the subject property into compliance with the 2001 Zoning Code, as amended in terms of lot size (2001 Zoning Code, Article 4, Section 38-32D).
- The subject property is located along a minor arterial roadways where high intensity commercial uses and zoning such as the proposed C-3 zoning designation are encouraged.
- The proposed zone change will help ensure that the subject property remains sensitive to the character of the existing neighborhood. (2001 Zoning Code, Article 1, Section 38-2L).
- Based upon staff's analysis of the proposal, the proposed zone change request meets the intent of Elevate Las Cruces; is compatible with adjacent uses and zoning districts; meets the purpose and intent outlined in Section 38-2 of the 2001 Zoning Code, as amended; and fulfills the purpose of the Las Cruces Municipal Code Section 2-382.



# CITY OF LAS CRUCES

## Planning & Zoning Commission 04/23/2024

### CASE 24ZO0500035: REZONING

|                       |                                           |
|-----------------------|-------------------------------------------|
| STAFF CONTACT:        | Adam Ochoa, (575) 528-3204                |
| OWNER:                | Penny P. Salome                           |
| REPRESENTATIVE:       | Kary Bulsterbaum                          |
| DISTRICT:             | District #5                               |
| SITE ADDRESS:         | 2605 Bataan Memorial West                 |
| EXISTING ZONING:      | C-2 (Commercial Medium Intensity)         |
| REQUEST:              | Rezone to C-3 (Commercial High Intensity) |
| RELATED APPLICATIONS: | N/A                                       |
| STAFF RECOMMENDATION: | Approval                                  |

#### SUMMARY OF CASE 24ZO0500035:

The applicant is requesting a zone change from C-2 (Commercial Medium Intensity) to C-3 (Commercial High Intensity) for a property encompassing 2.567 ± acres and located at 2605 Bataan Memorial West to bring the property into compliance with the 2001 Zoning Code, as amended.

#### SUMMARY OF RECOMMENDATION:

Staff is recommending **APPROVAL** based on the findings listed below:

- The subject property is currently zoned C-2. The proposed zone change request to C-3 would bring the subject property into compliance with the 2001 Zoning Code, as amended in terms of lot size (2001 Zoning Code, Article 4, Section 38-32D).
- The subject property is located along a minor arterial roadways where high intensity commercial uses and zoning such as the proposed C-3 zoning designation are encouraged.
- The proposed zone change will help ensure that the subject property remains sensitive to the character of the existing neighborhood. (2001 Zoning Code, Article 1, Section 38-2L).
- Based upon staff's analysis of the proposal, the proposed zone change request meets the intent of Elevate Las Cruces; is compatible with adjacent uses and zoning districts; meets the purpose and intent outlined in Section 38-2 of the 2001 Zoning Code, as amended; and fulfills the purpose of the Las Cruces Municipal Code Section 2-382.

AGENDA  
ZONING

**PROPOSAL AND LAND USE HISTORY**

**PROJECT DESCRIPTION:**

The property proposed for rezoning is located at 2605 Bataan Memorial West. The subject property is currently vacant/undeveloped and non-conforming and before any development can occur the property is required to come into compliance with the 2001 Zoning Code, as amended. The subject property is currently zoned C-2 (Commercial Medium Intensity) and the C-2 zoning district has a maximum lot size requirement of 1 acre making the property non-conforming. The proposed zone change request to C-3 (Commercial High Intensity) would bring the property into compliance with the 2001 Zoning Code, as amended.

The applicant is requesting the zone change to C-3 to allow for any future development.

**LAND USE HISTORY:**

The subject property is vacant/undeveloped.

**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>Mesilla Valley Metropolitan Planning Organization (MPO) Thoroughfare Plan</u> | Yes             |
| <u>Purpose and Intent of the Code: Section 38-2</u>                              | Yes             |
| <u>Criteria for Decisions: Section 2-382</u>                                     | Yes             |
| <u>New Mexico Case Law</u>                                                       | Yes             |

**NEIGHBORHOOD CHARACTER AND COMPATIBILITY:**

The property is located along Bataan Memorial West in an area of the City of Las Cruces where a variety of high intensity commercial land uses and zoning exist and are allowed. The proposed zone change is compatible to the zoning of the properties located along this stretch of Bataan Memorial West. Any future development will be required to follow all development and design standards of the C-3 zoning district.

**COMPLIANCE WITH ELEVATE LAS CRUCES COMPREHENSIVE PLAN:**

According to the Future Development Map in the Elevate Las Cruces Comprehensive Plan, the subject parcels fall within the Suburban Neighborhood Place Type. The Suburban Neighborhood Place Type is characterized as providing low-to-moderate density residential land uses intermixed with areas of commercial development.

The following goals, policies, and actions from Elevate Las Cruces are relevant to the proposed Zone Change:

- Community Environment:
  - Goal CE-1: Balanced Growth – Encourage efficient land use development patterns that accommodate projected growth

sustainable manner.

- Community Livability:
  - Goal CL-7: Transportation-land use connection-develop an accessible and efficient transportation system that provides seamless connectivity to surrounding land uses and complements various development patterns.
    - Policy CL-7. 2: Promote street interconnectivity within and between neighborhoods, between commercial developments, and within town centers and neighborhood centers.
- Community Prosperity
  - Goal CP-4: Diversification - Seek a balance of business recruitment, retention, and expansion to diversify economic opportunities.
    - Policy CP-4. - Support efforts to be regionally and nationally competitive in regard to retaining and growing businesses, jobs, and students.
      - Action CP-4.2.2 - Improve administrative process and procedures to eliminate barriers that impede the expansion of office, commercial or industrial developments.

As the uses surrounding the subject property are congruous to the suburban place type and well supported by various comprehensive goals and policies, staff feels the application is justified and should pose no conflict with the existing neighborhood.

**COMPLIANCE WITH MPO THOROUGHFARE PLAN:**

Bataan Memorial West is classified as a minor arterial by the MPO Thoroughfare Map and the Future Thoroughfare Map in Elevate Las Cruces. Large scale commercial developments are encouraged along higher roadway classifications to accommodate increased traffic flow. Based on the roadway designation, the proposed zone change is appropriate for this area.

**CONSISTENCY WITH PURPOSE AND INTENT OF THE ZONING ORDINANCE:**

The relevant purpose and intent statements to the proposed rezoning are:

- 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.
- N. Conserve the value of buildings and land.

The proposed zone change would allow for the future development of the subject property in an area where there are no known adverse offsite impacts or potential risks to the public's safety, health and welfare.

**CRITERIA FOR DECISIONS:**

- Impairment of adequate supply of light and air to adjacent property;
- Unreasonable increase in potential traffic;
- Increase the danger of fire or endanger the public safety;
- Determent of orderly and phased growth;
- Impairment of the public health, safety or general welfare of the city;
- Establishment of a spot zone; or the
- Contradiction of the purpose and intent of the zoning code, sign code, design standards and other companion codes.

Upon internal review, Staff did not identify any issues that would deter the Planning and Zoning Commission from making an affirmative recommendation to City Council regarding the zone change request. Staff also considered the Criteria for Decisions above and has deemed the zone change request appropriate with a recommendation of approval.

**NEW MEXICO CASE LAW:**

1. There was an error when the existing zoning map pattern was created; or
2. Changed neighborhood or community conditions justify the change; or
3. A different use category is more advantageous to the community, as articulated in the Comprehensive Plan or other applicable City master plan(s), even though criterion (1) or (2) above do not apply because
  - a. there is a public need for a change of the kind in question, and
  - b. that need will be best served by changing the classification of the particular piece of property in question as compared with other available property.

The proposed zone change would bring the subject property into compliance with the current 2001 Zoning Code, as amended. The zone change is required in order to allow for the property's future development and would be advantageous for the community as a whole.

**DEVELOPMENT STANDARDS**

---

**SITE COMPLIANCE FOR USES UNDER CURRENT ZONING:**

The subject property is zoned C-2 and encompasses 2.567 ± acres. Currently the subject property is non-conforming due to the maximum lot size requirement under the C-2 zoning designation. No development would be permitted until a rezone occurs for the subject property.

**SITE SUITABILITY FOR USES UNDER PROPOSED ZONING:**

The proposed zone change will allow for the future development of the subject property. Any future development will be required to follow all requirements of the C-3 zoning district. All uses outlined in the C-3 zoning district would be permitted.

**ADEQUACY OF PUBLIC FACILITIES AND SERVICES:**

City water, and gas are available for the site and are adequate for any potential new construction. Sewer service will need to be extended with any future development. Bataan Memorial West is paved, including curb, gutter, and lighting. No additional improvements are currently required.

**FLOOD PLAIN:**

The property is not located in a flood zone.

**STAFF AND PUBLIC COMMENTS**

---

**PUBLIC NOTIFICATION AND INPUT:**

Notice of a Public Hearing was mailed to all property owners within 500 feet on April 8, 2024, for the Planning and Zoning Commission meeting. No public comment was received for the proposed zone change at the time of the drafting of this report.

**STAFF COMMENTS:**

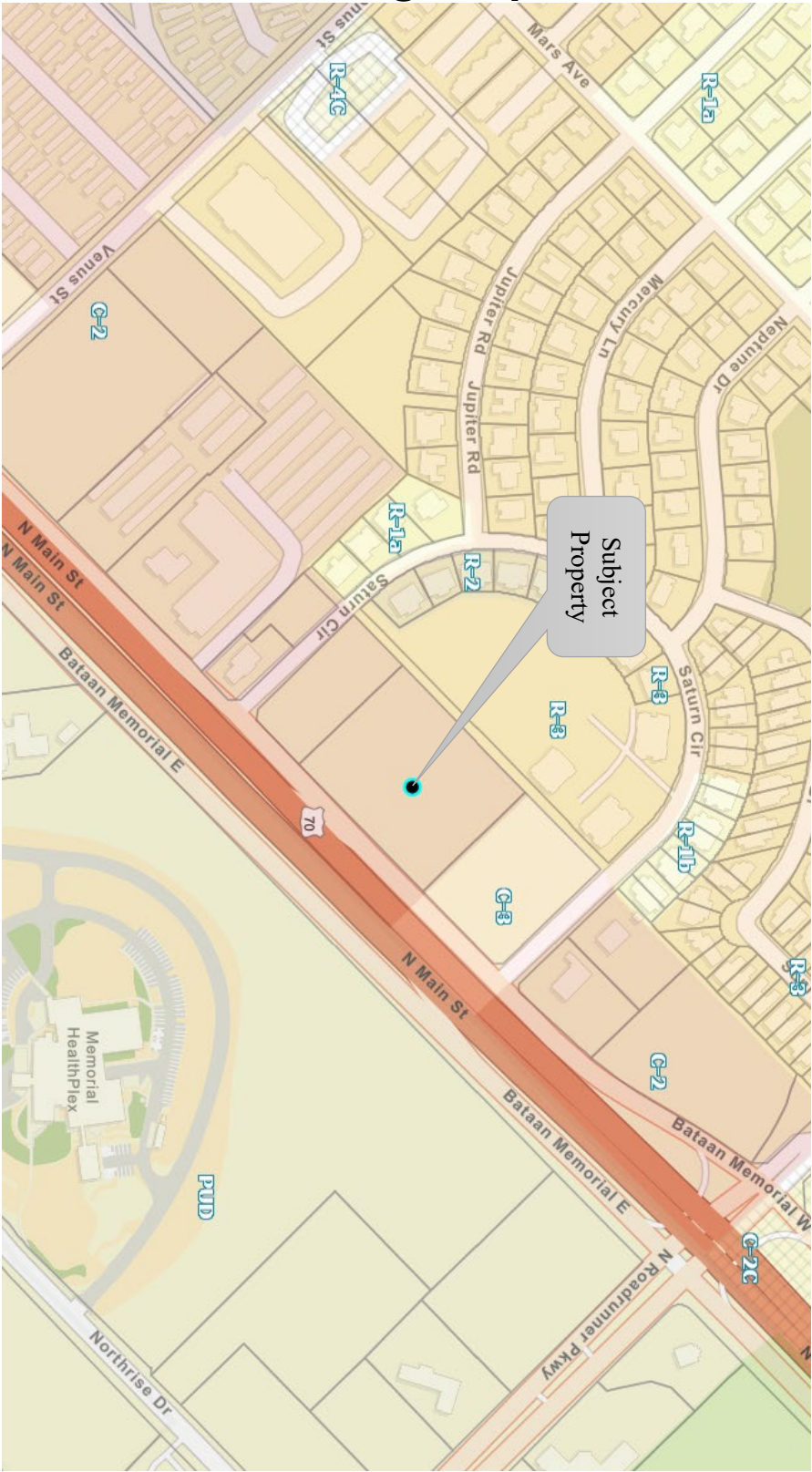
No reviewing departments had any negative comments and there have been no objections to the proposed rezoning.

**ATTACHMENTS:**

1. Zoning Map
2. Aerial Map
3. Survey/ Site Plan
4. Applicants Documents
5. Department Comments



**ATTACHMENT 1**  
**Zoning Map**









## **ATTACHMENT 3**

### **Survey/ Site Plan**

[illegible]

## **ATTACHMENT 4**

### **Applicants Documents**

Project Description:

2605 Bataan is zoned C-2 and consists of 2.57 acres. It needs to be zoned C-3 to be in compliance. There is no intended development use at this time. It is purely a compliance zone change request.

## **ATTACHMENT 5**

### **Department Review Comments**

**Department: Planning**

Status: YES

**Department: Right Of Way**

Status: YES

**Department: Long Range Planning**

Status: YES

**Department: Traffic Engineering**

Status: YES

**Department: Engineering**

Status: YES

**Department: Utility Engineering**

STATUS: YES

**Department: Fire**

Status: YES

**Department: City MPO**

Status: YES



# CITY OF LAS CRUCES

**PLANNING AND ZONING COMMISSION  
FOR THE  
CITY OF LAS CRUCES  
City Council Chambers  
April 23, 2024 at 6:00 p.m.**

**BOARD MEMBERS PRESENT:**

Scott Kaiser, Chair  
Enrico Smith, Vice-Chair  
Connor Murray, Member  
Joaquin Acosta, Member

**BOARD MEMBERS ABSENT:**

**STAFF PRESENT:**

David Weir, Deputy Director Community Planning  
Vincent Banegas, Interim Planner  
John Castillo, Planner  
Brad Douglas, CLC Attorney's Office  
Becky Baum, Recording Secretary, RC Creations, LLC

**1. CALL TO ORDER (6:02)**

Kaiser: Okay, it's 6:02. We'll go ahead and call this meeting to order. Welcome to the April 23rd City of Las Cruces Planning and Zoning Commission meeting. Before we get started I just want to announce that I learned this evening that Commissioner Bennett has resigned from the Commission. Sounds like there's a new job and the time, the scheduling is just not going to work out. So I just wanted to express, even though he's not here, express our appreciation for his service on this committee. It was a pleasure to serve with him. We will certainly miss him. And if there's anybody in the audience who's interested in sitting up here, we welcome new members.

**2. APPROVAL OF MINUTES – March 26, 2024**

Kaiser: So with that we will go ahead and get started looking at the minutes from the meeting back in March. There any comments or edits? I just had one. Wanted to note that the board members absent, Vanessa Porter, Commissioner Vanessa Porter was not listed there. So just want to make that correction. And with that correction, can I get a motion to approve?

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

2

3 Acosta: I second.

4

5 Baum: Board Member Acosta.

6

7 Acosta: Yes.

8

9 Baum: Board Member Smith.

10

11 Smith: Yes.

12

13 Baum: Board Member Murray.

14

15 Murray: Yes.

16

17 Baum: Chair Kaiser.

18

19 Kaiser: Yes.

20

21 Baum: Motion passes.

22

23 **3. CONFLICT OF INTEREST**

24

25 Kaiser: Okay, any conflicts of interest tonight? Seeing none.

26

27 **4. POSTPONEMENT**

28

29 Kaiser: All right, postponements. As I announced, we do have one postponement  
30 tonight. Item 9.1 will be postponed until the May 28th meeting. So  
31 apologies for those of you who came out to hear that item this evening. We  
32 will hear it next month.

33

34 **5. ACCEPTANCE OF THE AGENDA**

35

36 Kaiser: So with that change, can I get motion to accept tonight's agenda?

37

38 Acosta: Motion to accept tonight's agenda.

39

40 Smith: I second.

41

42 Baum: Board Member Acosta.

43

44 Acosta: Yes.

45

46 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 **6. PUBLIC PARTICIPATION**

15  
16 Kaiser: All right. Moving on to public participation. Is there anybody in tonight's  
17 audience who wishes to speak on an item that is not on tonight's agenda?  
18 I see three hands. All right, we will go ahead and give each of you three  
19 minutes to speak.

20  
21 Bernal: Good evening. My name is Dolores Bernal.

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 Bernal: Yes.

27  
28 Kaiser: Go ahead.

29  
30 Bernal: Dear Commissioners and City employees present. On April 10, 2024 I and  
31 two other residents member of the group Save the Roadrunner filed an  
32 appeal to case number 23CS0500013. The case is about the subdivision  
33 of the 56 acres of land that the City plans to develop for the Apodaca  
34 Blueprint project and the Villa Mora Mata Dam project at Madrid and Triviz.  
35 The appeal leaves several reasons for holding the project including  
36 violations to the municipal code, as well as state and federal laws. Even  
37 though this appeal was filed by three people, our group has received over  
38 100 comments from residents who want the City of Las Cruces to stop  
39 unchecked development from continuing.

40  
41 Development in Las Cruces has gone unchecked because you approve  
42 these projects without any studies that inform you on the harm done to the  
43 native wildlife and plants that are killed and destroyed at the construction  
44 sites. In case you are not aware, the City of Las Cruces does not require  
45 environmental impact reports for 99% of the project it proves at these  
46 meetings. So again, the City of Las Cruces does not require environmental



1 impact reports for any of the projects that you approve at these meetings.  
2 Mr. David Weir, the Director of Community Development told me and  
3 another member recently that there is no one in the City government that  
4 manages issues related to native wildlife and their habitat. No one. By the  
5 way, thank you Mr. Weir for sharing that information with us. Appreciate the  
6 transparency. The City lacks the expertise and insight of a professional who  
7 understands the role wildlife plays in our economy, overall community  
8 wellbeing, and way of life. I urge the new City manager, the City Council,  
9 you to change how development in Las Cruces is approved. The City  
10 manager and his staff need to understand that birds, rabbits, and other  
11 mammals, as well as native plants are also part of the community and that  
12 many of these species are protected. Mitigation plans need to be in place  
13 by the City or should be required from the developer. But for now, please  
14 remember that every time you come to these meetings, and Mr. Ochoa or  
15 anyone else submit something for you to approve, nothing has been done  
16 about the wildlife that lives in those areas. I'm not sure how anyone working  
17 for the City can sleep at night knowing that their job involves having wildlife  
18 die crushed by bulldozers. Seriously, how can you sleep at night? Maybe  
19 you can't.  
20

21 Kaiser: Thank you. And we will, whoever wants to go next, two of you. Please state  
22 your name for the record.  
23

24 Parsons: Dana Parsons.  
25

26 Kaiser: And do you swear or affirm that the testimony you're about to give is the  
27 truth and nothing but the truth under penalty of law?  
28

29 Parsons: Yes.  
30

31 Kaiser: Go ahead.  
32

33 Parsons: I'm here with Save the Roadrunner. I'm concerned with how recent, current,  
34 and planned developments are affecting our local and migratory wildlife.  
35 These developments are not taking the proper precautions to protect our  
36 local habitats that are essential to the survival of many species such as the  
37 Greater Roadrunner. These projects are a mirror image of the City's past  
38 developments that led to the decline of the burrowing owl, which were once  
39 prevalent within the City and now have not been reported cited in three  
40 years. Las Cruces being in the Chihuahuan Desert and close to the border,  
41 there are species that exist here that can't be seen in the rest of the United  
42 States. And saving these species doesn't mean slowing our economic  
43 progress. Ecotourism is the fastest growing and one of the largest drivers  
44 of economic growth in the world. People come from very far to visit our  
45 region of the country hoping to see something unique, or something they've  
46 never seen before. I've come across people from states as far away as

Alaska and countries as far away as New Zealand. Our visitors sometimes ask where are the roadrunners? Where are the burrowing owls? If the City continues to develop with its current methods, other species will meet the same fate as the burrowing owl. And once gone, they will likely remain gone forever. It is clear that the City is rushing to develop these areas with disregard to the habitats of our local and migratory wildlife. Local ordinances such as Section 34-125, and the better interest of the community, and this disregard will lead to a breakdown of the people's trust in the City of Las Cruces and irreparable harm to native wildlife populations. Thank you.

Kaiser: Thank you. And we have one more speaker. Please state your name for the record.

Martinez: Grace Martinez.

Kaiser: 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?

Martinez: Yes.

Kaiser: Go ahead.

Martinez: My name is Grace Martinez. I was here on the March 26th meeting. And as a member of Save the Roadrunner, I want to emphasize the urgency of acknowledging the Villa Mora project. The impact on our community here. Okay, during the March 26th meeting I highlighted how this development threatens to destroy the natural habitat of our beloved wildlife. As my peers here have also stated to you how important this is to us. This is including the iconic roadrunner. Moreover, the residents in the area are opposed to this project, yet their voices seem to be ignored. When will our voices matter to the council here? When will our voices matter to the City? It's crucial that we demand more community involvement and input in these projects. So I would like to be considered and our project also here as Save the Roadrunner be taken more seriously. Thank you.

Kaiser: Thank you. Okay, anybody else in the audience who wishes to speak on an item that is not on tonight's agenda? All right, seeing none. We'll close public comment.

## **7. CONSENT AGENDA**

**7.1 Case No. 24ZO3000077:** A request for approval of a Planned Unit Development (PUD) Final Site Plan, known as Metro Verde Arcadia Phase 5 & 6, located within the Metro Verde PUD area. The proposed subdivision encompasses 30.00 ± acres, is zoned PUD and located on the southwest corner of Arroyo Road and

Sentinel Avenue. The final site plan proposes 131-single-family residential lots with one tract of land for drainage and another tract of land for the mailbox cluster that will each be dedicated to the City of Las Cruces. Submitted by Sierra Norte Development Inc., property owners. City Council District 5.

**7.2 Case No. 24ZO0500034:** A proposed zone change request from C-2 (Commercial Medium Intensity) to C-3 (Commercial Medium Intensity) on a property encompassing 1.40 ± acres and located at 3200 W. Picacho Avenue. The zone change request seeks bring the property into compliance with the 2001 Zoning Code as, amended and allow for the future redevelopment of a commercial land use. Submitted by Allure Homes, representative. City Council District 4.

**7.3 Case No. 24ZO0500035:** A request to approve a zone change from C-2 (Commercial Medium Intensity) to C-3 (Commercial High Intensity) for a parcel encompassing 2.67 ± acres in size and located at 2605 Bataan Memorial West. The proposed zone change will bring the property into compliance with the 2001 Zoning Code. Submitted by Kary Bulsterbaum, Representative. Council District 5.

**7.4 Case No. 24ZO0500038:** A request to approve a zone change from C-2 (Commercial Medium Intensity) to C-3 (Commercial High Intensity) for property (replat of 2 lots into one is pending) having a total acreage of ± 2.32 acres in size and located at 2999 Bataan Memorial West (northwest corner of Bataan Memorial West and Roadrunner Parkway). Submitted by Chris Sveum – Atwell, LLC on behalf of Yesway, Inc. City Council District 5.

Kaiser: And we will move on to the consent agenda. We do have a number of items here. We've got 7.1, 7.2, 7.3 and 7.4. Is there anybody in the audience who wishes to hear a, or wants a discussion on any of those items? All right, seeing no hands raised, we will just proceed with the consent agenda. So looking for a motion to approve tonight's consent agenda.

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

Acosta: I second.

Baum: Board Member Acosta.

Acosta: Yes.

Baum: Board Member Smith.

Smith: Yes.

Baum: Board Member Murray.

Murray: Yes.

1  
2 Baum: Chair Kaiser.

3  
4 Kaiser: Yes.

5  
6 Baum: Motion passes.

7  
8 **8. OLD BUSINESS**

9  
10 Kaiser: Okay, we have no old business.

11  
12 **9. NEW BUSINESS**

13  
14 **9.1 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: And our one new business item, item 9.1 was rescheduled for May 28th.

21  
22 **10. DISCUSSION**

23  
24 Kaiser: So with that, is there any discussion or staff announcements? Okay, I  
25 actually have one item I wanted to bring up. On Saturday, I was out and  
26 about running some errands and drove by the athletic complex that's on  
27 Hadley Avenue, and noticed that the City had paved over what I can  
28 approximate to be about four acres of what used to be a dirt parking lot. It  
29 is now entirely asphalt there at the corner of Hadley and Walnut. There was  
30 zero landscaping provided as part of that project. And it does not appear  
31 that there was any additional stormwater management facilities that were  
32 built as part of that pave paving project as well. That is pretty upsetting to  
33 be honest that in the year 2024 given everything that we know about the  
34 urban heat island, climate change, our summers are not getting any cooler,  
35 last year was the hottest on record. National forecasts are projecting that  
36 this year may also be hotter than last year. And we know the impact of that  
37 kind of a mountain of asphalt that has on our neighborhoods, on our  
38 residents, on public health. In fact, a couple of years ago there was a study  
39 done to evaluate and assess the urban heat island in the City of Las Cruces  
40 and its impact on our neighborhoods and public health. And the outcome  
41 of that is, is not great.

42  
43 Moreover, the City was a partner on a grant that through partnership with  
44 Doña Ana Soil and Water Conservation District received a million dollars to  
45 plant trees over the next five years to mitigate the urban heat island. And  
46 then in addition to that, several years ago a pilot project was done on the

bike lane that runs along this now asphalt parking lot. The project was to paint, use a special kind of paint that reflects sunlight and actually mitigates the urban heat island. The unfortunate part is, is the City's actions over the last couple of weeks of paving this parking lot in asphalt have completely undermined that outcome. The amount of asphalt that was poured on four acres will I mean just evaporate any potential gain that that pilot project had on that bike lane.

What's worse in my opinion is that any developer who had brought forward a very similar project would not have gotten staff support. It does not currently meet the development standards, a project like that. And in fact, this committee heard an applicant requesting to waive their landscape requirements for a truck rest stop parking lot, gas station on the West Mesa, the applicant sought to waive the landscape requirements and essentially have acres of asphalt. This body rejected that request. And I feel like the City's actions out there at the athletic complex undermines our authority. I don't know how we can sit here and tell a developer that they have to abide by the development standards when the City doesn't feel that they need to do the same for their projects.

In short, the unfortunate reality is, is that that amount of pavement has essentially created a hellscape come summertime, out there at the park. I don't know how you can honestly think that it would be an enjoyable experience to be in if you're walking to the athletic fields from your car. I mean all it's going to take is a couple of hours of summer sun on that parking lot and it's going to be an absolute furnace. We just had Earth Day yesterday. The City posted on social media accounts talking about making Las Cruces a beautiful and sustainable City. Yes we just paved four acres of asphalt with no landscaping. So I don't know if staff is familiar with that project. I don't know if that was undertaken through Community Development or the Parks department, but if there's any information that you have about whether or not the City has plans to install any stormwater management, low impact development, landscaping, I'd welcome that. But I was just very disappointing to drive by and see the sheer amount of asphalt that was poured out there. That's all I have.

**11. STAFF ANNOUNCEMENTS**

**12. ADJOURNMENT (7:33)**

Kaiser: With that, there's no other discussion or announcements, looking for a motion to adjourn tonight's meeting.

Murray: I make a motion to adjourn the meeting tonight.

Smith: I second.

Agenda Item #8.3.

- 1
- 2 Kaiser: All in favor.
- 3
- 4 MOTION PASSES UNANIMOUSLY.
- 5
- 6 Kaiser: And thank you all for coming out this evening. Really appreciate it. Sorry
- 7 again about the postponed item. We will see you all in May.
- 8
- 9
- 10
- 11
- 12
- 13 

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Chairperson



**3072; Council  
Bill 25-001**

# City Council Action and Executive Summary

**Type of Action:**  
☐ Resolution  
☒ Ordinance  
☐ TIDD Resolution

|                     |                                                                                                                                                                                                                                                                  |                          |                       |
|---------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------|-----------------------|
| <b>District:</b>    | <input checked="" type="checkbox"/> 1 <input checked="" type="checkbox"/> 2 <input checked="" type="checkbox"/> 3 <input checked="" type="checkbox"/> 4 <input checked="" type="checkbox"/> 5 <input checked="" type="checkbox"/> 6 <input type="checkbox"/> N/A |                          |                       |
| <b>1st Reading:</b> | July 1, 2024                                                                                                                                                                                                                                                     | <b>Adopted:</b>          | July 15, 2024         |
| <b>Drafter:</b>     | Christine Rivera                                                                                                                                                                                                                                                 | <b>Department:</b>       | City Manager's Office |
| <b>Program:</b>     | Compliance                                                                                                                                                                                                                                                       | <b>Line of Business:</b> | Office of City Clerk  |
| <b>Title:</b>       | <b>AN ORDINANCE ADOPTING A MUNICIPAL GROSS RECEIPTS TAX.</b>                                                                                                                                                                                                     |                          |                       |

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

**PURPOSE(S) OF ACTION:**

To adopt a municipal gross receipts tax.

**BACKGROUND / KEY ISSUES / CONTRIBUTING FACTORS:**

To maintain the momentum of the Fiscal Year 2025 (FY2025) City of Las Cruces budget and to explore additional funding for new capital projects, City staff presented the City Council with options to generate additional revenue at a Community Livability Work Session on April 22, 2024. The discussion marked a shift from a strategy of deferred maintenance and expansion to a proactive approach less reliant on external funding sources.

The primary focus was on generating additional revenue to support quality-of-life enhancements in public safety, and critical public infrastructure. Various revenue-generating options were considered, including capital outlay funding from the State of New Mexico, a property tax increase, additional general obligation bonds, and an increase in the local portion of the gross receipts tax.

The council directed staff to proceed with a separate work session agenda item specifically focused on generating additional revenue and to present all available funding options. On May 13, 2024, a second work session titled "Revenue Options to Create a Sustainable Capital Improvements Fund" was conducted to explore the advantages and disadvantages of the various funding options in detail.

It was noted that while capital outlay funding from the State of New Mexico is vital to the community, it is mostly a potential source for incremental funding and is not reliable for comprehensive project funding. Additionally, it cannot be used for maintenance or operations and is often distributed based on legislator priorities.

The possibility of using the City’s general obligation bonding capacity was discussed, but it was noted that this is limited by state law and would necessitate a tax increase not shared by all who use city services. Similarly, property taxes could be increased via ordinance, but the burden would not be shared by everyone who benefits from city amenities and services.

The council was also presented with the option to increase the local portion of the Gross Receipts Tax (GRT) by 0.5625%, which could generate around \$20 million in additional revenue per year. This increase would be implemented in two parts: a ballot measure for 0.3250% and a council ordinance for 0.2375%.

Agenda Item #10.1.

Additionally, data from a scientifically sampled survey of registered voters in Las Cruces conducted from May 1, 2024 through May 5, 2024 was presented. The survey showed initial support for the proposed increase at about 51%, rising to approximately 63% after questions related to specific uses. Top voter priorities included public safety (82%), street improvements (72%), park improvements (62%), and quality-of-life facility improvements (56%).

Based on the consensus from the council and per NMSA 1978 Article 18 Section 3-18-2, a resolution will be adopted to place a question on the November 5th ballot asking voters to support a GRT increase of 0.3250%. This ordinance must be approved at the same time in anticipation of the election results to ensure compliance with the New Mexico Taxation and Revenue Department. The effective date of the municipal gross receipts tax will be July 1, 2025.

**PLAN(S):**

Elevate Las Cruces

**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 ordinance and the question will be placed on the ballot for election.
- 2. Vote "No"; this will not approve the ordinance and the question cannot move forward to the election.
- 3. Vote to "Amend"; this is not an option due to state requirements for the ordinance.
- 4. Vote to "Table"; this is not an option due to the timing of the election.



**ORDINANCE 3072; COUNCIL BILL 25-001**

**AN ORDINANCE ADOPTING A MUNICIPAL GROSS RECEIPTS TAX.**

Be it Ordained by the Governing Body of the City of Las Cruces:

**Section 1. Imposition of Tax.** There is imposed on any person engaging in business in this municipality for the privilege of engaging in business in this municipality an excise tax equal to 0.3250% of the gross receipts reported or required to be reported by the person pursuant to the New Mexico Gross Receipts and Compensating Tax Act as it now exists or as it may be amended. The tax imposed under this ordinance is pursuant to the Municipal Local Option Gross Receipts Taxes Act as it now exists or as it may be amended and shall be known as the "unrestricted municipal gross receipts tax."

**Section 2. General Provisions.** This ordinance hereby adopts by reference all definitions, exemptions and deductions contained in the Gross Receipts and Compensating Tax Act as it now exists or as it may be amended.

**Section 3. Specific Exemptions.** No municipal gross receipts tax shall be imposed on the gross receipts arising from:

- A. transporting persons or property for hire by railroad, motor vehicle, air transportation or any other means from one point within the municipality to another point outside the municipality;
- B. a business located outside the boundaries of a municipality on land owned by that municipality for which a state gross receipts tax distribution is made pursuant to Subsection C of Section 7-1-6.4 NMSA 1978; or
- C. direct broadcast satellite services.

**Section 4. Dedication.** The gross receipts tax revenues shall be used for funding capital improvements and maintenance for public safety, streets, parks, and other public facilities and critical infrastructure.

**Section 5. Effective Date.** The effective date of the municipal gross receipts tax shall be either January 1, or July 1, whichever date occurs first after the expiration of three months from the date this ordinance is adopted, unless an election is held on the question of approving the ordinance, in which case the effective date shall be either January 1 or July 1, whichever date occurs first after the expiration of three months from the date when the results of the election are certified to be in favor of the ordinance's adoption and the adopted ordinance is delivered or mailed to the Taxation and Revenue Department.

**DONE AND APPROVED** this    day of

Agenda Item #10.1.

APPROVED

\_\_\_\_\_

ATTEST:

\_\_\_\_\_

**Moved by:**

**Seconded by:**

**AYES**

**NAYS**



# City Council Action and Executive Summary

3073; Council Bill 25-002

Type of Action:  
☐ Resolution  
☒ Ordinance  
☐ TIDD Resolution

|              |                                                                                                                                                                                                                                                                                                                                                                                          |                            |                            |                                       |                            |                            |                              |
|--------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------|----------------------------|---------------------------------------|----------------------------|----------------------------|------------------------------|
| District:    | <input type="checkbox"/> 1                                                                                                                                                                                                                                                                                                                                                               | <input type="checkbox"/> 2 | <input type="checkbox"/> 3 | <input checked="" type="checkbox"/> 4 | <input type="checkbox"/> 5 | <input type="checkbox"/> 6 | <input type="checkbox"/> N/A |
| 1st Reading: | July 1, 2024                                                                                                                                                                                                                                                                                                                                                                             |                            |                            | Adopted:                              | July 15, 2024              |                            |                              |
| Drafter:     | John Castillo                                                                                                                                                                                                                                                                                                                                                                            |                            |                            | Department:                           | Community Development      |                            |                              |
| Program:     | Community Planning                                                                                                                                                                                                                                                                                                                                                                       |                            |                            | Line of Business:                     | Community Planning         |                            |                              |
| Title:       | AN ORDINANCE APPROVING A ZONE CHANGE FROM C-2 (COMMERCIAL MEDIUM INTENSITY) TO C-3 (COMMERCIAL HIGH INTENSITY). THE SUBJECT PROPERTIES ENCOMPASSING 1.4 ± ACRES IS LOCATED AT 3200 W PICACHO AVENUE. THE ZONE CHANGE IS TO ALLOW FOR THE FUTURE REDEVELOPMENT OF A COMMERCIAL BUSINESS ON THE SUBJECT PROPERTY AND BRING THE LOTS INTO COMPLIANCE WITH THE 2001 ZONING CODE, AS AMENDED. |                            |                            |                                       |                            |                            |                              |

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

**PURPOSE(S) OF ACTION:**  
Zone change.

**BACKGROUND / KEY ISSUES / CONTRIBUTING FACTORS:**

The City Council is required to review and take final action on zone changes per Section 38-10 B. 2. b. and 38-13 A. of the 2001 Zoning Code, as amended. A zoning district is a specifically delineated area where land use regulations uniformly govern the use, placement, spacing, density, bulk, height, and size of buildings and/or land.

The applicant is requesting a zone change from C-2 (Commercial Medium Intensity) to C-3 (Commercial High Intensity) for a non-residentially developed parcel of land and a vacant parcel of land located at 3200 W. Picacho. The purpose for the proposed zone change is to bring the properties into compliance with the 2001 Zoning Code, as amended, so that they can be redeveloped into a family entertainment center.

The property is zoned C-2 which allows for various non-residential land uses (i.e., office, retail, restaurant, service, and recreational). The proposed zone change request will allow for the redevelopment of the vacant warehouse and bring the two properties into compliance with the 2001 Zoning Code C-3 development standard as the two properties will exceed the 1-acre maximum lot size requirement of C-2, once the property becomes replatted into a single lot.

The proposed zone change is consistent with the intent and purpose of Elevate Las Cruces Comprehensive Plan through several Goals, Policies, and Actions. Picacho Avenue is classified as an arterial roadway in Elevate Las Cruces’ Future Thoroughfare Map and the Mesilla Valley MPO Future Thoroughfare Plan which support commercial development. The subject property is also located within the Regional Commercial Place Type, as indicated by the Future Development Map. The Regional Commercial Place Type is defined by large retail and professional service uses and serves as a transition for non-residential land uses from residential areas. The proposed zone change is also adjacent to a proposed neighborhood center which supports a mix

Agenda Item #10.2.

of residential and non-residential land uses that provide nodes of community activity for surrounding residential neighborhoods.

On April 23, 2024, the Planning and Zoning Commission, per Section 38-10 B. 2. B. of the 2001 Zoning Code, as amended, recommended approval with conditions of the proposed zone change by a vote of 4-0-0 (Two Commissioner Seats Vacant, one Commissioner absent) through the consent agenda based on the following findings, which are also reflected in Exhibit “B”:

- The zone change request will allow for the attraction and retention of businesses and will allow for future redevelopment of the property.
- The proposed zone change will bring the property into compliance with all development standards of the 2001 Zoning Code, as amended (Section 38-32.D).
- The subject property is located along a major thoroughfare which is identified as an arterial roadway where C-3 zoning is recommended (2001 Zoning Code, Section 38-32.D)
- Based on staff’s analysis of the proposed zone change, the request meets the purpose and intent and is supported by Elevate Las Cruces Comprehensive Plan.
- The proposed zone change meets the purpose and intent of the 2001 Zoning Code, as amended and fulfills the purpose of the Las Cruces Municipal Code (Section 38-2, Section 2-382).

Condition:

- The subject property will submit an administrative replat for approval to vacate a property line before a Certificate of Occupancy can be issued for any future development.

The case was publicly noticed in accordance with the City’s notification provisions; staff has not received any comments regarding the proposed zone change.

**SUPPORT INFORMATION:**

- [EXHIBIT "A" - SITE PLAN](#)
- [EXHIBIT "B" - FINDINGS](#)
- [ATTACHMENT "A" - STAFF REPORT FOR CASE 24ZO0500034](#)
- [ATTACHMENT "B" - 04.23.2024 PNZ MINUTES](#)

**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 Ordinance and affirm the P&Z recommendation for approval.

## Agenda Item #10.2.

2. Vote "No", this will deny the Ordinance and will reject the recommendation made by P&Z.
3. Vote to "Amend", this could allow City Council to modify the Ordinance by adding conditions as determined appropriate.
4. Vote to "Table", this could allow City Council to table/postpone the Ordinance and direct staff accordingly.

**ORDINANCE 3073; COUNCIL BILL 25-002**

**AN ORDINANCE APPROVING A ZONE CHANGE FROM C-2 (COMMERCIAL MEDIUM INTENSITY) TO C-3 (COMMERCIAL HIGH INTENSITY). THE SUBJECT PROPERTIES ENCOMPASSING 1.4 ± ACRES IS LOCATED AT 3200 W PICACHO AVENUE. THE ZONE CHANGE IS TO ALLOW FOR THE FUTURE REDEVELOPMENT OF A COMMERCIAL BUSINESS ON THE SUBJECT PROPERTY AND BRING THE LOTS INTO COMPLIANCE WITH THE 2001 ZONING CODE, AS AMENDED.**

The City Council is informed that:

**WHEREAS**, Allure Homes, representative, has submitted a request for a zone change from C-2 (Commercial Medium Intensity) to C-3 (Commercial High Intensity) for 3200 W. Picacho Ave.; and

**WHEREAS**, the proposed C-3 zoning designation will allow for the redevelopment of a commercial building and bring the property into compliance with the 2001 Zoning Code, as amended to meet all development standards of the C-3 zoning district; and

**WHEREAS**, the proposed zone change is supported by Elevate Las Cruces Comprehensive Plan.

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

**(I)**

**THAT** the land, as reflected in Exhibit "A", attached hereto and made part of this Ordinance, is hereby zoned C-3 (Commercial High Intensity).

**(II)**

**THAT** the zoning is based on the findings contained in Exhibit "B", attached hereto and made part of this Ordinance.

**(III)**

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

**(IV)**

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

**DONE AND APPROVED this** day of

Agenda Item #10.2.

APPROVED

\_\_\_\_\_

ATTEST:

\_\_\_\_\_

**Moved by:**

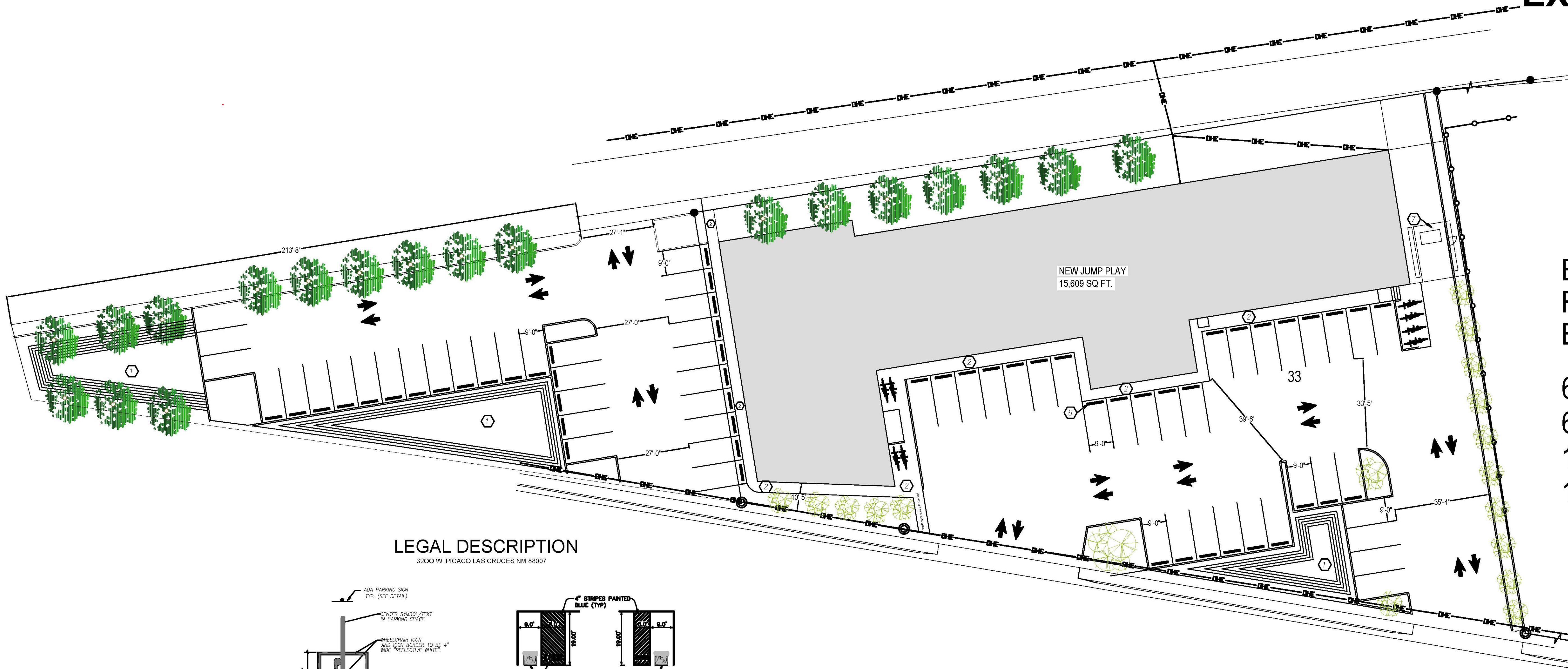
**Seconded by:**

**AYES**

**NAYS**



# EXHIBIT "A"

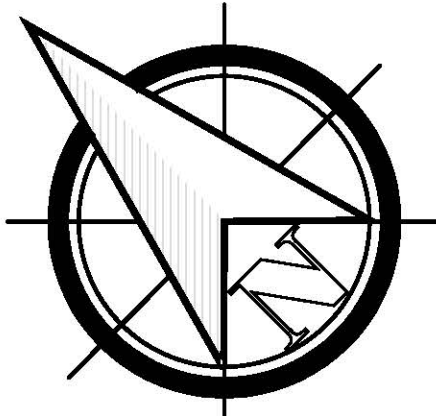
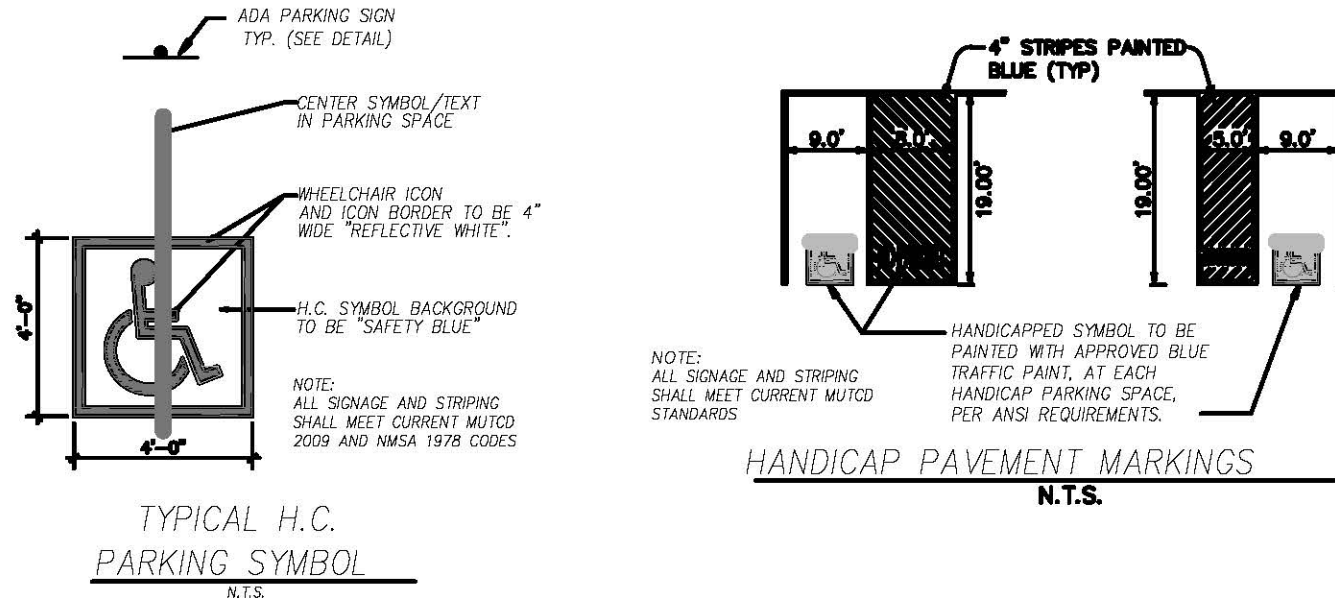


EXISTING C-2  
REQUESTED C-3  
BASED ON OCCUPANCY

63 PARKING REQUIRED  
63 PROVIDED  
15 BIKE REQUIRED  
16 BIKE PROVIDED

## LEGAL DESCRIPTION

3200 W. PICACHO LAS CRUCES NM 88007

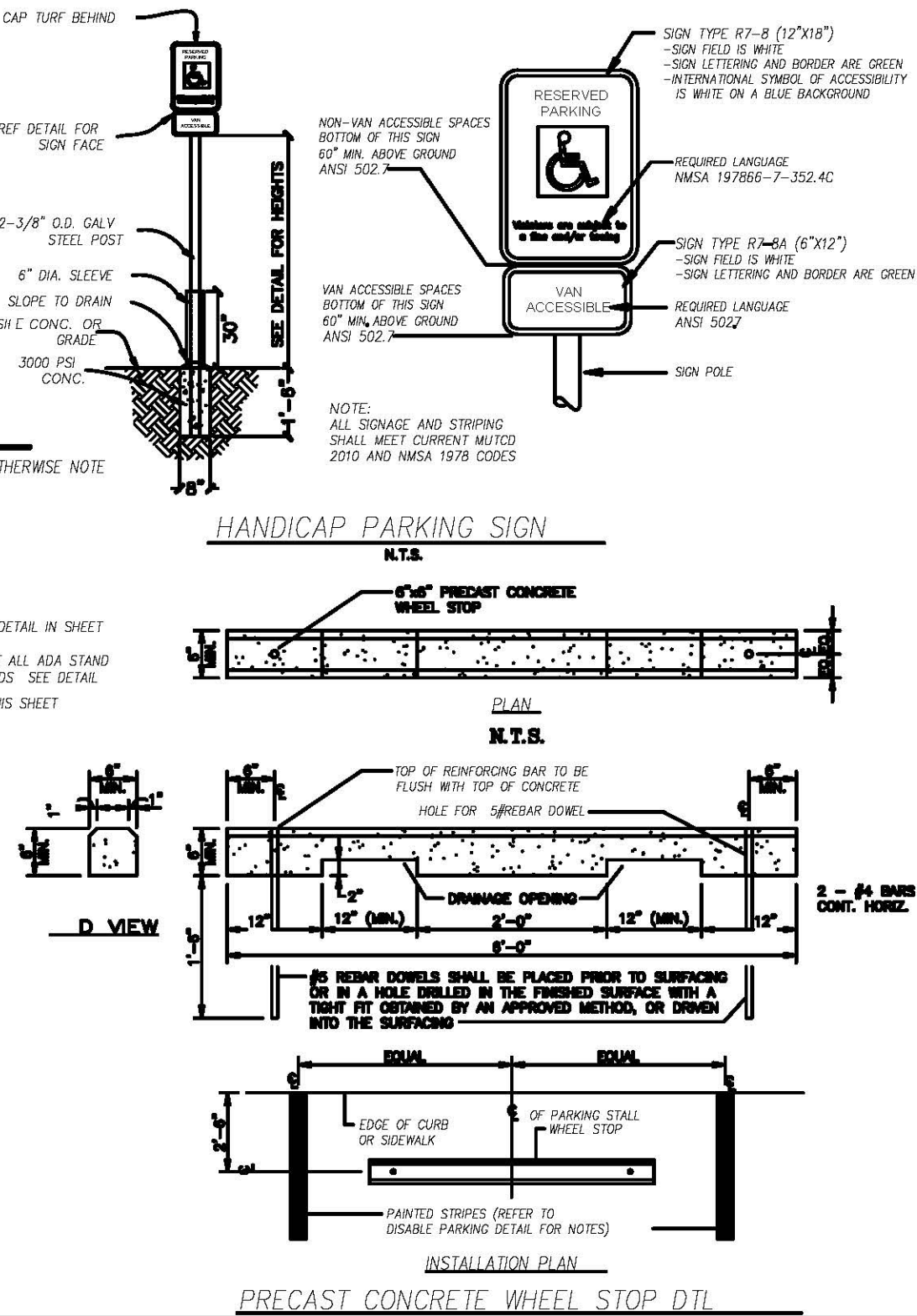


SCALE 1"=20'-0"

### KEYED NOTES

(SEE DETAILS ON THIS SHEET UNLESS OTHERWISE NOTE)

- PONDING
- TYPICAL INTERIOR SIDEWALK: SEE THIS SHEET FOR DETAILS
- PAINTED STRIPES
- HANDICAPPED SIGNAGE - SEE DETAIL IN SHEET
- ADA PARKING STRIPES TO MEET ALL ADA STANDARDS & CURRENT MUTED STANDARDS - SEE DETAIL
- TREE STOPS SEE DETAILS ON THIS SHEET
- TRASH CONTAINERS



ISSUED PERMIT:  
REVISIONS: 1

PROJECT  
3200 W. PICACHO

SHEET TITLE  
COVER SHEET/  
SITE PLAN LAYOUT

DRAWN BY: S.GREEN  
CHECKED BY: S.GREEN  
DATE: 2/28/2024F

SHEET NUMBER: C.1





## **EXHIBIT “B”**

# **FINDINGS**

1. The zone change request will allow for the attraction and retention of businesses and will allow for future redevelopment of the property.
2. The proposed zone change will bring the property into compliance with all development standards of the 2001 Zoning Code, as amended (Section 38-32.D).
3. The subject property is located along a major thoroughfare which is identified as an arterial roadway where C-3 zoning is recommended (2001 Zoning Code, Section 38-32.D)
4. Based on staff's analysis of the proposed zone change request meets the purpose and intent and is supported by Elevate Las Cruces Comprehensive Plan.
5. The proposed zone change meets the purpose and intent of the 2001 Zoning Code, as amended and fulfills the purpose of the Las Cruces Municipal Code (Section 38-2, Section 2-382).

### **Conditions:**

1. The subject property will need to go through an administrative replat to vacate a property line before a Certificate of Occupancy can be issued for any future development.



# CITY OF LAS CRUCES

*Planning & Zoning Commission 04/23/2024*  
**CASE 24ZO0500034: REZONING**

G  
Z  
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N

|                              |                                                                                                        |
|------------------------------|--------------------------------------------------------------------------------------------------------|
| <b>STAFF CONTACT:</b>        | John Castillo, (575) 541-2288,<br><a href="mailto:jcastillo@lascruces.gov">jcastillo@lascruces.gov</a> |
| <b>OWNER:</b>                | Jerry M Green                                                                                          |
| <b>REPRESENTATIVE:</b>       | Allure Homes LC                                                                                        |
| <b>DISTRICT:</b>             | District #4                                                                                            |
| <b>SITE ADDRESS:</b>         | 3200 W Picacho Avenue                                                                                  |
| <b>EXISTING ZONING:</b>      | C-2 (Commercial Medium Intensity)                                                                      |
| <b>REQUEST:</b>              | To rezone from C-2 (Commercial Medium Intensity) to C-3 (Commercial High Intensity)                    |
| <b>RELATED APPLICATIONS:</b> | N/A                                                                                                    |
| <b>STAFF RECOMMENDATION:</b> | Approval With Conditions                                                                               |

**SUMMARY OF CASE 24ZO0500034:**

The applicant is requesting a zone change from C-2 (Commercial Medium Intensity) to C-3 (Commercial High Intensity) on two properties encompassing 1.4 ± acres and located at 3200 W Picacho, to allow for the redevelopment of a commercial business and bring the property into compliance with the 2001 Zoning Code, as amended.

**SUMMARY OF RECOMMENDATION:**

Staff is recommending **APPROVAL WITH CONDITIONS** based on the findings listed below:

- The zone change request will allow for the attraction and retention of businesses and will allow for future redevelopment of the property.
- The proposed zone change will bring the property into compliance with all development standards of the 2001 Zoning Code, as amended (Section 38-32.D).

- The subject property is located along a major thoroughfare which is identified as an arterial roadway where C-3 zoning is recommended (2001 Zoning Code, Section 38-32.D)
- Based on staff's analysis of the proposed zone change request meets the purpose and intent and is supported by Elevate Las Cruces Comprehensive Plan.
- The proposed zone change meets the purpose and intent of the 2001 Zoning Code, as amended and fulfills the purpose of the Las Cruces Municipal Code (Section 38-2, Section 2-382).

**Conditions:**

- The subject property will need to go through an administrative replat to vacate a property line before a Certificate of Occupancy can be issued for any future development.

**PROPOSAL AND LAND USE HISTORY**

**DETAILED DESCRIPTION:**

The applicant is seeking a zone change from C-2 (Commercial Medium Intensity) to C-3 (Commercial High Intensity). The subject properties encompass 1.4 ± acres in size. The subject property is currently developed with a commercial building and will be redeveloped into a family entertainment center. Under the existing C-2 zoning designation the property is permitted various types of non-residential land uses (i.e., office, restaurant, and retail) such as what is proposed to be proposed.

The proposed zone change to C-3 will allow the properties to come into compliance with the 2001 Zoning Code, as amended as they will exceed the maximum 1 acre requirement of C-2. It currently consists of two parcels that are 0.4 ± and 1.0 ± acres and will go through a subdivision process known as a replat to vacate a property line. This will combine the two parcels into one parcel for future redevelopment of the property.

**LAND USE HISTORY:**

The subject properties are located near the intersection of Picacho Avenue, Roadrunner Lane and Old Highway 292 (3200 W Picacho). In December of 1967 these properties and the surrounding area were annexed into the City of Las Cruces. The subject properties have had a commercial zoning designation of C-2 prior to 1971. The developed parcel contains a commercial structure that was constructed in 1968.

**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:**

Picacho Avenue is a major thoroughfare that runs east to west throughout the entire City. The subject parcels are located along a corridor of commercial and industrial zoning districts that are of similar size and use. The subject parcels also act as a buffer to the residential development to the north.

**COMPLIANCE WITH ELEVATE LAS CRUCES COMPREHENSIVE PLAN:**

The subject property is in an area designated as a Regional Commercial Place Type and near a proposed Neighborhood Center in the Elevate Las Cruces Comprehensive Plan and Future Development Map. The Regional Commercial Place Type is defined by a large retail and professional service uses. The regional commercial place type serves as a transition of non-residential land uses from residential areas. Additionally, neighborhood centers is supported by a mix of residential and non-residential land uses that provide a nodes of community activity for surrounding residential neighborhoods. The following goals, policies, and actions from Elevate Las Cruces are relevant to the proposed zone change:

- Community Environment:
  - Goal CE-3: Centers and Corridors – Support community growth through concentrated development at activity centers and along key corridors.
    - Policy CE-3.2 – Allow for a mix of development type and intensity along major thoroughfares that reflects surrounding urban, suburban, and rural contexts.
  - Goal CE-4: Complete neighborhoods - Develop mixed-use neighborhoods that incorporate a wide range of recreational, commercial, employment, and civic uses.
    - Policy CE-4.2: Incorporate employment and shopping nodes into new and redeveloping neighborhoods that incorporate a wide range of recreational, commercial, and civic uses.
      - Action CE 4.1.2: Promote transitions between residential development types at intersecting streets and alleys.
- Community Prosperity
  - Goal CP-2: Economic Equity – Generate employment opportunities that create economic security for all residents.
    - Policy CP-2.2 – Support efforts to connect vulnerable populations to job opportunities.
      - Action CP-2.2.2 – Identify and promote places of employment to minimize commutes and increase accessibility to other transportation modes to create a job-housing balance.
  - Goal CP-4: Diversification - Seek a balance of business recruitment, retention, and expansion to diversify economic opportunities.
    - Policy CP-4.2 - Support efforts to be regionally and nationally competitive in regard to retaining and growing businesses, jobs, and students.
- Community Livability:
  - Goal CL-18: Mental and Physical Health - Provide opportunities for residents to improve their mental health and physical health.

The request to rezone the property from C-2 to C-3 is not out of context with Elevate Las Cruces Comprehensive Plan. The Regional Commercial Place Type encourages a diverse assortment of commercial and professional services that would be made available to existing residential neighborhoods.

**COMPLIANCE WITH THOROUGHFARE PLANS:**

Picacho is designated as an arterial roadway by both the Elevate Las Cruces Future Thoroughfare Map and the Mesilla Valley Metropolitan Planning Organization (MPO) Future Thoroughfare Plan. These types of roadways are designed to support the proposed zoning designation and any potential future development.

**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 regulations 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.
- B. Encourage innovations in land development and redevelopment.
- 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.
- J. Improve the design, quality, and character of new development.
- 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.

Review by City staff has determined that the proposed zone change would not adversely impact the surrounding area. Any potential future expansion in uses is in keeping with the surrounding area as per Section 38-2 of the 2001 Zoning Code, as amended.

**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 did not identify any issues that would deter the Planning and Zoning Commission from making a positive recommendation to City Council regarding the zone change request. Staff also considered the Criteria for Decisions stated above during the internal review process and has deemed the zone change request appropriate for recommendation of approval.

**NEW MEXICO CASE LAW:**

1. There was an error when the existing zoning map pattern was created; or
2. Changed neighborhood or community conditions justify the change; or
3. A different use category is more advantageous to the community, as articulated in the Comprehensive Plan or other applicable City master plan(s), even though criterion (1) or (2) above do not apply because
  - a. there is a public need for a change of the kind in question, and
  - b. that need will be best served by changing the classification of the particular piece of property in question as compared with other available property.

**DEVELOPMENT STANDARDS**

---

**SITE COMPLIANCE FOR USES UNDER CURRENT ZONING:**

The subject properties are a vacant and developed lot. The developed property located at 3200 W Picacho Ave. has a commercial building that meets all development standards of the C-2 zoning district.

**SITE SUITABILITY FOR USES UNDER PROPOSED ZONING:**

The proposed zone change to C-3 would allow the applicant to move forward with replatting the properties and bringing them into compliance with the 2001 Zoning Code, as amended.

**ADEQUACY OF PUBLIC FACILITIES AND SERVICES:**

City water and gas are currently serving the property and will not be negatively impacted by the zone change request. City sewer will need to be extended to the property in coordination with any future development on the property. Picacho Avenue provides adequate paved access, sidewalks, and lighting adjacent to the subject property.

### **STAFF AND PUBLIC COMMENTS**

---

#### **PUBLIC NOTIFICATION AND INPUT:**

Notification letters were mailed to property owners within 500 feet of the subject property. Staff has not received comments or concerns regarding the proposed zone change at the time this staff report was written.

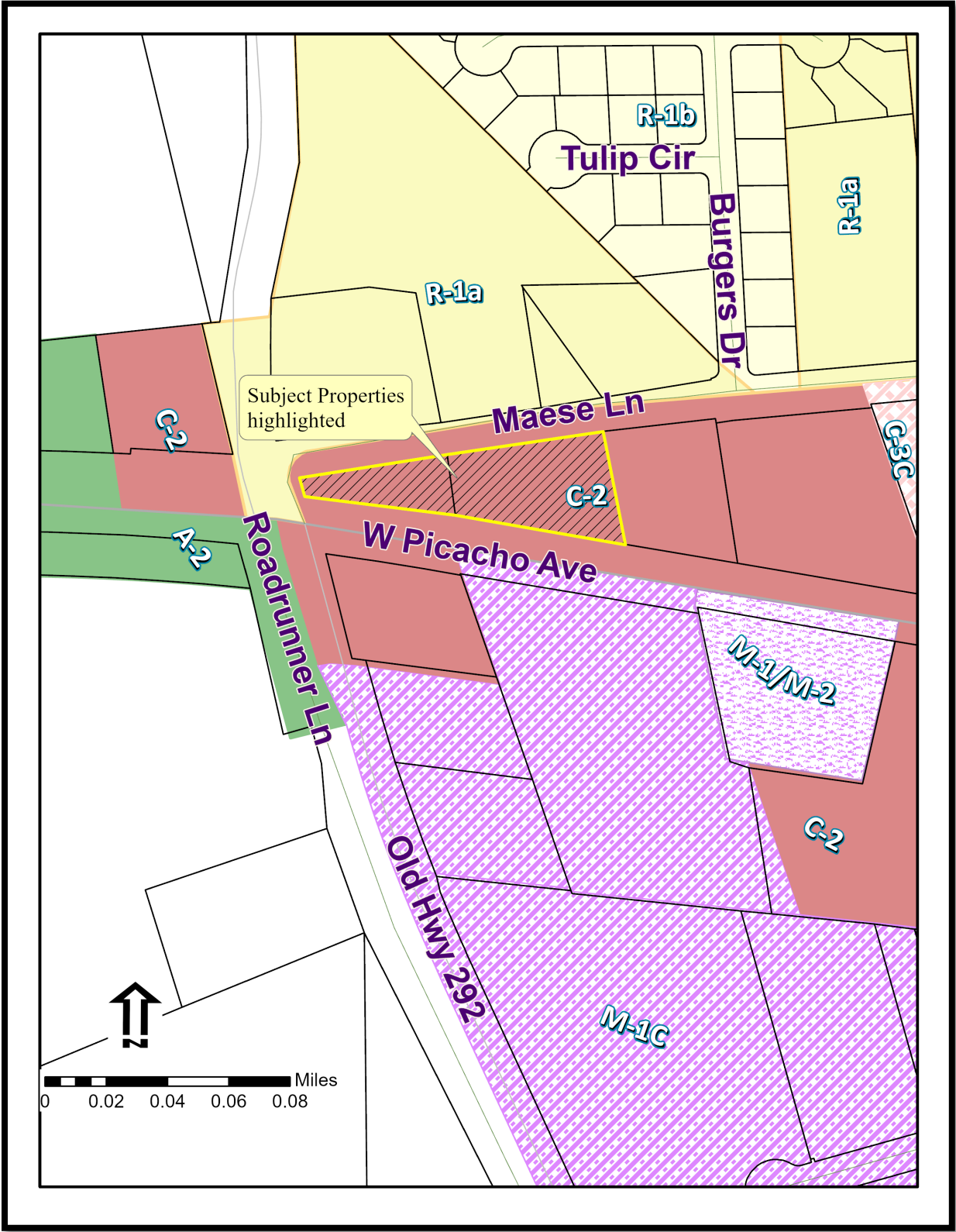
#### **STAFF COMMENTS:**

No reviewing department had any negative comments nor have any reviewers objected to the proposed rezoning.

#### **ATTACHMENTS:**

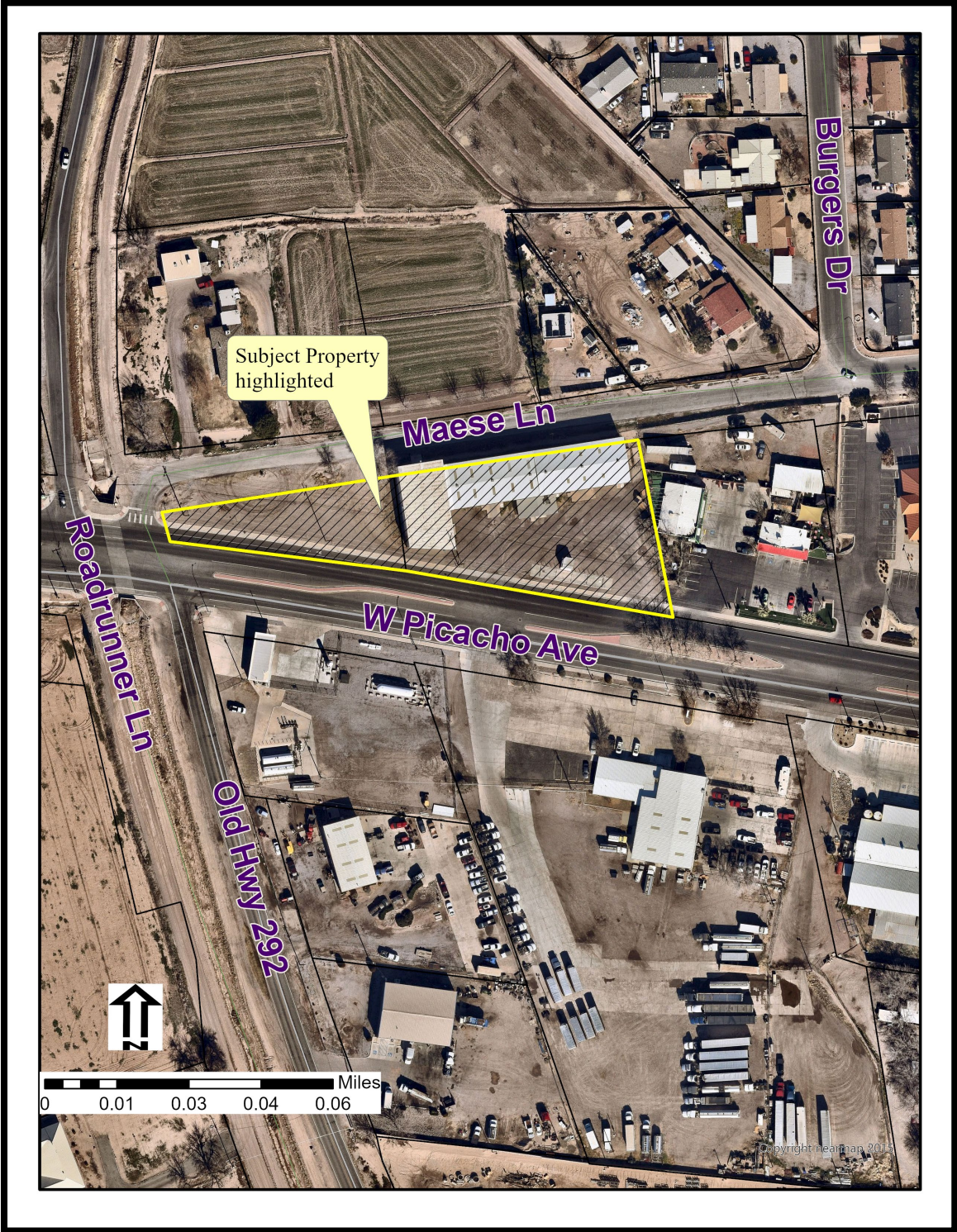
1. Zoning Map
2. Aerial Map
3. Site Plan
4. Department Review Comments

**ATTACHMENT 1**  
**Zoning Map**

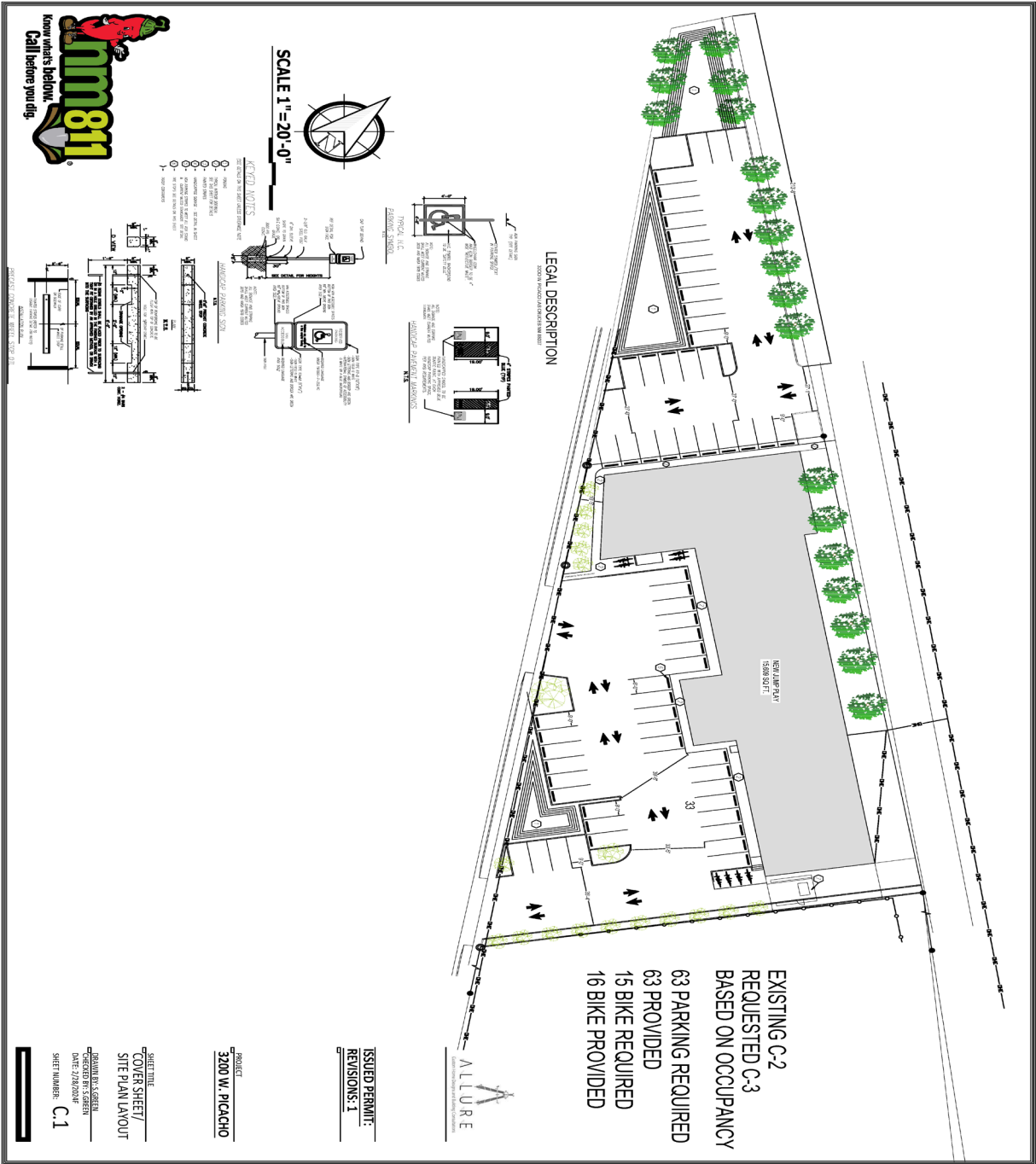




**ATTACHMENT 2**  
**Aerial Map**



**ATTACHMENT 3**  
**Site Plan**



## **ATTACHMENT 4**

### **Department Comments**

**Department: Planning**

Status: YES WITH CONDITIONS

- The property will need to go through an administrative replat to remove the property line between and make it one lot.

**Department: Traffic Engineering**

Status: YES

**Department: Engineering**

Status: YES

**Department: Utility Engineering**

STATUS: YES

**Department: Fire**

Status: YES

**Department: City MPO**

Status: YES

**Department: Flood**

Status: Yes





# CITY OF LAS CRUCES

PLANNING AND ZONING COMMISSION  
FOR THE  
CITY OF LAS CRUCES  
City Council Chambers  
April 23, 2024 at 6:00 p.m.

**BOARD MEMBERS PRESENT:**

Scott Kaiser, Chair  
Enrico Smith, Vice-Chair  
Connor Murray, Member  
Joaquin Acosta, Member

**BOARD MEMBERS ABSENT:**

**STAFF PRESENT:**

David Weir, Deputy Director Community Planning  
Vincent Banegas, Interim Planner  
John Castillo, Planner  
Brad Douglas, CLC Attorney's Office  
Becky Baum, Recording Secretary, RC Creations, LLC

**1. CALL TO ORDER (6:02)**

Kaiser: Okay, it's 6:02. We'll go ahead and call this meeting to order. Welcome to the April 23rd City of Las Cruces Planning and Zoning Commission meeting. Before we get started I just want to announce that I learned this evening that Commissioner Bennett has resigned from the Commission. Sounds like there's a new job and the time, the scheduling is just not going to work out. So I just wanted to express, even though he's not here, express our appreciation for his service on this committee. It was a pleasure to serve with him. We will certainly miss him. And if there's anybody in the audience who's interested in sitting up here, we welcome new members.

**2. APPROVAL OF MINUTES – March 26, 2024**

Kaiser: So with that we will go ahead and get started looking at the minutes from the meeting back in March. There any comments or edits? I just had one. Wanted to note that the board members absent, Vanessa Porter, Commissioner Vanessa Porter was not listed there. So just want to make that correction. And with that correction, can I get a motion to approve?

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

2

3 Acosta: I second.

4

5 Baum: Board Member Acosta.

6

7 Acosta: Yes.

8

9 Baum: Board Member Smith.

10

11 Smith: Yes.

12

13 Baum: Board Member Murray.

14

15 Murray: Yes.

16

17 Baum: Chair Kaiser.

18

19 Kaiser: Yes.

20

21 Baum: Motion passes.

22

23 **3. CONFLICT OF INTEREST**

24

25 Kaiser: Okay, any conflicts of interest tonight? Seeing none.

26

27 **4. POSTPONEMENT**

28

29 Kaiser: All right, postponements. As I announced, we do have one postponement  
30 tonight. Item 9.1 will be postponed until the May 28th meeting. So  
31 apologies for those of you who came out to hear that item this evening. We  
32 will hear it next month.

33

34 **5. ACCEPTANCE OF THE AGENDA**

35

36 Kaiser: So with that change, can I get motion to accept tonight's agenda?

37

38 Acosta: Motion to accept tonight's agenda.

39

40 Smith: I second.

41

42 Baum: Board Member Acosta.

43

44 Acosta: Yes.

45

46 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 **6. PUBLIC PARTICIPATION**

15  
16 Kaiser: All right. Moving on to public participation. Is there anybody in tonight's  
17 audience who wishes to speak on an item that is not on tonight's agenda?  
18 I see three hands. All right, we will go ahead and give each of you three  
19 minutes to speak.

20  
21 Bernal: Good evening. My name is Dolores Bernal.

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 Bernal: Yes.

27  
28 Kaiser: Go ahead.

29  
30 Bernal: Dear Commissioners and City employees present. On April 10, 2024 I and  
31 two other residents member of the group Save the Roadrunner filed an  
32 appeal to case number 23CS0500013. The case is about the subdivision  
33 of the 56 acres of land that the City plans to develop for the Apodaca  
34 Blueprint project and the Villa Mora Mata Dam project at Madrid and Triviz.  
35 The appeal leaves several reasons for holding the project including  
36 violations to the municipal code, as well as state and federal laws. Even  
37 though this appeal was filed by three people, our group has received over  
38 100 comments from residents who want the City of Las Cruces to stop  
39 unchecked development from continuing.

40  
41 Development in Las Cruces has gone unchecked because you approve  
42 these projects without any studies that inform you on the harm done to the  
43 native wildlife and plants that are killed and destroyed at the construction  
44 sites. In case you are not aware, the City of Las Cruces does not require  
45 environmental impact reports for 99% of the project it proves at these  
46 meetings. So again, the City of Las Cruces does not require environmental

1 impact reports for any of the projects that you approve at these meetings.  
2 Mr. David Weir, the Director of Community Development told me and  
3 another member recently that there is no one in the City government that  
4 manages issues related to native wildlife and their habitat. No one. By the  
5 way, thank you Mr. Weir for sharing that information with us. Appreciate the  
6 transparency. The City lacks the expertise and insight of a professional who  
7 understands the role wildlife plays in our economy, overall community  
8 wellbeing, and way of life. I urge the new City manager, the City Council,  
9 you to change how development in Las Cruces is approved. The City  
10 manager and his staff need to understand that birds, rabbits, and other  
11 mammals, as well as native plants are also part of the community and that  
12 many of these species are protected. Mitigation plans need to be in place  
13 by the City or should be required from the developer. But for now, please  
14 remember that every time you come to these meetings, and Mr. Ochoa or  
15 anyone else submit something for you to approve, nothing has been done  
16 about the wildlife that lives in those areas. I'm not sure how anyone working  
17 for the City can sleep at night knowing that their job involves having wildlife  
18 die crushed by bulldozers. Seriously, how can you sleep at night? Maybe  
19 you can't.  
20

21 Kaiser: Thank you. And we will, whoever wants to go next, two of you. Please state  
22 your name for the record.  
23

24 Parsons: Dana Parsons.  
25

26 Kaiser: And do you swear or affirm that the testimony you're about to give is the  
27 truth and nothing but the truth under penalty of law?  
28

29 Parsons: Yes.  
30

31 Kaiser: Go ahead.  
32

33 Parsons: I'm here with Save the Roadrunner. I'm concerned with how recent, current,  
34 and planned developments are affecting our local and migratory wildlife.  
35 These developments are not taking the proper precautions to protect our  
36 local habitats that are essential to the survival of many species such as the  
37 Greater Roadrunner. These projects are a mirror image of the City's past  
38 developments that led to the decline of the burrowing owl, which were once  
39 prevalent within the City and now have not been reported cited in three  
40 years. Las Cruces being in the Chihuahuan Desert and close to the border,  
41 there are species that exist here that can't be seen in the rest of the United  
42 States. And saving these species doesn't mean slowing our economic  
43 progress. Ecotourism is the fastest growing and one of the largest drivers  
44 of economic growth in the world. People come from very far to visit our  
45 region of the country hoping to see something unique, or something they've  
46 never seen before. I've come across people from states as far away as

1 Alaska and countries as far away as New Zealand. Our visitors sometimes  
2 ask where are the roadrunners? Where are the burrowing owls? If the City  
3 continues to develop with its current methods, other species will meet the  
4 same fate as the burrowing owl. And once gone, they will likely remain gone  
5 forever. It is clear that the City is rushing to develop these areas with  
6 disregard to the habitats of our local and migratory wildlife. Local  
7 ordinances such as Section 34-125, and the better interest of the  
8 community, and this disregard will lead to a breakdown of the people's trust  
9 in the City of Las Cruces and irreparable harm to native wildlife populations.  
10 Thank you.

11  
12 Kaiser: Thank you. And we have one more speaker. Please state your name for  
13 the record.

14  
15 Martinez: Grace Martinez.

16  
17 Kaiser: Do you swear or affirm that the testimony you're about to give is the truth  
18 and nothing but the truth under penalty of law?

19  
20 Martinez: Yes.

21  
22 Kaiser: Go ahead.

23  
24 Martinez: My name is Grace Martinez. I was here on the March 26th meeting. And  
25 as a member of Save the Roadrunner, I want to emphasize the urgency of  
26 acknowledging the Villa Mora project. The impact on our community here.  
27 Okay, during the March 26th meeting I highlighted how this development  
28 threatens to destroy the natural habitat of our beloved wildlife. As my peers  
29 here have also stated to you how important this is to us. This is including  
30 the iconic roadrunner. Moreover, the residents in the area are opposed to  
31 this project, yet their voices seem to be ignored. When will our voices matter  
32 to the council here? When will our voices matter to the City? It's crucial  
33 that we demand more community involvement and input in these projects.  
34 So I would like to be considered and our project also here as Save the  
35 Roadrunner be taken more seriously. Thank you.

36  
37 Kaiser: Thank you. Okay, anybody else in the audience who wishes to speak on  
38 an item that is not on tonight's agenda? All right, seeing none. We'll close  
39 public comment.

40  
41 **7. CONSENT AGENDA**

42  
43 **7.1 Case No. 24ZO3000077:** A request for approval of a Planned Unit Development  
44 (PUD) Final Site Plan, known as Metro Verde Arcadia Phase 5 & 6, located within  
45 the Metro Verde PUD area. The proposed subdivision encompasses 30.00 ±  
46 acres, is zoned PUD and located on the southwest corner of Arroyo Road and



Sentinel Avenue. The final site plan proposes 131-single-family residential lots with one tract of land for drainage and another tract of land for the mailbox cluster that will each be dedicated to the City of Las Cruces. Submitted by Sierra Norte Development Inc., property owners. City Council District 5.

**7.2 Case No. 24ZO0500034:** A proposed zone change request from C-2 (Commercial Medium Intensity) to C-3 (Commercial Medium Intensity) on a property encompassing 1.40 ± acres and located at 3200 W. Picacho Avenue. The zone change request seeks bring the property into compliance with the 2001 Zoning Code as, amended and allow for the future redevelopment of a commercial land use. Submitted by Allure Homes, representative. City Council District 4.

**7.3 Case No. 24ZO0500035:** A request to approve a zone change from C-2 (Commercial Medium Intensity) to C-3 (Commercial High Intensity) for a parcel encompassing 2.67 ± acres in size and located at 2605 Bataan Memorial West. The proposed zone change will bring the property into compliance with the 2001 Zoning Code. Submitted by Kary Bulsterbaum, Representative. Council District 5.

**7.4 Case No. 24ZO0500038:** A request to approve a zone change from C-2 (Commercial Medium Intensity) to C-3 (Commercial High Intensity) for property (replat of 2 lots into one is pending) having a total acreage of ± 2.32 acres in size and located at 2999 Bataan Memorial West (northwest corner of Bataan Memorial West and Roadrunner Parkway). Submitted by Chris Sveum – Atwell, LLC on behalf of Yesway, Inc. City Council District 5.

Kaiser: And we will move on to the consent agenda. We do have a number of items here. We've got 7.1, 7.2, 7.3 and 7.4. Is there anybody in the audience who wishes to hear a, or wants a discussion on any of those items? All right, seeing no hands raised, we will just proceed with the consent agenda. So looking for a motion to approve tonight's consent agenda.

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

Acosta: I second.

Baum: Board Member Acosta.

Acosta: Yes.

Baum: Board Member Smith.

Smith: Yes.

Baum: Board Member Murray.

Murray: Yes.

1  
2 Baum: Chair Kaiser.

3  
4 Kaiser: Yes.

5  
6 Baum: Motion passes.

7  
8 **8. OLD BUSINESS**

9  
10 Kaiser: Okay, we have no old business.

11  
12 **9. NEW BUSINESS**

13  
14 **9.1 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: And our one new business item, item 9.1 was rescheduled for May 28th.

21  
22 **10. DISCUSSION**

23  
24 Kaiser: So with that, is there any discussion or staff announcements? Okay, I  
25 actually have one item I wanted to bring up. On Saturday, I was out and  
26 about running some errands and drove by the athletic complex that's on  
27 Hadley Avenue, and noticed that the City had paved over what I can  
28 approximate to be about four acres of what used to be a dirt parking lot. It  
29 is now entirely asphalt there at the corner of Hadley and Walnut. There was  
30 zero landscaping provided as part of that project. And it does not appear  
31 that there was any additional stormwater management facilities that were  
32 built as part of that pave paving project as well. That is pretty upsetting to  
33 be honest that in the year 2024 given everything that we know about the  
34 urban heat island, climate change, our summers are not getting any cooler,  
35 last year was the hottest on record. National forecasts are projecting that  
36 this year may also be hotter than last year. And we know the impact of that  
37 kind of a mountain of asphalt that has on our neighborhoods, on our  
38 residents, on public health. In fact, a couple of years ago there was a study  
39 done to evaluate and assess the urban heat island in the City of Las Cruces  
40 and its impact on our neighborhoods and public health. And the outcome  
41 of that is, is not great.

42  
43 Moreover, the City was a partner on a grant that through partnership with  
44 Doña Ana Soil and Water Conservation District received a million dollars to  
45 plant trees over the next five years to mitigate the urban heat island. And  
46 then in addition to that, several years ago a pilot project was done on the

bike lane that runs along this now asphalt parking lot. The project was to paint, use a special kind of paint that reflects sunlight and actually mitigates the urban heat island. The unfortunate part is, is the City's actions over the last couple of weeks of paving this parking lot in asphalt have completely undermined that outcome. The amount of asphalt that was poured on four acres will I mean just evaporate any potential gain that that pilot project had on that bike lane.

What's worse in my opinion is that any developer who had brought forward a very similar project would not have gotten staff support. It does not currently meet the development standards, a project like that. And in fact, this committee heard an applicant requesting to waive their landscape requirements for a truck rest stop parking lot, gas station on the West Mesa, the applicant sought to waive the landscape requirements and essentially have acres of asphalt. This body rejected that request. And I feel like the City's actions out there at the athletic complex undermines our authority. I don't know how we can sit here and tell a developer that they have to abide by the development standards when the City doesn't feel that they need to do the same for their projects.

In short, the unfortunate reality is, is that that amount of pavement has essentially created a hellscape come summertime, out there at the park. I don't know how you can honestly think that it would be an enjoyable experience to be in if you're walking to the athletic fields from your car. I mean all it's going to take is a couple of hours of summer sun on that parking lot and it's going to be an absolute furnace. We just had Earth Day yesterday. The City posted on social media accounts talking about making Las Cruces a beautiful and sustainable City. Yes we just paved four acres of asphalt with no landscaping. So I don't know if staff is familiar with that project. I don't know if that was undertaken through Community Development or the Parks department, but if there's any information that you have about whether or not the City has plans to install any stormwater management, low impact development, landscaping, I'd welcome that. But I was just very disappointing to drive by and see the sheer amount of asphalt that was poured out there. That's all I have.

**11. STAFF ANNOUNCEMENTS**

**12. ADJOURNMENT (7:33)**

Kaiser: With that, there's no other discussion or announcements, looking for a motion to adjourn tonight's meeting.

Murray: I make a motion to adjourn the meeting tonight.

Smith: I second.

Agenda Item #10.2.

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Kaiser: All in favor.

MOTION PASSES UNANIMOUSLY.

Kaiser: And thank you all for coming out this evening. Really appreciate it. Sorry again about the postponed item. We will see you all in May.

\_\_\_\_\_  
Chairperson



**3074; Council  
Bill 25-003**

# City Council Action and Executive Summary

Type of Action:  
☐ Resolution  
☒ Ordinance  
☐ TIDD Resolution

|              |                                                                                                                                                                                                                                                                                                                                                                                            |                   |                       |
|--------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------|-----------------------|
| District:    | <input checked="" type="checkbox"/> 1 <input type="checkbox"/> 2 <input type="checkbox"/> 3 <input type="checkbox"/> 4 <input type="checkbox"/> 5 <input type="checkbox"/> 6 <input type="checkbox"/> N/A                                                                                                                                                                                  |                   |                       |
| 1st Reading: | July 1, 2024                                                                                                                                                                                                                                                                                                                                                                               | Adopted:          | July 15, 2024         |
| Drafter:     | Adam Ochoa                                                                                                                                                                                                                                                                                                                                                                                 | Department:       | Community Development |
| Program:     | Community Planning                                                                                                                                                                                                                                                                                                                                                                         | Line of Business: | Community Planning    |
| Title:       | AN ORDINANCE APPROVING A ZONE CHANGE FROM R-1A (SINGLE-FAMILY MEDIUM DENSITY) TO C-3C (COMMERCIAL HIGH INTENSITY-CONDITIONAL) FOR APPROXIMATELY 5.00 ACRES AND TO OS-R (OPEN SPACE-RECREATION) FOR THE REMAINING APPROXIMATELY 43.75 ACRES OF A PROPERTY LOCATED AT 2040, 2045, 2060, AND 2065 E. MADRID AVENUE. SUBMITTED BY SOUDER MILLER AND ASSOCIATES, REPRESENTATIVE. (23ZO0500027). |                   |                       |

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

**PURPOSE(S) OF ACTION:**  
Zone Change.

**BACKGROUND / KEY ISSUES / CONTRIBUTING FACTORS:**  
The City Council is required to review and take final action on zone changes per Section 38-10 B. 2. b. and 38-13 A. of the 2001 Zoning Code, as amended. A zoning district is a specifically delineated area where land use regulations uniformly govern the use, placement, spacing, density, bulk, height, and size of buildings and/or land.

The applicant is requesting a zone change from R-1a (Single-Family Medium Density) to C-3C (Commercial High Intensity-Conditional) for approximately 5.00 acres and to OS-R (Open Space-Recreation) for the remaining approximately 43.75 acres of a property located at 2040, 2045, 2060, and 2065 E. Madrid Avenue. The proposed C-3C zoned areas will be for future commercial development and the proposed OS-R zoned area will be developed as a park and other City facilities by the City of Las Cruces.

The property is located west of Triviz Drive and north and south of E. Madrid Avenue. Triviz Drive is classified as a minor arterial roadway and E. Madrid Avenue is classified as a major collector roadway by the Metropolitan Planning Organization (MPO) Thoroughfare Map and the Future Thoroughfare Map in Elevate Las Cruces. Large scale commercial developments are encouraged along these types of roadway classifications to accommodate increased traffic flow. Additionally, these roadway classifications lend themselves to provide access to City facilities such as parks and open space.

According to the Future Development Map in the Elevate Las Cruces Comprehensive Plan, the subject parcel falls within the Open Space Reserve Rural Place Type. This place type includes public property and other areas principally set aside for habitat preservation or passive recreation, including preserves and other open spaces conserved in perpetuity. Open space reserves may include sensitive environmental, natural, cultural, and historic lands, important viewsheds, and linkages to existing preserves, and are generally not needed to

Agenda Item #10.3.

accommodate projected population, housing, and employment growth. The subject property is also directly adjacent to the Suburban Neighborhood Place Type. This Place Type is characterized as providing low-to-moderate density residential land uses intermixed with areas of commercial development such as the proposed C-3 zoning. Various comprehensive plan goals and policies support the proposed zone change and it should not pose any conflict with the existing neighborhood.

The Apodaca Blueprint is a neighborhood planning effort initiated by the City of Las Cruces to promote the vitality and investment in the neighborhoods to the east and southeast of Apodaca Park. As existing neighborhoods age, they experience challenges relating to infrastructure condition, public services, character and aesthetics, and housing condition and choice. The Apodaca Blueprint recommends “neighborhood conservation” strategies to maintain or improve the condition of property, and quality of life within Apodaca area neighborhoods. The proposed zone change will implement the concept for what is designated as Area (sub-area) B of the Apodaca Blueprint. It also follows the Future Development Map of the Apodaca Blueprint for the Villa Mora property.

On May 28, 2024, the case was heard by the Planning and Zoning Commission (P&Z) at their regular meeting. The P&Z voted 5-0-0 (two Commissioner vacancies) to approve the proposed zone change with conditions. Discussion took place at the meeting concerning the potential of what could be developed in the proposed commercial areas. The P&Z wanted to assure future development would be sensitive to the area and supportive to the adjacent open space, so conditions were added to the commercial zoning. The conditions are as follows:

- 1.Any future commercial development shall follow the guidelines of the Apodaca Blueprint.
- 2.No uses that utilize stacking lanes and drive throughs shall be permitted.
- 3.Gas station and car wash uses are not permitted.

**SUPPORT INFORMATION:**

- [Exhibit "A" - Site Plan](#)
- [Exhibit "B" - Findings](#)
- [Attachment "A" - P&Z Staff Report](#)
- [Attachment "B" - 05-28-24 P&Z Minutes](#)

**PLAN(S):**

Other, 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:**

### Agenda Item #10.3.

1. Vote "Yes"; this will approve the Ordinance and affirm the P&Z recommendation for approval. The subject property located at 2040, 2045, 2060, and 2065 E. Madrid Avenue will be rezoned from R-1a (Single-Family Medium Density) to C-3C (Commercial High Intensity-Conditional) for approximately 5.00 acres and to OS-R (Open Space-Recreation) for the remaining approximately 43.75 acres.
2. Vote "No"; this will deny the Ordinance and will reject the recommendation made by P&Z. The current R-1a (Single-Family Medium Density) will remain.
3. Vote to "Amend"; this could allow the City Council to modify the Ordinance by adding conditions as deemed appropriate.
4. Vote to "Table"; this could allow the City Council to table/postpone the Ordinance and direct staff accordingly.

**ORDINANCE 3074; COUNCIL BILL 25-003**

**AN ORDINANCE APPROVING A ZONE CHANGE FROM R-1A (SINGLE-FAMILY MEDIUM DENSITY) TO C-3C (COMMERCIAL HIGH INTENSITY-CONDITIONAL) FOR APPROXIMATELY 5.00 ACRES AND TO OS-R (OPEN SPACE-RECREATION) FOR THE REMAINING APPROXIMATELY 43.75 ACRES OF A PROPERTY LOCATED AT 2040, 2045, 2060, AND 2065 E. MADRID AVENUE. SUBMITTED BY SOUDER MILLER AND ASSOCIATES, REPRESENTATIVE. (23ZO0500027).**

The City Council is informed that:

**WHEREAS**, Souder Miller and Associates, representative, has submitted a request for a zone change from R-1a (Single-Family Medium Density) to C-3C (Commercial High Intensity-Conditional) for approximately 5.00 acres and to OS-R (Open Space-Recreation) for the remaining approximately 43.75 acres; and

**WHEREAS**, the proposed C-3C (Commercial High Intensity-Conditional) and OS-R (Open Space-Recreation) zones are consistent with the Open Space Reserve Rural Place Type and the Suburban Neighborhood Place Type per the Elevate Las Cruces Comprehensive Plan; and

**WHEREAS**, the proposed zone change supports the Apodaca Blueprint Area (sub-area) B; and

**WHEREAS**, the Planning and Zoning Commission, after conducting a public hearing on May 28, 2024, recommended that the zone change request be approved with conditions by a vote of 5-0-0 (two Commissioner vacancies).

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

(I)

**THAT** the land as reflected in Exhibit "A", attached hereto and made part of this Ordinance, is hereby zoned C-3C (Commercial High Intensity-Conditional) and OS-R (Open Space-Recreation).

(II)

**THAT** the conditions for the C-3C zoning designation be stipulated as follows:

- Any future commercial development shall follow the guidelines of the Apodaca Blueprint.
- No uses that utilize stacking lanes and drive throughs shall be permitted.
- Gas station and car wash uses are not permitted.

(III)

**THAT** the zoning is based on the findings contained in Exhibit "B", attached hereto and made part of this Ordinance.

(IV)

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

(V)

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



Agenda Item #10.3.

**DONE AND APPROVED** this day of

Agenda Item #10.3.

APPROVED

\_\_\_\_\_

ATTEST:

\_\_\_\_\_

**Moved by:**

**Seconded by:**

**AYES**

**NAYS**

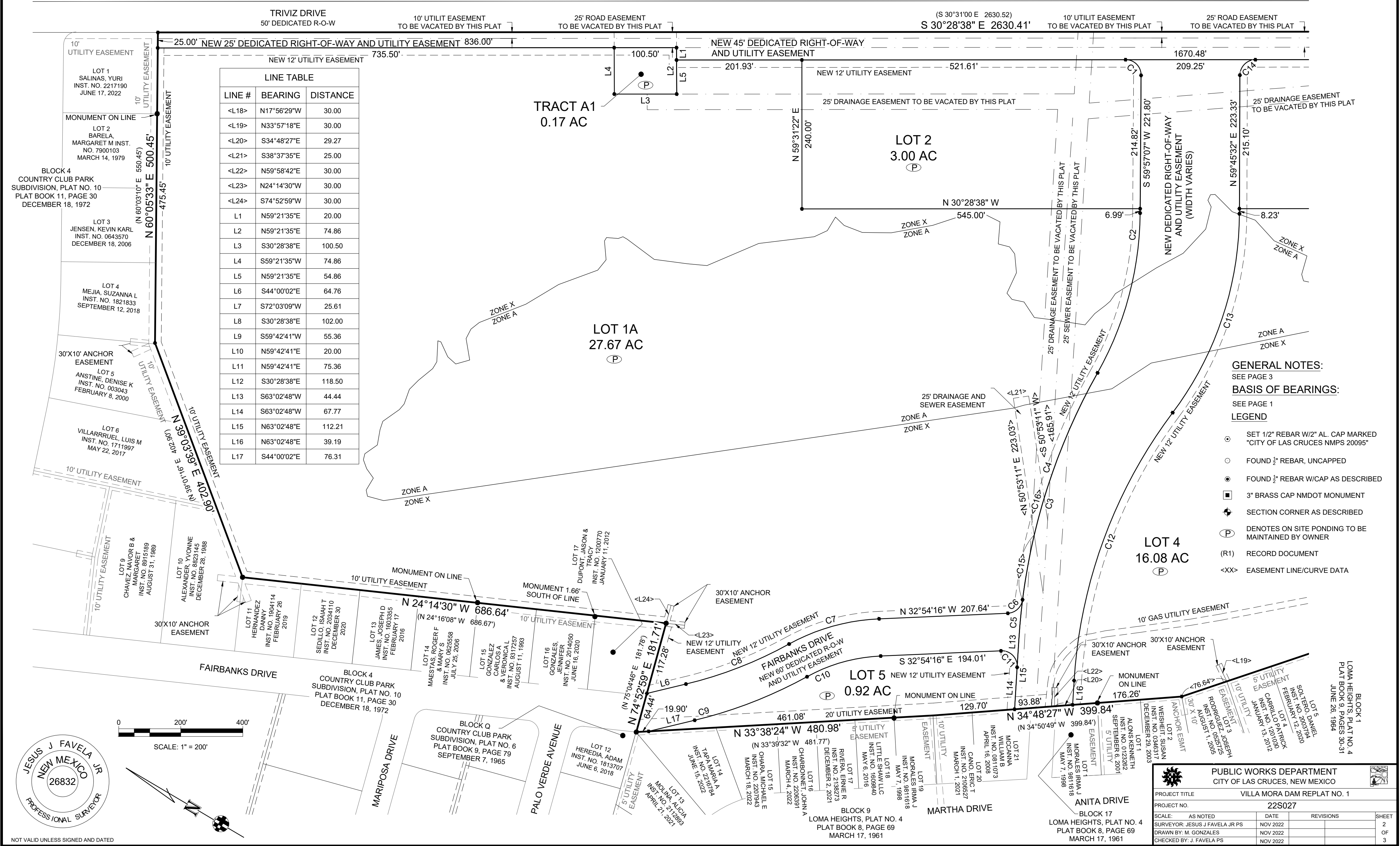
VILLA MORA DAM REPLAT NO. 1  
A REPLAT OF VILLA MORA DAM  
AS FILED IN PLAT BOOK 20, PAGES 644-645, ON APRIL 23, 2003  
IN THE OFFICE OF THE COUNTY CLERK, DONA ANA COUNTY, NEW MEXICO  
LOCATED IN SECTION 5, TOWNSHIP 23 SOUTH, RANGE 2 EAST  
N.M.P.M. OF THE U.S.G.L.O. SURVEYS  
WITHIN THE INCORPORATED LIMITS OF  
THE CITY OF LAS CRUCES, DONA ANA COUNTY, NEW MEXICO

56.51 ACRES  
SURVEYED: SEPTEMBER 2022

INTERSTATE 25  
PROJECT NO. I-010--2(6)143  
300' DEDICATED R-O-W

| CURVE TABLE |            |         |             |               |              |
|-------------|------------|---------|-------------|---------------|--------------|
| CURVE #     | ARC LENGTH | RADIUS  | DELTA ANGLE | CHORD BEARING | CHORD LENGTH |
| <C15>       | 105.84     | 1000.00 | 6°03'52"    | S69°47'32"W   | 105.79       |
| <C16>       | 62.16      | 1000.00 | 3°33'41"    | S74°36'18"W   | 62.15        |
| C1          | 39.46      | 25.00   | 90°25'45"   | N14°44'15"E   | 35.49        |
| C2          | 269.23     | 532.00  | 28°59'43"   | N74°27'53"E   | 266.36       |
| C3          | 452.31     | 1000.00 | 25°54'56"   | S76°00'16"W   | 448.47       |
| C4          | 387.50     | 1000.00 | 22°12'08"   | S77°51'40"W   | 385.08       |
| C5          | 64.81      | 1000.00 | 3°42'48"    | S64°54'12"W   | 64.80        |
| C6          | 35.05      | 25.00   | 80°20'08"   | S73°04'20"E   | 32.25        |

| CURVE TABLE |            |        |             |               |              |
|-------------|------------|--------|-------------|---------------|--------------|
| CURVE #     | ARC LENGTH | RADIUS | DELTA ANGLE | CHORD BEARING | CHORD LENGTH |
| C7          | 151.98     | 330.00 | 26°23'12"   | N46°05'52"W   | 150.64       |
| C8          | 178.80     | 670.00 | 15°17'26"   | S51°38'45"E   | 178.27       |
| C9          | 194.81     | 730.00 | 15°17'26"   | S51°38'45"E   | 194.24       |
| C10         | 124.34     | 270.00 | 26°23'12"   | N46°05'52"W   | 123.25       |
| C11         | 41.87      | 25.00  | 95°57'04"   | N15°04'16"E   | 37.14        |
| C12         | 466.54     | 800.00 | 33°24'47"   | S79°45'11"W   | 459.95       |
| C13         | 343.85     | 536.80 | 36°42'04"   | N78°06'34"E   | 338.00       |
| C14         | 39.17      | 25.00  | 89°45'51"   | N75°21'33"W   | 35.28        |



# VILLA MORA DAM REPLAT NO. 1

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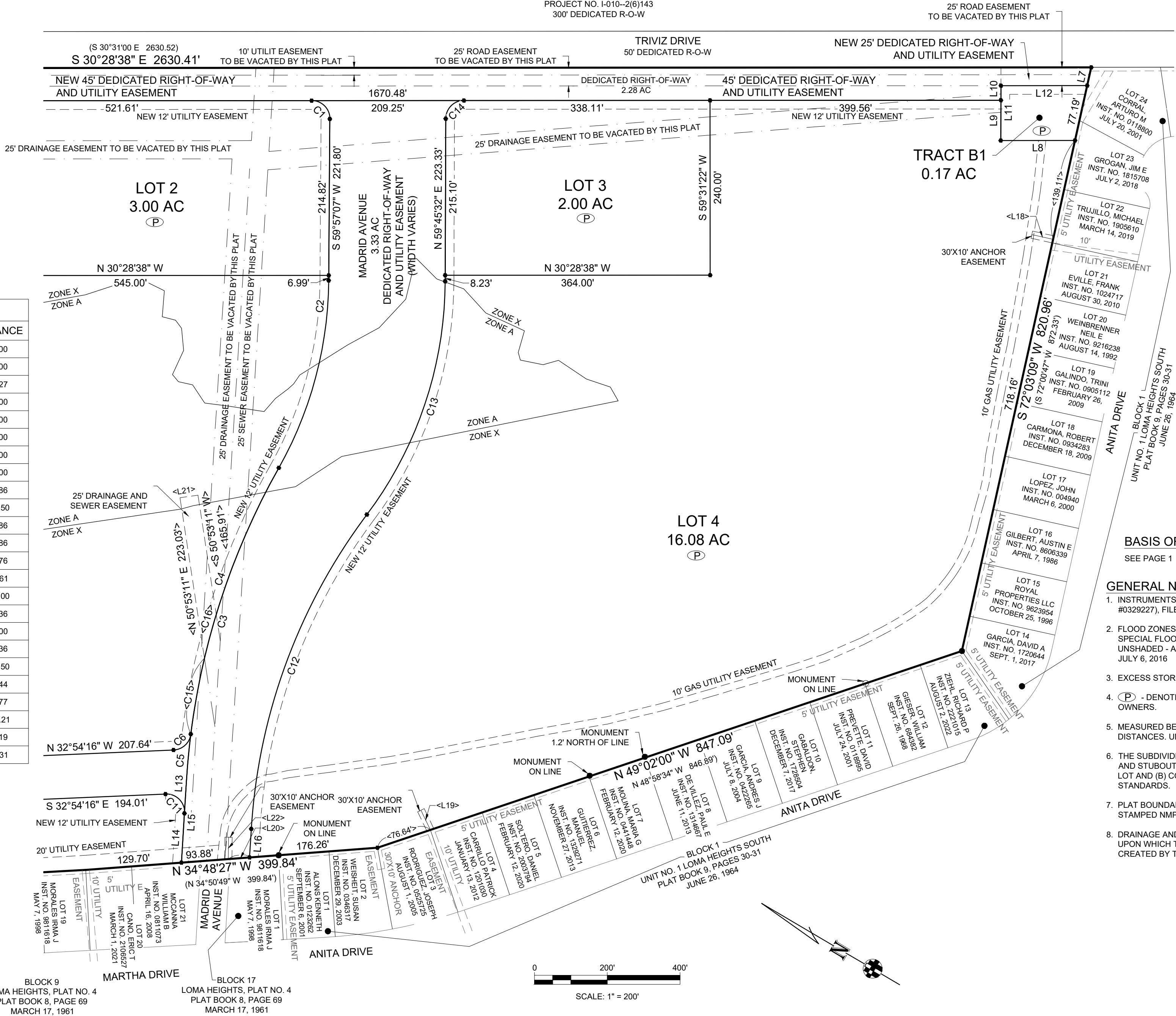
56.51 ACRES  
SURVEYED: SEPTEMBER 2022

INTERSTATE 25  
PROJECT NO. I-010--2(6)143  
300' DEDICATED R-O-W

| CURVE TABLE |            |         |             |               |              |
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| C3          | 452.31     | 1000.00 | 25°54'56"   | S76°00'16"W   | 448.47       |
| C4          | 387.50     | 1000.00 | 22°12'08"   | S77°51'40"W   | 385.08       |
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| C6          | 35.05      | 25.00   | 80°20'08"   | S73°04'20"E   | 32.25        |

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| C13         | 343.85     | 536.80 | 36°42'04"   | N78°06'34"E   | 338.00       |
| C14         | 39.17      | 25.00  | 89°45'51"   | N75°21'33"W   | 35.28        |

| LINE TABLE |             |          |
|------------|-------------|----------|
| LINE #     | BEARING     | DISTANCE |
| <L18>      | N17°56'29"W | 30.00    |
| <L19>      | N33°57'18"E | 30.00    |
| <L20>      | S34°48'27"E | 29.27    |
| <L21>      | S38°37'35"E | 25.00    |
| <L22>      | N59°58'42"E | 30.00    |
| <L23>      | N24°14'30"W | 30.00    |
| <L24>      | S74°52'59"W | 30.00    |
| L1         | N59°21'35"E | 20.00    |
| L2         | N59°21'35"E | 74.86    |
| L3         | S30°28'38"E | 100.50   |
| L4         | S59°21'35"W | 74.86    |
| L5         | N59°21'35"E | 54.86    |
| L6         | S44°00'02"E | 64.76    |
| L7         | S72°03'09"W | 25.61    |
| L8         | S30°28'38"E | 102.00   |
| L9         | S59°42'41"W | 55.36    |
| L10        | N59°42'41"E | 20.00    |
| L11        | N59°42'41"E | 75.36    |
| L12        | S30°28'38"E | 118.50   |
| L13        | S63°02'48"W | 44.44    |
| L14        | S63°02'48"W | 67.77    |
| L15        | N63°02'48"E | 112.21   |
| L16        | N63°02'48"E | 39.19    |
| L17        | S44°00'02"E | 76.31    |



- LEGEND**
- SET 1/2" REBAR W/2" AL. CAP MARKED "CITY OF LAS CRUCES NMPS 20095"
  - FOUND 1/2" REBAR, UNCAPPED
  - FOUND 1/2" REBAR W/CAP AS DESCRIBED
  - 3" BRASS CAP NMDOT MONUMENT
  - ⊕ SECTION CORNER AS DESCRIBED
  - (P) DENOTES ON SITE PONDING TO BE MAINTAINED BY OWNER
  - (R1) RECORD DOCUMENT
  - <XX> EASEMENT LINE/CURVE DATA

**BASIS OF BEARINGS:**  
SEE PAGE 1

- GENERAL NOTES:**
- INSTRUMENTS OF OWNERSHIP: DEED RECORD 451, PAGES 1561-1563 (INST. #0329227), FILED AUGUST 14, 2003.
  - FLOOD ZONES AS GRAPHICALLY LOCATED FROM FEMA MAP: FLOOD ZONE "A" - SPECIAL FLOOD HAZARD AREA WITHOUT BASE FLOOD ELEVATION; FLOOD ZONE "X" UNSHADED - AREA OF MINIMAL FLOOD HAZARD; MAP NO. 35013C1084G, EFFECTIVE JULY 6, 2016
  - EXCESS STORM DRAINAGE TO BE RETAINED WITHIN EACH LOT.
  - (P) - DENOTES PONDING AREA TO BE MAINTAINED BY INDIVIDUAL PROPERTY OWNERS.
  - MEASURED BEARINGS AND DISTANCES ARE EQUAL TO RECORD BEARINGS AND DISTANCES. UNLESS NOTED OTHERWISE. (RECORD BEARINGS AND DISTANCES)
  - THE SUBDIVIDER IS RESPONSIBLE FOR (A) ALL EASEMENTS, MAIN LINE EXTENSIONS, AND STUBOUTS NECESSARY TO PROVIDE SEPARATE UTILITY SERVICES TO EACH LOT AND (B) COMPLIANCE WITH ALL APPLICABLE CITY OF LAS CRUCES UTILITY STANDARDS.
  - PLAT BOUNDARY MONUMENTS ACCEPTED ARE TAGGED WITH WIRE AND WASHER STAMPED NMPS 26832. ON LINE AND ADJOINING MONUMENTS NOT TAGGED.
  - DRAINAGE AND UTILITY EASEMENTS ARE EXISTING AND CREATED BY SUBDIVISIONS UPON WHICH THEY ARE SITUATE. UNLESS OTHERWISE NOTED. EASEMENTS CREATED BY THIS PLAT ARE LABELED AS "NEW".



| PUBLIC WORKS DEPARTMENT<br>CITY OF LAS CRUCES, NEW MEXICO |                |            |         |  |
|-----------------------------------------------------------|----------------|------------|---------|--|
| PROJECT TITLE: VILLA MORA DAM REPLAT NO. 1                |                |            |         |  |
| PROJECT NO. 22S027                                        |                |            |         |  |
| SCALE: AS NOTED                                           | DATE: NOV 2022 | REVISIONS: | SHEET 3 |  |
| SURVEYOR: JESUS J. FAVELA JR. PS                          | NOV 2022       |            | OF 3    |  |
| DRAWN BY: M. GONZALES                                     | NOV 2022       |            |         |  |
| CHECKED BY: J. FAVELA PS                                  | NOV 2022       |            |         |  |

**FINDINGS**

- The subject property is located along a major collector and a minor arterial roadway where high intensity commercial uses and zoning such as the proposed C-3 zoning designation are encouraged.
- The proposed zone change will help ensure that the subject property remains sensitive to the character of the existing neighborhood. (2001 Zoning Code, Article 1, Section 38-2L).
- The proposed zone change is supported by the Apodaca Blueprint Policy Plan Future Development Map.
- Based upon staff's analysis of the proposal, the proposed zone change request meets the intent of Elevate Las Cruces; is compatible with adjacent uses and zoning districts; meets the purpose and intent outlined in Section 38-2 of the 2001 Zoning Code, as amended; and fulfills the purpose of the Las Cruces Municipal Code Section 2-382.





# CITY OF LAS CRUCES

## Planning & Zoning Commission 05/28/2024

### CASE 23ZO0500027: REZONING

|                       |                                                                                                    |
|-----------------------|----------------------------------------------------------------------------------------------------|
| STAFF CONTACT:        | Adam Ochoa, (575) 528-3204,<br><a href="mailto:aocchoa@lascruces.gov">aocchoa@lascruces.gov</a>    |
| OWNER:                | City of Las Cruces                                                                                 |
| REPRESENTATIVE:       | Souder Miller & Associates                                                                         |
| DISTRICT:             | District #1                                                                                        |
| SITE ADDRESS:         | 2040, 2045, 2060, & 2065 E. Madrid Ave.                                                            |
| EXISTING ZONING:      | R-1a (Single-Family Medium Density)                                                                |
| REQUEST:              | Rezone to C-3 (Commercial High Intensity)<br>for 5.00 ± acres and OS-R (Open Space-<br>Recreation) |
| RELATED APPLICATIONS: | N/A                                                                                                |
| STAFF RECOMMENDATION: | Approval                                                                                           |

#### SUMMARY OF CASE 23ZO0500027:

The applicant is requesting a zone change from R-1a (Single-Family Medium Density) to C-3 (Commercial High Intensity) for 5.00 ± acres and OS-R (Open Space-Recreation) for the remaining 43.75 ± acres of land located at 2040, 2045, 2060, & 2065 E. Madrid Avenue.

#### SUMMARY OF RECOMMENDATION:

Staff is recommending **APPROVAL** based on the findings listed below:

- The subject property is located along a major collector and a minor arterial roadway where high intensity commercial uses and zoning such as the proposed C-3 zoning designation are encouraged.
- The proposed zone change will help ensure that the subject property remains sensitive to the character of the existing neighborhood. (2001 Zoning Code, Article 1, Section 38-2L).
- The proposed zone change is supported by the Apodaca Blueprint Policy Plan Future Development Map.
- Based upon staff's analysis of the proposal, the proposed zone change request meets the intent of Elevate Las Cruces; is compatible with adjacent uses and zoning districts; meets the purpose and intent outlined in Section 38-2 of the 2001 Zoning Code, as amended; and fulfills the purpose of the Las Cruces Municipal Code Section 2-382.

## **PROPOSAL AND LAND USE HISTORY**

### **PROJECT DESCRIPTION:**

The property proposed for rezoning is west of Triviz Drive and north and south of E. Madrid Avenue. The subject property is currently zoned R-1a (Single-Family Medium Density) is vacant/undeveloped and known as the Villa Mora Dam site. The applicant is seeking a zone change request to C-3 (Commercial High Intensity) for 5.00 ± acres of the subject property and OS-R (Open Space-Recreation) for the remaining 43.75 ± acres. The proposed C-3 zoned areas will be for future commercial development and the proposed OS-R zoned area will be developed as a park and other City facilities by the City of Las Cruces.

### **LAND USE HISTORY:**

The subject property is vacant/undeveloped but was previously used as one of the City's original storm water levees.

## **ZONING DECISION CRITERIA AND POLICIES**

| <b>POLICY</b>                                                                           | <b>DOES IT COMPLY?</b> |
|-----------------------------------------------------------------------------------------|------------------------|
| <b><u>Neighborhood Character and Compatibility</u></b>                                  | Yes                    |
| <b><u>Elevate Las Cruces Comprehensive Plan</u></b>                                     | Yes                    |
| <b><u>Apodaca Blueprint Policy Plan</u></b>                                             | Yes                    |
| <b><u>Mesilla Valley Metropolitan Planning Organization (MPO) Thoroughfare Plan</u></b> | Yes                    |
| <b><u>Purpose and Intent of the Code: Section 38-2</u></b>                              | Yes                    |
| <b><u>Criteria for Decisions: Section 2-382</u></b>                                     | Yes                    |
| <b><u>New Mexico Case Law</u></b>                                                       | Yes                    |

### **NEIGHBORHOOD CHARACTER AND COMPATIBILITY:**

The property is located along the west side of Triviz Drive north and south of E. Madrid Avenue in a predominantly residential area of the City of Las Cruces. The proposed OS-R zoning is compatible to the surrounding area and will help keep the character of the surrounding neighborhood. It will also serve as a buffer for the adjacent residential area from the proposed C-3 zoned area and Interstate 25. The proposed C-3 zoning will help support the surrounding area by providing services that currently do not exist in the immediate area and aligns with the policy of the Apodaca Blueprint Policy Plan.

### **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 Open Space Reserve Rural Place Type. This place type includes public property and other areas principally set aside for habitat preservation or passive recreation, including preserves and other open spaces conserved in perpetuity. Open space reserves may include sensitive environmental, natural, cultural, and historic lands, important viewsheds, and linkages to existing preserves, and are generally not needed to accommodate projected population. Page 347 of 440

housing, and employment growth. The subject property is also directly adjacent to the Suburban Neighborhood Place Type. This Place Type is characterized as providing low-to-moderate density residential land uses intermixed with areas of commercial development such as the proposed C-3 zoning.

The following goals, policies, and actions from Elevate Las Cruces are relevant to the proposed Zone Change:

- Community Environment:
  - Goal CE-1: Balanced Growth – Encourage efficient land use development patterns that accommodate projected growth in a sustainable manner.
    - Policy CE-1.2: Promote investment within older areas of the City through redevelopment.
  - Goal CE-2: Areas of Special Consideration – Integrate new development into the community in a manner that complements significant built and natural features.
    - Policy CE-2.1: Promote infill development strategies to sustain the City's established neighborhoods.
  - Goal CE-4: Complete Neighborhoods – Develop mixed-use neighborhoods that incorporate a wide range of recreational, commercial, employment, and civic uses.
    - Policy CE-4.2: incorporate employment and shopping nodes into new and redeveloping neighborhoods to provide residents with convenient access to services.
- Community Livability:
  - Goal CLI-1: Neighborhood Identity – Promote community pride through neighborhood events and investments that create a shared identity.
    - Policy CL-1.2: Generate community pride through neighborhood activities, events and investments that strengthen neighborhood identities.
  - Goal CL-2: Neighborhood Conservation – strengthen neighborhood condition through improvements to the built-environment.
    - Policy CL-2.2: Encourage redevelopment of vacant properties within neighborhoods.
  - Goal CL-7: Transportation-land use connection-develop an accessible and efficient transportation system that provides seamless connectivity to surrounding land uses and complements various development patterns.
- Community Prosperity
  - Goal CP-4: Diversification - Seek a balance of business recruitment, retention, and expansion to diversify economic opportunities.
    - Policy CP-4. - Support efforts to be regionally and nationally competitive in regard to retaining and growing businesses, jobs, and students.

As the uses surrounding the subject property are congruous to the suburban place type and well supported by various comprehensive plan goals and policies, staff feels the application is justified and should pose no conflict with the existing neighborhood.

#### **APODACA BLUEPRINT POLICY PLAN:**

The Apodaca Blueprint is a neighborhood planning effort initiated by the City of Las Cruces to promote the vitality and investment in the neighborhoods to the east. Page 6 of 440



southeast of Apodaca Park. As existing neighborhoods age, they experience challenges relating to infrastructure condition, public services, character and aesthetics, and housing condition and choice. The Apodaca Blueprint will recommend “neighborhood conservation” strategies to maintain or improve the condition of property, and quality of life within Apodaca area neighborhoods.

The proposed zone change follows the Future Development Map for the Villa Mora property.

**COMPLIANCE WITH MPO THOROUGHFARE PLAN:**

Travis Drive is classified as a minor arterial roadway and E. Madrid Avenue is classified as a major collector roadway by the Metropolitan Planning Organization (MPO) Thoroughfare Map and the Future Thoroughfare Map in Elevate Las Cruces. Large scale commercial developments are encouraged along these types of roadway classifications to accommodate increased traffic flow. Additionally, these roadway classifications lend themselves to provide access to City facilities such as parks and open space. Based on the roadway designation, the proposed zone change is appropriate for this area.

**CONSISTENCY WITH PURPOSE AND INTENT OF THE ZONING ORDINANCE:**

The relevant purpose and intent statements to the proposed rezoning are:

- 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.
- N. Conserve the value of buildings and land.

The proposed zone change would allow for the future development of small portions the subject property for potential commercial development. The large majority of the subject property shall be utilized for a future mostly passive park and other park and recreation amenities in an area where that are no known adverse offsite impacts or potential risks to the public’s safety, health and welfare.

**CRITERIA FOR DECISIONS:**

- Impairment of adequate supply of light and air to adjacent property;
- Unreasonable increase in potential traffic;
- Increase the danger of fire or endanger the public safety;
- Determent of orderly and phased growth;
- Impairment of the public health, safety or general welfare of the city;
- Establishment of a spot zone; or the
- Contradiction of the purpose and intent of the zoning code, sign code, design standards and other companion codes.

Upon internal review, Staff did not identify any issues that would deter the Planning and Zoning Commission from making an affirmative recommendation to City Council regarding the zone change request. Staff also considered the Criteria for Decisions above and has deemed the zone change request appropriate with a recommendation

of approval.

**NEW MEXICO CASE LAW:**

1. There was an error when the existing zoning map pattern was created; or
2. Changed neighborhood or community conditions justify the change; or
3. A different use category is more advantageous to the community, as articulated in the Comprehensive Plan or other applicable City master plan(s), even though criterion (1) or (2) above do not apply because
  - a. there is a public need for a change of the kind in question, and
  - b. that need will be best served by changing the classification of the particular piece of property in question as compared with other available property.

The proposed zone change would bring the subject property into compliance with the Apodaca Blueprint Policy Plan. The zone change is required in order to allow for the property's future development and would be advantageous for the community as a whole.

**DEVELOPMENT STANDARDS**

---

**SITE COMPLIANCE FOR USES UNDER CURRENT ZONING:**

The subject property is zoned R-1a and encompasses 48.75 ± acres in total. Currently the subject property can be developed for one single-family home. A potential single-family residential subdivision can occur with the existing zoning designation, but it would have to follow the subdivision process.

**SITE SUITABILITY FOR USES UNDER PROPOSED ZONING:**

The proposed zone change will allow for the future development of the subject property with park facilities and some future commercial development. Any future development will be required to follow all requirements of the C-3 zoning district. All uses outlined in the C-3 zoning district would be permitted. The proposed commercial development would also be required to adhere to the Apodaca Blueprint Policy Plan.

**ADEQUACY OF PUBLIC FACILITIES AND SERVICES:**

City water, and gas are available for the site and are adequate for any and all potential development. The City has plans to improve Trivis Drive and E. Madrid Avenue that will include pavement with curb, gutter, and lighting. These improvements will provide better access and circulation for this area of the City.

**FLOOD PLAIN:**

The property is not located in a flood zone.

**STAFF AND PUBLIC COMMENTS**

---

**PUBLIC NOTIFICATION AND INPUT:**

Notice of a Public Hearing was mailed to all property owners within 500 feet on May 10, 2024, for the Planning and Zoning Commission meeting. No public comment was received for the proposed zone change at the time of the drafting of this report.

**STAFF COMMENTS:**

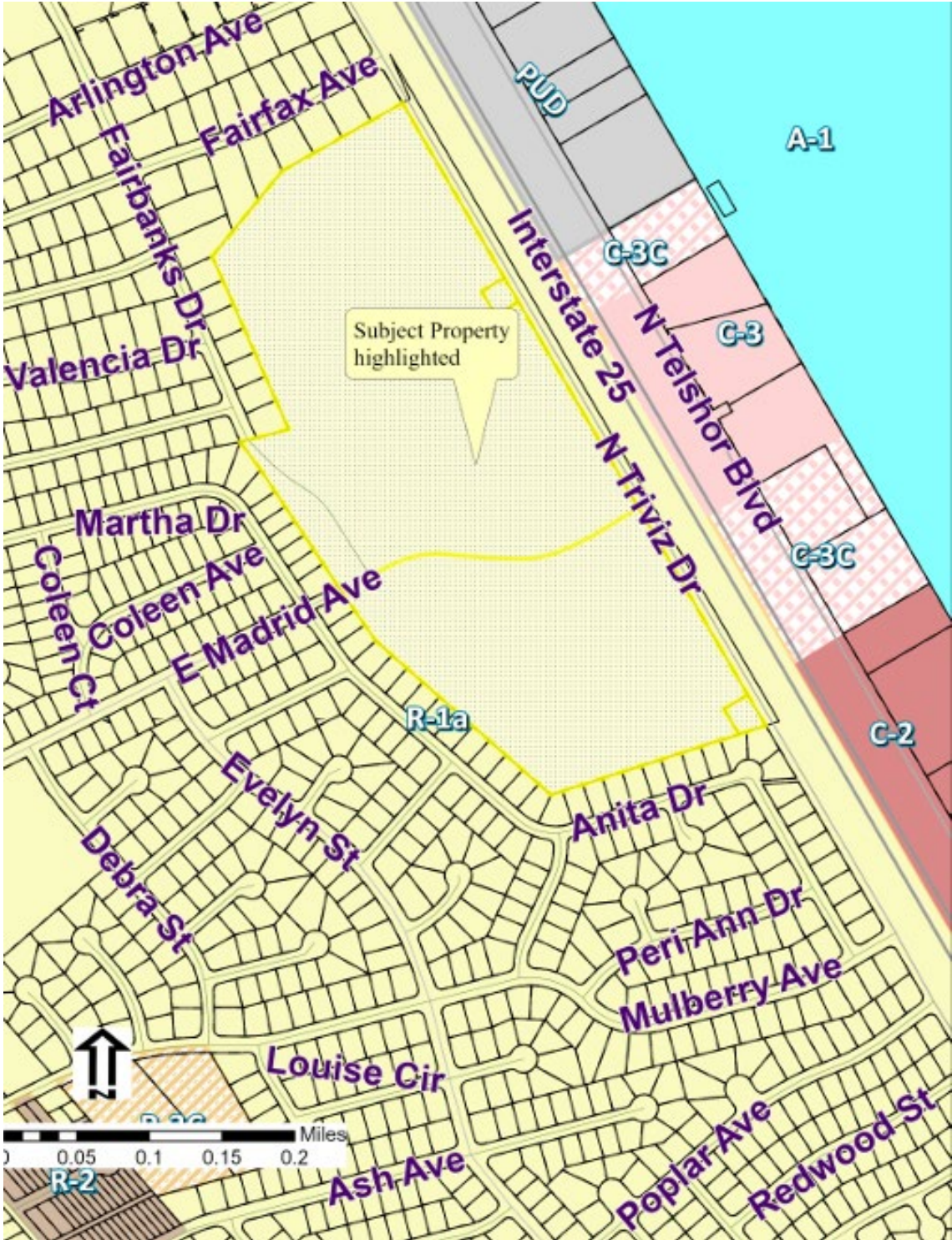
No reviewing departments had any negative comments and there have been no objections to the proposed rezoning.

### Agenda Item #10.3.

**ATTACHMENTS:**

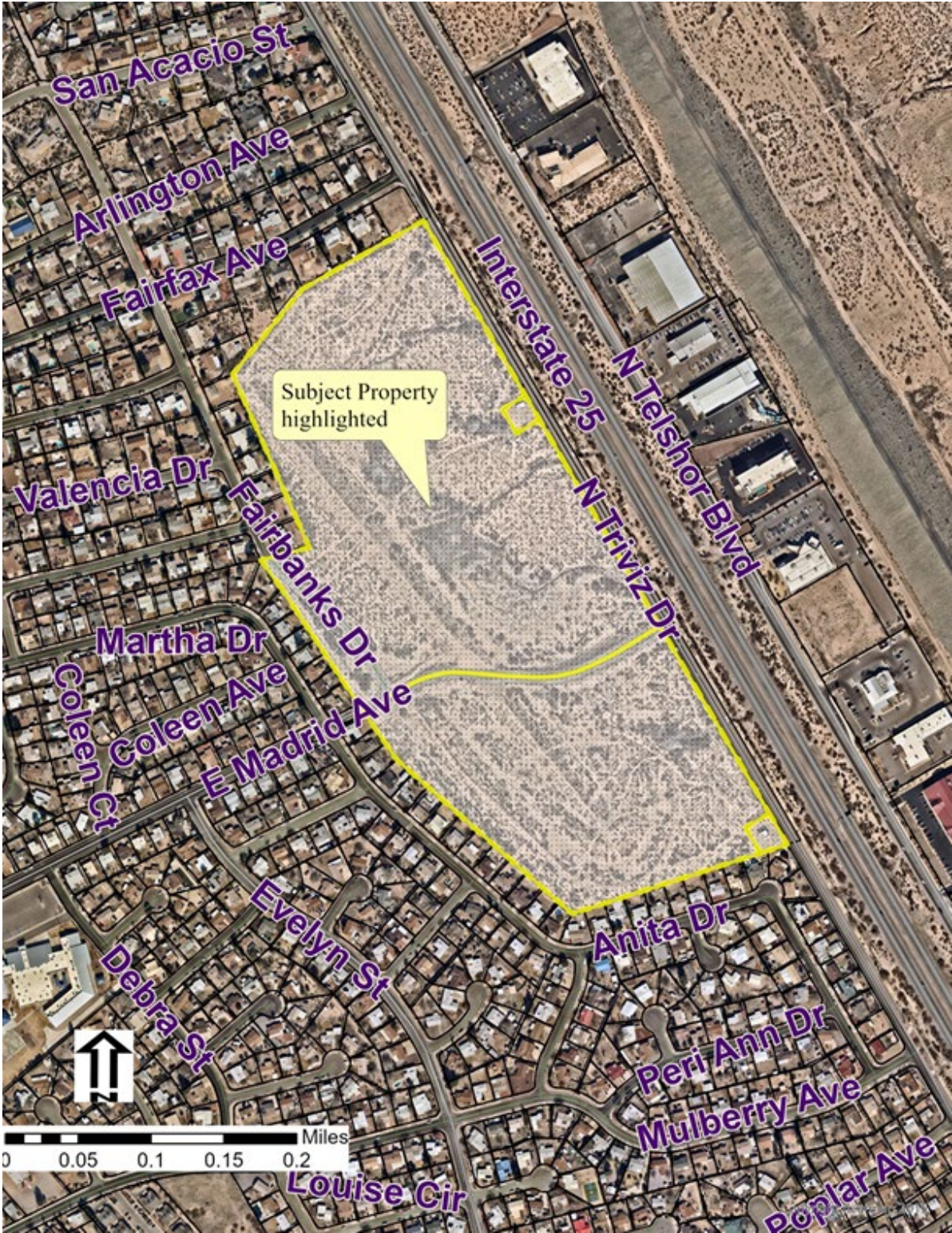
1. Zoning Map
2. Aerial Map
3. Survey/ Site Plan
4. Applicants Proposal
5. Apodaca Blueprint Future Development Map
6. Department Comments

**ATTACHMENT 1**  
**Zoning Map**





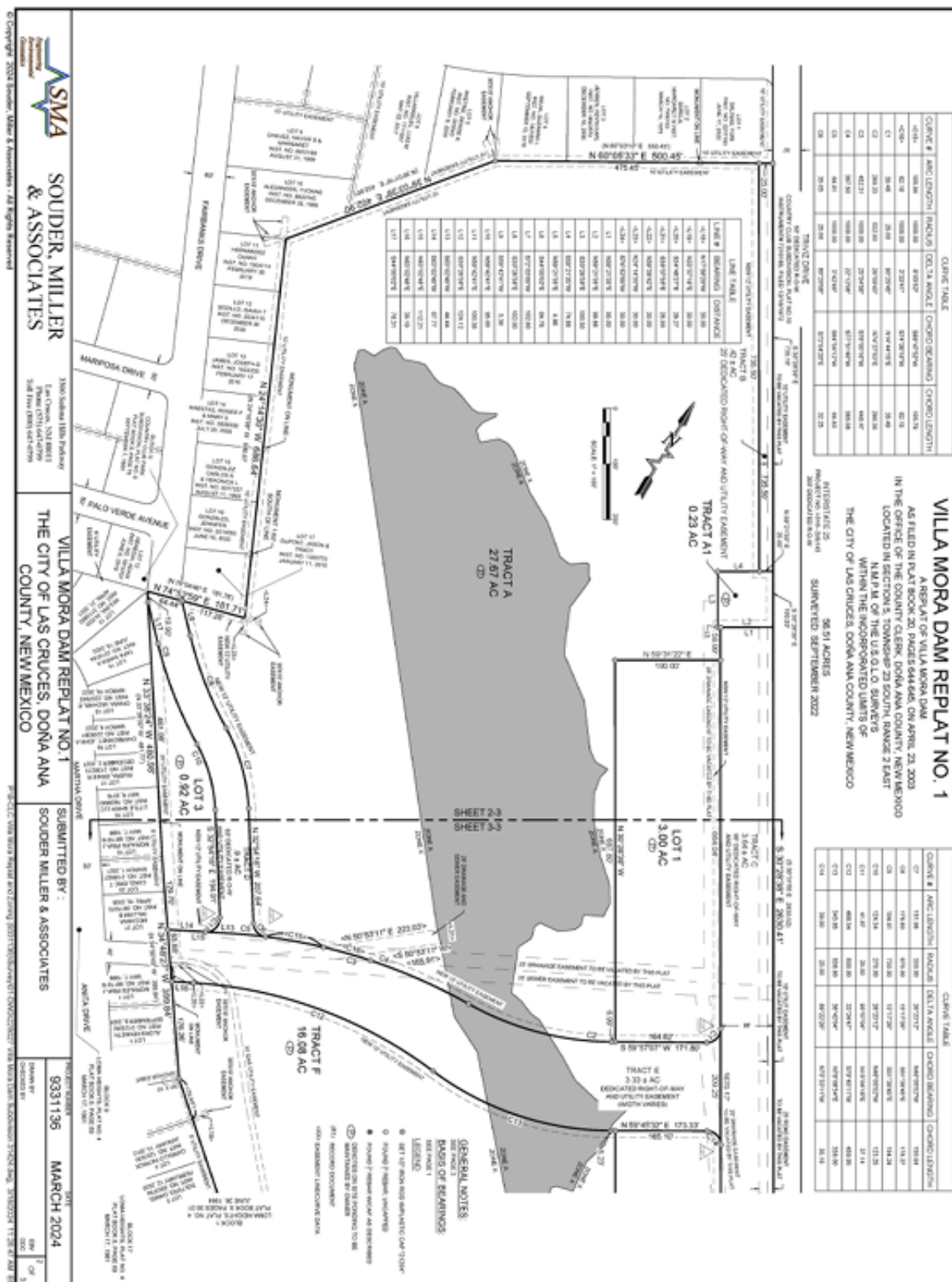
**ATTACHMENT 2**  
**Aerial Map**





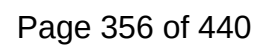
## ATTACHMENT 3

## Survey











**ATTACHMENT 5**  
**Apodaca Blueprint Future Development Map**



## **ATTACHMENT 6**

### **Department Review Comments**

**Department: Planning**

Status: YES

**Department: Flood Control**

Status: YES

**Department: Traffic Engineering**

Status: YES

**Department: Engineering**

Status: YES

**Department: Utility Engineering**

STATUS: YES

**Department: Fire**

Status: YES

**Department: City MPO**

Status: YES



# CITY OF LAS CRUCES

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.  
46

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](http://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

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

Kaiser: All right, continuing down that row.

Truxal: My name is Carolyn Truxal.

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?

Truxal: I do.

Kaiser: Go ahead.

Truxal: This my husband Jose. We live on Morningstar. You've already heard how difficult it is getting in and out. Looking at your own regulations and even the document put together for this meeting, everything says it should be consistent, it should be compatible. There is nothing but single-family housing in this neighborhood. Nothing. You have to cross the street or go a quarter mile away to get out of single-family housing. There is nothing to prevent the owner from building single-family housing. As Ms. Kemp pointed out, baiting and switching. If he wanted to build apartments, why didn't he buy something already zoned R-4. We have no objection to 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 #10.3.

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



Agenda Item #10.3.

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 Keever: My name is Patricia Keever.

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 Keever: I certainly do. And I always tell the truth.

12  
13 Kaiser: Go ahead.

14  
15 Keever: 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

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 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 Prasido 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 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 #10.3.

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.

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 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.

1  
2 Ochoa: Mr. Chair. That is your prerogative as all. That condition can be removed  
3 by the Commission if you wish to.  
4

5 Murray: If I can say myself. I'm like very familiar with this area because I have a  
6 parcel for sale two lots over. So I will say right now Central is undeveloped,  
7 as it is. And it's kind of difficult because, I don't necessarily see it becoming  
8 a speedway, just on how they're doing it. The access is going to be from  
9 the other side, on Porter and Village. And kind of where Central Ave. ends  
10 where my lot that I have for sale, it's a cul-de-sac right now. So creating  
11 that as a thruway is just going to be difficult. It will definitely be another exit  
12 and entrance point, but I don't think it's going to turn into another 500  
13 speedway or something.  
14

15 Porter: If I can say something. I think that it's actually going to slow it down. I go  
16 through Porter every single day. I live in that area. And you know there's  
17 always on their four by fours, they're always doing something. And it's at  
18 three in the morning sometimes. So actually building homes there would  
19 actually slow down all of the noise, all of the speeding and everything. Just  
20 because I've lived there so long. It's also going to help the flooding a lot  
21 because we get really bad rain during July, and some of August, and there's  
22 times where if you don't have a truck, you can't pass and that dirt is bad,  
23 too. So it's very underdeveloped. There's nothing there but tumbleweeds  
24 and all kinds of animals. So I really love the idea, especially of the attainable  
25 housing, because that's kind of what we need right now. It seems like it's  
26 been a common theme today.  
27

28 Kaiser: Thanks. And I certainly you know appreciate the perspective. I think if you  
29 look at the data, the data says wider travel lanes equal faster speeds. I  
30 know in my own neighborhood, it's a residential neighborhood, we like to  
31 say the local streets they're safe, right. They're not. I mean the safe local  
32 streets in our neighborhood are essentially fair lane streets without cars  
33 parked on the either side. So it's just, we had an opportunity, have an  
34 opportunity to address some of these issues that we heard about tonight on  
35 the front end. I think undercutting the flexibility that we sought on the one  
36 hand by saying we need to have the 12 foot travel lanes; you know I would  
37 like to strike that I know others may feel differently. But if that's something  
38 that you'd be open to striking to give ... that doesn't say we can't build a 12  
39 foot travel lanes, it just says that let's look at all the options available to us.  
40 Yes, did you want to comment or anything? You don't have to.  
41

42 Dickerson: Just one thing. All of Central will be done in Phase 3. And I do know that  
43 Fire you know had said that, but I think one of the other things that we're all  
44 kind of waiting to see, and trust me Phase 3 will start the minute, the  
45 planning of that will start the minute we get the permit for this one. Is what  
46 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 #10.3.

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.

46

Agenda Item #10.3.

- 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 

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Chairperson