

CITY COUNCIL AGENDA

Mayor
Ken Miyagishima

Mayor Pro Tem
Kasandra Gandara

Councilors
Tessa Abeyta
Becki Graham
Johana Bencomo
Becky Corran
Yvonne Flores

Monday, March 6, 2023 at 1:00 PM

Council Chambers



City of Las Cruces®

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

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

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

CONSENT AGENDA

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

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1. OPENING CEREMONIES

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

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

3. PUBLIC PARTICIPATION

4. ACCEPTANCE OF AGENDA

5. CITY COUNCIL MINUTES

- 5.1. Regular City Council Meeting of February 6, 2023. 4 - 36
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6. RESOLUTION(S) AND/OR ORDINANCE(S) FOR CONSENT AGENDA

- 6.1. RESOLUTION NO. 23-100: A RESOLUTION TO APPROVE THE SUBMISSION OF A GRANT APPLICATION TO THE NEW MEXICO DEPARTMENT OF TRANSPORTATION, MUNICIPAL ARTERIAL PROGRAM, FOR THE FISCAL YEAR 2023/2024, FOR INTERSECTION IMPROVEMENTS ALONG SPRUCE AVENUE IN THE 37 - 59

AMOUNT OF \$300,000, REQUIRING A CITY MATCH IN THE AMOUNT OF \$100,000, FOR A TOTAL PROJECT COST OF \$400,000.

[Resolution No. 23-100 - Pdf](#)

- 6.2. COUNCIL BILL NO. 23-021; ORDINANCE NO. 3027: AN ORDINANCE APPROVING A ZONE CHANGE FROM C-1 (COMMERCIAL LOW INTENSITY) TO C-2 (COMMERCIAL MEDIUM INTENSITY) ON A PROPERTY ENCOMPASSING 0.264 ± ACRES. THE ZONE CHANGE REQUEST SEEKS TO BRING THE PROPERTY INTO COMPLIANCE WITH THE 2001 LAS CRUCES MUNICIPAL CODE, AS AMENDED. THE SUBJECT PROPERTY IS LOCATED AT 2505 MISSOURI AVENUE. 60 - 151

[Ordinance No. 3027 - Pdf](#)

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

- 7.1. **PUBLIC HEARING REQUIRED.** RESOLUTION NO. 23-101: A RESOLUTION APPROVING THE REQUEST FOR A TRANSFER OF OWNERSHIP AND CHANGE OF LOCATION OF INTER-LOCAL LIQUOR LICENSE NO. 2628 WITH ON-PREMISES CONSUMPTION AND PATIO SERVICE TO BIG TOASTED MON 4, LLC., D/B/A CHEBA HUT TOASTED SUBS, LOCATED AT 556 S. TELSHOR BLVD., LAS CRUCES, NEW MEXICO 88011. 152 - 191

[Resolution No. 23-101 - Pdf](#)

- 7.2. RESOLUTION NO. 23-102: A RESOLUTION APPROVING A PILOT PROGRAM FOR AN AFFORDABLE HOMEOWNERSHIP REVOLVING LOAN FUND TO FACILITATE THE DEVELOPMENT OF AFFORDABLE SINGLE-FAMILY HOUSING. 192 - 197

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- 7.3. RESOLUTION NO. 23-103: A RESOLUTION UPDATING THE GUIDELINES FOR STREET NAMING, STREET RENAMING, AND PROPERTY ADDRESSING. 198 - 213

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- 7.4. RESOLUTION NO. 23-104: A RESOLUTION RECOGNIZING THE DEVASTATING IMPACT OF COVID-19 (SARS-CoV-2); HONORING THE SACRIFICES THAT ESSENTIAL WORKERS HAVE MADE TO PROTECT AND SAVE LIVES IN THEIR COMMUNITIES; DECLARING SUPPORT FOR A PERMANENT COVID-19 MEMORIAL TO BE LOCATED IN BERNALILLO COUNTY, NEW MEXICO TO HONOR THE VICTIMS OF COVID-19. 214 - 218

[Resolution No. 23-104 - Pdf](#)

8. BOARD APPOINTMENTS

9. NOTICE OF PROPOSED ORDINANCE(S)

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

- 9.1. COUNCIL BILL NO. 23-022; ORDINANCE NO. 3028: AN ORDINANCE SUPPORTING INVESTMENT OF \$897,596 IN AN ECONOMIC DEVELOPMENT PROJECT IN ACCORDANCE WITH THE CITY OF 219 - 318

LAS CRUCES LOCAL ECONOMIC DEVELOPMENT PLAN,
AUTHORIZING A PROJECT PARTICIPATION AGREEMENT
BETWEEN THE CITY AND 828 PRODUCTIONS, LLC., AND
ENTERING INTO AN AGREEMENT TO SERVE AS FISCAL AGENT
FOR THE STATE OF NEW MEXICO'S PARTICIPATION NOT TO
EXCEED \$3,000,000 IN THE PROJECT.

[Ordinance No. 3028 - Pdf](#)

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



MINUTES

City Council Meeting

1:00 PM - Monday, February 6, 2023

City Council Chambers, City Hall

The City Council of the City of Las Cruces was called to order on Monday, February 6, 2023, at 1:00 PM, in the City Council Chambers, City Hall, with the following members present:

PRESENT: Mayor Ken Miyagishima, Councilor Kasandra Gandara, Councilor Tessa Abeyta, Councilor Becki Graham, Councilor Johana Bencomo, Councilor Becky Corran, and Councilor Yvonne Flores

EXCUSED:

1. OPENING CEREMONIES

1.1 Pledge of Allegiance - Councilor Flores.

1.2 Pets of the Week.

Jennifer Martinez, Communications Office presented Pets of the Week.

1.3 Jobs of the Week.

Giselle Palomares, Mew Mexico Workforce Connections presented Jobs of the Week.

1.4 Presentation of Certificates of Appreciation/Proclamations - Councilor Flores.

Councilor Flores presented a proclamation to Len Hampton for Optimist Day in the City of Las Cruces.

Councilor Abeyta presented a proclamation to Trine Lane for Congenital Heart Defect Awareness Week.

Councilor Flores presented a proclamation to Rose Ann Vasquez and Raquel Cherem for National Teen Dating Violence Awareness and Prevention Month.

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

2.1

None.

3. PUBLIC PARTICIPATION

3.1

Lorenzo Alba, Director of Casa De Peregrinos said I just want to talk about the cards I passed out to you. These are available not only to you but to the public. They are trifold and bilingual, and they basically are so that you can handout if

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you see somebody on the street or you know somebody that needs food services from Casa de Peregrinos.. We are trying to do more of this kind of outreach. We are currently doing a program through the Governor's initiative on food insecurity. We are outreaching publicly from produce stands all around the county. There will be some coming into Las Cruces pretty soon that we can actually let people know what we are doing and at the same time pass out a free bag of produce to them. The Fire Department has been using them for a little while with us already and some police officers have been using them as well. If people know where to go, they feel a bit more comfortable. I have used them a couple of times already at Home Depot. It's got a QR code on there that way you can just kind of go on there and go onto our website with the QR code. I also wanted to take time to thank the city for all the support that they have been giving Casa De Peregrinos over the years and for their continued support. Our building is coming together. That community project, we are going to post up a little video on our website today and tag the city so that they see what is going on with it. Right now, we are looking at a May completion date which puts us in the building hopefully by the end of June beginning of July. We are looking forward to sharing this community project of facility with the community and putting it to work for you because it is a lot of hard work not only from the Legislators that are up in Santa Fe right now working hard for Capital Outlay money but also the city who has supported this project over the years.

Steve Fischmann, Member of the Public said I came here to pitch Senate Bill 165. Its aim is to lower rates, bring in more renewables and focus electric utilities on particular needs of individual communities. I have to say as four years as a commissioner on the PRC that it is very clear that our current investor-owned utilities, including El Paso Electric, they are profit making enterprise. Their managers get compensated based on profits and every proposal we see from them doesn't necessarily try to undercut public purpose, but profit comes first. We end up with some very odd proposals that really don't serve community needs. SB 165 basically introduces competition into the picture to put pressure down to lower prices, to more quickly adopt new technologies and provide cleaner energy. We are facing a situation where quite frankly we can get a lot further a lot faster if we start taking some of this responsibility away from the utilities. This is an industry, any city or locality that wants to form its own local choice utility has access to all the same resources as the major utilities. The main difference is they will use the resources to further the benefits to the community while our current IOUs use those resources to fatten their bottom line. I really urge to give some support to this legislation, and I am really happy to talk to any of you individually and tell you about my experiences.

Councilor Flores asked on this particular bill to whom should the request be made?

Steve Fischmann said it is going to the Conservation Committee hopefully tomorrow. When it gets to there I am going to try and be confident enough to testify tomorrow. When it gets through there it goes through Judiciary. Judiciary might be a challenge. The bill is sponsored by one of our local senators, Carrie Hamblen.

Mary Rodriguez, Member of the Public said I don't know if you know but February is spay and neuter month. I am a huge proponent of mandatory spay and neuter practices because I know firsthand that it works. I understand that this practice has never been instituted in Las Cruces. I am constantly seeing post on Nextdoor and on Facebook about dogs running loose, sometimes hit by cars, missing dogs and people being bitten by dogs. This is a solvable problem. It takes implementation and it takes education. I also know that this body cares about the community doing what is best and wants to be forward thinking on the matter. Other areas in New Mexico such as Santa Fe, Gallup, Rio Rancho, Silver City and Albuquerque have instituted mandatory spay/neuter practices and have found ways to pay for it. I have personally inquired with other counties in the state and have found that the cost of these services are subsidized by money collected from fines and penalties when people break laws such as breeding animals indiscriminately, allowing their dogs to run free and having unlicensed dogs and the like. In the city I moved here from where I was born and lived in for nearly 60 years I personally witnessed ordinances go into effect that reduce the number of stray animals. Both dogs and cats. A low cost spay/neuter clinic was built later in an especially problem area further reducing the number. Mandatory spay and neuter practices are a proven effective way to manage this.

Mayor Miyagishima said I know in the past the city has looked for more than one veterinarian and I know they are doing their best. We are working with Dona Ana County to come up with being able to attract veterinarians here so that we can move forward on the spay and neuter, but I appreciate your comment.

Diane Starbuck, Member of the Public said I am here as a member of Animal Advocates for Change. The Council approved a resolution supporting a TNR program back in August of 2021. Mayor you previously stated the original cost estimate you received for such a program was \$500,000. The TNR Subcommittee prepared a budget of \$300,000 that was never considered. To date we are unaware of any funding allocated by the city for this program other than the regular ASCMV and Animal Control Budget allocations. At the January 2023 ASCMV Board Meeting the following excellent report of activities by Michelle Corella of the Cat's Meow, a city board member stated that they were pleased that there were service providers within the community that can help with spay or neuter activities. Throughout the lengthy process of updating the ordinance as council you said all the right things including assistance for individuals wanting to access spay and neuter services but unable to bare the entire cost. Individuals across the city are willing to help address the over population and stop the reproductive cycle but they need a hand and with only one vet. The ASCMV cannot keep up with the demand despite their extraordinary number of surgeries since the ordinance was adopted. Our Co-founder Kathey Stark has stood before you several times and ask that you consider a voucher program that would apply to vets within the region not only in the city due to the shortage of vets and the cost to barriers that exist. Animal Advocates for Change and I are asking that as you immerse yourselves in the budget process you direct the City Manager to allocate funds for spay/neuter services including a voucher program and funding in the form of grants for local

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rescues to provide spay and neuter clinics. You have new funding sources including monies from plastic bags, marijuana sales, the pet food tax funds coming in. What better time to use funds to support spay and neuter of community cats, owned cats and help the community help you.

Mayor Miyagishima said I think what we could do is have a joint Work Session with the board of the ASCMV as well as the City Council. The reason I say that is that because it is very difficult for us because we usually partner with the County. We need to have the total cost and we need know that the county is going to be on board to pick up the other half. That is why I think it would be beneficial if we have a joint Work Session with the ASCMV board, which there are three members of our City Council of that board as well as the county. If one of you or you wouldn't mind emailing me and then we can begin to set that up and we will have a Work Session and that way we can get some of these issues a little bit more discussed in depth.

Jeri Wheelless, Member of the Public said I am the co-founder of AAFC. AAFC has had meetings with the County and they are supportive of trying to increase budgets and discuss spay and neuter and revising their ordinances and looking into mandatory issues and those kinds of things. Just because the ASCMV doesn't have a vet right now doesn't mean that other organizations, spay/neuter clinics and so forth can't be brought in. We have been in the process of researching those and we have names and we are willing to reach out and try and coordinate that with you and for you. There are other ways around it besides having a new vet at the ASCMV. So, we just hope that you will consider the program when you are allocating budget funds because the ASCMV cannot support it on their current budget.

Mayor Miyagishima said this is one of these joint powers agreements that the city and county have. The power rests with the director of the ASCMV, not the City Manager nor the County Manager. That is why we need to have this joint Work Session so that we can get an idea of where everyone is at. This is one of the challenges with the board because between the three council members and the commissioners that are on that board as well as the others, they themselves are the governing board, not the city with the county. They have to come back with a request for money, which I have not seen it.

Jeri Wheelless said it our assumption that the TNR program is a city program. It is mandated under the city ordinance so there has always kind of been a debate as to who is overseeing that program and where the funds are coming from. Regardless of that, the AAFC does have a good relationship with the ASCMV board and we would be happy to sit down and discuss with whoever.

Mary Underwood, Member of the Public said I am a member of the GFWC Progress Club of Las Cruces. I am just here to bring up a couple of issues about the WIA Building and would very much like your support. We have a family of skunks under the building and it is pretty smelly. When we go in for our meetings we have to open up all of the doors in the middle of the winter so a lot of members have ceased coming to our meetings because A. the smell and B. the cold. We very much would appreciate it if you could put it as a top priority. We were told in the fall that it was going to be taken care of and it

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hasn't, and we are into February and the skunks haven't been removed. I would also very quickly like to say that we were told there had been money set aside to do the roof of the WIA Building. The building is deteriorating pretty rapidly, it's very old. The roof desperately needs to be repaired and we were told that was going to also happen somewhere back in the fall and it never has. We are a great group of people. We have 55 members and we put about \$35,000 into community projects last year. We are very proud of what we can do for our community and we love the building that we get to use so we would appreciate some consideration on this.

Sonya Delgado, Assistant City Manager said I have already sent an email over. I did speak to a couple of individuals earlier today to get a status on the roof and skunks so I will provide that. I do have the contact information. I will take care of that right away.

Sarah Smith, Member of the Public said since you are working on finding solutions for the increased crime and drugs near the Desert Hope Affordable Homeless Housing Project. I wanted to share some information with you from the perspective of a person who has been living in Housing First Projects for many years. I will call this person Vanessa to protect her identity. Vanessa grew up in foster care before transitioning into housing first apartments twenty years ago. She expected her transition out of foster care would take her where she would be helped and where she would be learning the skills she needed to be independent and ready to strike out on her own. Instead of being in an environment where she could learn and thrive, Vanessa found herself in a chaotic environment filled with drugs, violence and prostitution alongside the elderly and people trying desperately to improve their situations. There were many people struggling with addiction and mental health problems. This is because housing first offers unconditional housing to people. Meaning that there are no requirements for people to abstain from alcohol or drugs in order to receive housing. In Vanessa's experience living in various housing first projects for the last twenty years fighting and violence are common occurrences. Drug and alcohol usage are rampant such as those who are trying to escape from drug addiction and alcoholism are unlikely to succeed when the temptation is often right in front of them. Vanessa has had her windows broken, her screen door torn off the hinges. She has suffered sleep deprivation due to excessive noise. The apartments and facilities are often not kept up. The living environment is so turbulent that Vanessa has turned to alcohol herself at times as a way to cope with living there. Vanessa is hesitant to speak about her experiences living in housing first apartments. In the past when she has made complaints about the living conditions to try to improve the situation, she has been retaliated against by the people who run the apartments. Here in Las Cruces the Desert Hope Apartments have echoed the same problems Vanessa has faced elsewhere. Although this housing first project has provided a shelter to homeless people there are many other ways in which this model is failing our community and the people who live there. Like Vanessa it is clear that people living here at Desert Hope that the housing first model fails because of the drug and violence that come along with it. Here too people living in Desert Hope are afraid to speak out in fear of retaliation. I urge the city to consider options that include treatment for drug and alcohol abuse instead of continuing to promote and fund housing first projects.

I am in support of the appeal to overturn the special use permit for the cannabis business on the parcel of land near the Tutti Bambini and the Challenger Learning Center. Given that these two businesses I just mentioned target children specifically and that there are also residential homes within the 300 foot buffer distance. I don't think it would be in the best interest of our community to allow a cannabis dispensary in that location. I am not opposed to cannabis dispensaries in general, but I urge the city to take into account the overall wellbeing of the community when determining whether to allow exceptions to the 300 foot buffer zone for these businesses. Studies have shown that increased density of tobacco, alcohol and cannabis businesses is associated with an increased youth substance abuse. Given the proximity to two businesses catering to children and nearby family homes please vote in support of this resolution to deny this special use permit.

Brad Cates, Member of the Public said I got my truck stolen a day or two ago and it reminds me of what the purpose of government is. It is the security of the people. Everything is nice to have bike paths and different things but the number one purpose of the formation of any government is the security of the people. I commend the Police Department for their work the other day and we should commend our Fire Department. I have prosecuted hundreds of cases and I have sat with victims and if you have not been involved in the criminal justice system or if you are not a victim of a crime you don't understand the impact this has on our community. When someone is a victim themselves or their loved ones been raped or their house broken into and their things stolen it undermines all of our civic cohesion and the way to do it is rapid arrest, rapid prosecution and punishing people involved. Our police and fire need all the support they can get to make that happen. We know that there is other reasons that crimes can happen, not just bad people. That is what I want to ask you today. Keep your eye on the main ball and that is the security of the people in our city and let's not get sidetracked with other things.

Juan Garcia, Member of the Public said thank you for approving a resolution supporting small businesses with funds to repair our criminal attacks and also thanks to Judge Goldbaum for her presentation. Two areas of concern, a follow-up to a previous speaker in December who decided to arm himself and many others have too. The recent post on a local site, "luckily, they just opened the doors, stayed armed and confront these people. When the red dot hits them they ran off". Is this where we are headed? Where individuals are so fed up with crime that they are taking it upon themselves and planning to take it upon themselves. So, what are our elected state officials doing about crime in our community? In the Albuquerque Journal, Representative Ferrary was against HB 57, "because it could result in alleged thieves being injured". Now think about that. Concerned about the thieves, the alleged thieves. Not one word about the victim. Senator Cervantes is concerned about the Arnold Tool, that you just mentioned Mayor and is proposing crime victims file lawsuits against gun makers. Senator Soules, assault weapons are only weapons for war. They have no other purpose then killing people. This is the same Senator that spoke about promoting the abortion clinic that the Governor has proposed. Since abortion is such a huge thriving industry promoted by our Governor and endorsed by the New Mexico progressive socialist the Satanic Temple opened

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a new abortion clinic to kill babies in ritualistic abortions. The Satanic Temple is also pushing its beliefs on young children. Recently the group began opening clubs in elementary schools. It likens "the ritual slaughter of unborn babies to communion or baptism for Christmas".

Jennifer Kitsie, Member of the Public said I am the manager of New Mexico Thrift and Boutique. We were in business for 22 years in the town of Mesilla as a hair and body shop and in order to give back to our community we opened a thrift store by the traffic circle called New Mexico Thrift. Portions of those proceeds would go to our local veterans. We outgrew our space quickly. In October of last year we opened our New Mexico Thrift and Boutique, a combination of our boutique in Mesilla and our thrift store. In our 22 years that we were in Mesilla we never had any problems. No break ins, no vandalism, nothing. Since we have opened in the shopping center at 2132 North Main Street, the Fiesta Foods Shopping Center, right next to Rent-A-Center, on December 25th our front door had rocks thrown through it. We fixed it. We spent \$900. The police came, we filed a police report. Because they didn't get in, which was their goal it was vandalism. Our landlord didn't care, he is in El Paso. He isn't going to help us. We made an insurance claim and paid the \$900 and got the glass fixed. On January 20th we come to work and there is a huge hole in our front window. Same thing, river rocks from the landscaping. The owner has since removed the river rocks from the landscaping. Not only a week later I came to work and I was worried because I was a couple minutes late and the owner was there and she is in tears because this time they didn't just break the front door they came in the back door and they stole a lot of stuff. We are looking at \$10,000 in damage right now. The reason I am here to tell you this story that is so frustrating. First of all, thank you for the \$2,500 store front grant. I don't know if the criteria for eligibility is going to fit our store unfortunately. I hope it does. We have not been in business where we are since March of 2020. It has been quite traumatic to the point where I trained a new girl and I showed her where the hornet spray was if somebody comes in here and you feel threatened spray them in the eyes. It is like that all over Las Cruces right now. I don't leave my house without something to protect myself. It is getting bad out there and I am scared.

Tessa and Adrian Gonzales, Members of the Public said we are here to discuss a tragic event that happened at on April 24th of last year at Veteran's Park. I have been in communication with the Veteran's Advisory Board with a proposal to try and get a memorial built for our daughter. Her request was denied, and I didn't really know much about the VAB before this happened and I didn't like some of the answers I was given so I did a little bit of research and I read the city ordinance. City ordinance states the VAB is there to bring recommendations to physical changes to Veteran's Park. They are supposed to present it before you all. I didn't see anywhere where it says they are the final authority on a decision. So regardless of how they feel about the proposal they are supposed to bring it to you all where you all make the decision. I don't know if that was delegated to them. If they had the authority to deny a request for a proposal. I just wanted to see if we could get in on the next City Council Agenda or any of you Council members would like to come to the next VAB meeting and we can discuss their role and maybe possibly consider a memorial for our daughter. It started off as simple request for a bench and

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name placard. Because of the denial we want to dig a little deeper and find ways to honor not only our daughter but local heroes, people who support military. I am active duty currently and have been serving for fourteen years. She is the daughter of an Active-Duty Airman, the granddaughter of an Army soldier and a great-granddaughter of Navy Veteran. I think their opposition is misunderstanding our request and they think we want to put her on one of the preexisting memorials. We are not trying to honor her as a Veteran because she obviously was an 18 month old little girl can't serve in the military but she does serve by supporting me, as well as my wife and my other children.

Mayor Miyagishima said please email me. I am confident that we might be able to do something. I don't know if you are aware, but the city is building a parking lot. It's going to be expanded and I am confident that we can do honor your little girl. You did the right thing. The Veteran's Advisory Board is an advisory board to myself and council so you coming here I am confident that we can do something to honor your daughter.

Adrian Gonzales said I don't know if it is true or hearsay, but I was under the impression that the playground area was going to be removed completely. There will be no public play area for children, is that correct?

Ifo Pili, City Manager said there have been talks about that as we expand the parking lot but nothing has been set in stone yet. No decisions have been made about that.

Adrian Gonzales said something that we are proposing is and we are not asking the city to fund this if we pay for this ourselves so be it for a safe place for children to play we are thinking of proposing a butterfly garden. We can discuss in the email but thank you all if you can support, we would greatly appreciate it.

Councilor Flores said my understanding is the playground would be moved away from the area that is the main park. My understanding is that there won't be a park. It is a question of the location perhaps near the parking lot. I believe the parking lot is going to be expanded to the north of the park.

Ifo Pili said that has been the discussion. Once we expand the parking lot on the other side of the existing wall and we would need that space as well where the park is but we have not had any plans set in stone. We are trying to get funding for that parking lot.

Jaylene McIntosh, Member of the Public said I am here to publicly speak about the already approved pilot program for hygiene stations around our city. I have some real concerns and I know these are shared by many of my fellow citizens. I understand the council's desire to provide these facilities is so the homeless population will have a place to take care of their personal hygiene needs but this is a band aid at best. Our city needs to enforce the already established laws prohibiting public urination and defecation and our city needs to maintain each and every public restroom facility. The personal hygiene needs of our city's homeless population are already being met through numerous shelters and public facilities. We have plenty of public restrooms that

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aren't opened, maintained, or protected. For some reason our city chooses to keep them locked rather than maintained and if they are available, they are usually filthy, undermaintained, and generally unsafe to use by the law-abiding taxpaying citizens. Last week I emailed each one of you my concerns. Mayor Miyagishima's reply included a report from the City of Seattle which stated their estimated cost per hygiene station was \$120,000 per month. The numbers the Mayor further provided reported the City of Los Angeles spent \$10 million on hygiene stations which yielded 60,000 showers. That is \$167 per shower. It would be cheaper to rent our city's homeless a hotel room. Furthermore, I would hope the City Council would work in the best interest of its citizens first, our police to enforce the existing laws and ordinances that prohibit this unwanted behavior that you are trying to band aid. Second, hire more city workers to update, renovate, and maintain existing structures. Finally, if you all really want a hygiene solution, consider a permanent public facility downtown to make that area cleaner and safer for city and the downtown businesses. In closing I understand that council has no idea the cost nor the details for this approved hygiene station pilot program. Further it has not been made known the number or the location of the proposed hygiene stations. Approving something before the financial cost and long-term effects are considered and conveyed to the citizens. Paying for hygiene stations is a waste of money if we can't afford to keep our many parks restroom facilities opened, maintained and protected then there is no way our city can afford this program.

Mayor Miyagishima said this was an approval for the city's management team to begin to look at exactly how we are going to do this. I sent that to you from Seattle and LA to share with you how the City of Las Cruces, obviously we are not the same size population as Seattle and LA but how we are one of the smaller cities in comparison to them that have this opportunity to do this.

4. READ CLOSED MEETING STATEMENT

4.1 Read January 23, 2023 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. The purpose of the closed meeting was to discuss limited personnel matters regarding the former city attorney, which is closed pursuant to NMSA 1978, Section 10-15-1H(2).

5. ACCEPTANCE OF AGENDA

Councilor Becki Graham made a motion to accept the agenda as presented with the removal of item 8.3 in its entirety. Councilor Tessa Abeyta seconded the motion. Carried unanimously.

6. CITY COUNCIL MINUTES

6.1 Regular City Council Meeting of December 19, 2022.

6.2 Regular City Council Meeting of January 3, 2023.

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

- 7.1** RESOLUTION NO. 23-091: A RESOLUTION AUTHORIZING INDEFINITE COST, AND INDEFINITE QUANTITY AGREEMENTS FOR RADIO PARTS AND REPAIR WITH SIX (6) VENDORS, VIA NEW MEXICO STATE PURCHASING DIVISION CONTRACT NO. 20-00000-22-00038 (PROCUREMENT NO. 22-23-034).

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

- 8.1** **PUBLIC HEARING REQUIRED.** RESOLUTION NO. 23-092: A RESOLUTION APPROVING A RESTAURANT A - BEER AND WINE LIQUOR LICENSE WITH ON PREMISES CONSUMPTION ONLY TO LORENZO'S ITALIAN RESTAURANT LOCATED AT 1753 E. UNIVERSITY AVENUE, LAS CRUCES, NEW MEXICO 88011.

Public hearing began at 2:09 p.m. There was no one for or against. Public hearing ended at 2:10 p.m.

Councilor Becky Corran made a motion to Approve Resolution No. 23-092. Councilor Yvonne Flores seconded the motion. Carried unanimously.

- 8.2** RESOLUTION NO. 23-093: A RESOLUTION TO ACCEPT THE CITY OF LAS CRUCES ANNUAL COMPREHENSIVE FINANCIAL REPORT FOR THE FISCAL YEAR ENDING JUNE 30, 2022.

Josie Trevino, Comptroller introduced the presentation.

Chris Garner, Auditor with Pattillo, Brown & Hill, LLP gave the overhead presentation.

Councilor Bencomo said I appreciate you naming on the gas cards that action was taken to remedy that. You didn't mention that on the second item though I know there has been some action steps from our Finance Select Committee meeting. Can you talk about that a little bit?

Chris Garner said my understanding is that there was a process that was circumvented. The process is established. I think that in the future that is has been reiterated as to what that process should have been so I think in the future that will get turned down by the HR Department.

Jo Richards, Human Resources Director said that process has been reviewed and we are taking additional steps in the future to make sure whatever information is submitted by the courts is verified. Direction in the past had been to basically process what was requested but now we will go through a thorough review of any information that is submitted. It has already been corrected and the Judge is repaying any amounts that were over paid.

Councilor Flores asked can you explain why PERA is a liability?

Chris Garner said PERA establishes rates and those rates are paid in when each payroll happens on a monthly basis into PERA. What happened is four or five years ago standard setters for us, we call Governmental Accounting Standards Board. GASB passed a law that even though it was at the state level

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they have to go through and allocate. I believe at this point PERA is about \$6 billion underfunded. What happens is that \$6 billion is allocated to all the participants. In your financial statements we have a pretty significant liability that has to be show up in one set of financial statements. The truth of the matter is that council is really responsible for writing checks and making sure that you establish a budget to make those monthly payments as your payroll goes through. That \$6 billion allocation is really at the state level for informational purposes only. The only time you will ever see that number is at audit time. When you adopt a budget and you go through and report to DFA those numbers are just based upon what you are actually submitting to PERA and what you have to pay to them based upon what you have to pay to them at each payroll. The only reason we have to include this is because the Governmental Accounting Standard Board the requires allocation of that \$6 billion to show up in one set of financial statements in your particular audit report.

Councilor Flores asked that is a practice that applies to all municipalities or all PERA participants?

Chris Garner said it is a national standard that everybody has to follow throughout the whole United States.

Councilor Flores asked liabilities are accounts payable and assets are accounts receivable and those have to be reconciled all the time?

Chris Garner said yes, those are reconciled throughout the year by your accounting staff and so what we do is we go through and audit those at the end of the year to ensure that the year end balances are accurately reported.

Councilor Flores asked those two findings that we had, does that in any way impact our rating or our standing?

Chris Garner said I am not a rating person, my understanding is that I don't think that those would. I think ones that would really affect the city are ones that we call material weaknesses. Where there is just a really big breakdown in internal controls that we report them as material weaknesses. These don't rise to that level. If we were in another state to be completely honest, we would not have to include them in your audit but New Mexico the state audit rule wants transparency.

Councilor Flores asked Can you go through all of those awards that the city has gotten?

Chris Garner said you are exactly right. It is something that the city should be very proud of because it is not something that is very easily obtained. It takes a lot of hard work and the whole reason for these awards is to be more transparent with the city, with your citizens and to give them information to analyze the city financial statement. There is a lot of additional reports. There is a lot of extra effort but as you can see we have over 700 governments in the state of New Mexico and for whatever reason we only have 18 participants in that program. A lot of people are not willing to step up and make that extra

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effort and take that extra effort time to do the reporting that is required and then follow the suggestions that they come up with. To be one out of 18 of over 700 governments you definitely should be proud of but we also talked a lot at the exits about the Triple Crown. The whole reason for the Triple Crown is again, financial transparency to your citizens. Your financial statements, there are three different methodologies of accounting. What that report does is, it takes extra effort. It is not something that the state of New Mexico requires or anybody else, but it is additional information that is to be given to the citizens to make that information a little more user friendly.

Josie Trevino said one of five New Mexico governments but only one of two municipalities in New Mexico to get the award.

Mayor Miyagishima said regarding Municipal Court that is something there that Ifo decided to move forward. Looks like he might be able to take that part over. They are working on that change that way that can't happen again. Also, regarding the liability that is something there that the city tried to ask DFA if we could start setting aside the amount to remove that liability DFA said no. So maybe next year this council needs to ask our legislators allow those cities that can afford to start putting aside that money for that liability to do so, I think that would speak volumes.

Leeann DeMouche, Finance Director said I want to take this time also to thank the Mayor and the Council for all the support. Especially those who are on our Finance Select Committee, Councilor Flores, Councilor Bencomo, and the Mayor. We greatly appreciate all the support that you give us and especially to our boss Barbara De Leon and our other boss Mr. Pili who gave us a lot of direction and support us in so many ways.

Ifo Pili, City Manager said I appreciate Finance being our unsung heroes in our city. There is hundreds of thousands of transactions and dealings that go through the city. Starting off with our audit findings. Showing how much we improve and how much we attack issues head on but as a City Manager it is a huge weight off my shoulders, for my team as well to know that we have a Finance Department like we have. I just want to say thank you on behalf of the rest of your departments here, not just City Manger's Department but all the other departments here. Auditing standards when you look at our audit it is based upon certain standards, government stands and how we comply. And when you look at these GFOA Awards, it is based upon certain standards of transparency. One area we have not talked about is the PAFR. That is a report that extracts certain reports to make it even more transparent to those with no financial background. We have to produce our budget every year. We have to produce our financial reports. Going after the PAFR as well, that just tells the city, the community that we are interested in them digesting the information. We are not just putting it out but we want them to understand what we put out.

Councilor Becki Graham made a motion to Approve Resolution No. 23-093. Councilor Johana Bencomo seconded the motion. Carried unanimously.

8.3 RESOLUTION NO. 23-094: A RESOLUTION TO AMEND THE 'RENOVATE MAIN STREET INCENTIVE PROGRAM'.

Removed from the agenda.

8.4 RESOLUTION NO. 23-095: A RESOLUTION REVERSING THE PLANNING AND ZONING COMMISSION'S APPROVAL DECISION REGARDING A SPECIAL USE PERMIT ALLOWING A CANNABIS RETAILER WITHIN THE REQUIRED BUFFER DISTANCE TO A SINGLE-FAMILY RESIDENTIAL ZONING DISTRICT.

Christine Rivera, City Clerk asked David do you 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 said I do. Mayor and City Council the item on your agenda is an appeal for a special use permit for a cannabis dispensary. Just as you recall in the past year or so the city adopted the allowance for cannabis uses within the city. Dispensaries are permitted by right as a conditional use in the C-1, C-2, and C-3 districts. The conditions, they meet our in relationship to buffering. That they should be located 300 feet from a school or daycare, from another cannabis use or a single-family residential zoning district. If those conditions aren't met, then it goes to a next level of review. It goes to a special use permit in our zoning code. That is something that is reviewed by the Planning and Zoning Commission to see how that fits into the neighborhood and surrounding area. With their approval the use can go in. If they find something that is harmful to the health benefits, general welfare of the community they can deny that. Whether a special use permit is approved or denied it can be appealed to City Council and that is what you see today.

Just to give you some background. The property is zoned C-2 so cannabis use is allowed in that district again with those conditions. The property itself has historically been used as a gas station or a car dealer. It is located at the south end of the downtown and is adjacent to multiple zoning districts. The zoning map shows you a little bit better. The property itself is right at the point of Main Street and Alameda Boulevard. As you can see there is list of C-2 properties along both of those streets. C-3 at the Loretta Town Center and then as you move westward you get into that residential area. Again, this is an aerial and just shows you the existing buildings and the site. The red outline is the subject property and then you can see the uses surrounding it. Some background, the property has always been constructed and utilized per City of Las Cruces development and business regulations and it is currently operating that way today.

The special use dealt with again with a cannabis use, a cannabis dispensary. Again, the other buffer requirements were met with the exception of the distance from the single-family zoning districts. It was as the bird flies 82 feet short, so that is approximately 218 feet from that. This slide shows you the footprint of the existing building and what they are going to do to make improvements to the property. The graphic on the right is the interior remodel that will take place within the building. Again, just to give you an idea of what the context and what the area looks like. It currently is a car dealership as you can see. That area you can see commercial businesses and offices here to the left. Behind it is commercial and office usage, the bank tower, La Clinica, a

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restaurant and some other business uses. Again, this is trying to look northwesterly you can see Main Street and the size of that street. This is a picture that is taken from Alameda. I might also note in the background that both Main Street and Alameda are arterial roadways and that is one of our largest street categories in the city. This is looking kind of northwesterly up Alameda Boulevard.

When the SUP was initially reviewed by staff, staff made an analysis just like we do with all zoning cases that goes out to all city departments. We also before it goes to the Planning and Zoning Commission for their review, we do notice to adjacent property owners. During this time in review, we did receive a couple of phone calls. One was just general inquiry into information about what the proposed use was. We also did receive a person kind of protested the use and at that time they basically cited the potential increase crime in the area. Before the meeting or at the meeting there was a protest letter submitted. That was more of a procedural item as to how the city was choosing to review this particular use. As we went forward, basically some of the other protests that we heard at the Planning and Zoning Commission was one, how the special use permit was being reviewed and how the city was choosing to review and act on the proposed use. Other things they talked about was the potential for increased crime. There was also the compatibility to use with some of the existing uses in the area and there was also concern about this was a gateway into your downtown and how impact redevelopment of that area. The staff themselves made a recommendation of approval. They felt that the use met the intent of the zoning code and also the city's comprehensive plan. The Planning and Zoning Commission also made a recommendation, they actually approved the special use permit with a unanimous vote with one member absence. They made findings at their meeting. One they found that with the exception of the distance it met all of the buffering requirements. The property has always been in use and compliance to city standards and the mixed use nature of the property was in compliance with the general development and use in that area. They also noted that the nonresidential properties along Alameda Boulevard provided an actual buffer or transition to the single-family area. Also, the size of the street provides an additional transition from the proposed use. They also noted that because of the size of the street and the use of the property there was no additional traffic impacts anticipated by the redevelopment of the property. Also stated that when you look at the permitted uses or the impacts of use of the City's Zoning Code it met those intent. The actual use and operations the business would have to follow all city business and zoning requirements and also the state of New Mexico requirement for the operation of a cannabis establishment. Again, during that review and made part of the Planning and Zoning Commission, staff report and also their finding was that there were several elements and policies of Elevate Las Cruces that supported the use and they really come down to two things, one that the downtown is a mixed use place type and this proposal would feed into that and promote that use. That economic growth and a mixed use setting is desired by the city and again it contributes to the that and it also diversifies and promotes emerging industries for the city. There are basically four goals that have policies that support the potential use and SUP at this location. As stated after the meeting there was an appeal letter submitted. Again, it was similar to the items that were brought up at the Planning and Zoning Commission meeting. One was the city's treatment of this as a special use permit and also the

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statements of the impacts of its compatibility at the location and then its impacts as to its entry way into the downtown.

That is the background information and presentation we have. As staff you have your traditional options. If you vote yes, that will overturn the approval of the cannabis use and basically the special use permit will be denied, and it would end there unless they chose to appeal to District Court. If you vote no, the special use permit stays in effect and then they can come in with their building permits and business registration to begin operating at the site. If there is anything that you would like us to do, we can amend or if there is additional information you would like you can table the request. Both the special use permit applicant is here and also representatives of the appeal individuals are here also. I would be happy to stand for any questions or provide additional information or provide any explanation information made in the presentation.

Mayor Miyagishima said David, what I would like to do if it is okay is to let the applicant of the special use permit speak and then let the applicant who asked for the appeal and then we can ask questions after we hear both. Does that sound okay? Okay, so I will usually allot 15 minutes, so to the applicants who are asking for this special use permit if you just come here the City Clerk is going to take your testimony under oath and then and just state your name, please.

Christine Rivera asked hi Shaun, do you swear or affirm that the testimony that you are about to give is the truth and nothing but the truth, under penalty of law?

Shaun Maddox, Applicant for SUP said I do. I have a quick question for the City Attorney before my time starts.

Mayor Miyagishima asked can you talk into the mic a little bit?

Shaun Maddox said quick question for the city attorney before my time starts. I just want to clarify the scope of the appeal because I know comments made earlier by the public and I am sure comments are going to happen after my presentation. To my understanding under the city's code the appeal is limited to the matters that were brought up by the appeal letter. Is that correct by the City Attorney?

Mayor Miyagishima said that is correct.

Shaun Maddox said okay my time starts now then. So, the appeal letter essentially lays out a problem with a procedural issue of the SUP process in general. Not just the SUP process as it relates to cannabis but the SUP process in general. This is a little concerning because essentially you guys are being asked to answer a constitutional decision today about the city's entire SUP process. They are saying it a constitutionally vague process and that essentially this should be overturned because of that constitutional vagueness. It has nothing to do with actually the merits of the SUP that was award or any

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of the facts. The appeal is mostly limited to a procedural case or matter. So, speaking to that case or matter, I am just going to go through the issues.

First off, the issues do not call into questions the Planning and Zoning Commission's decision or factors considered. That is just stated. The issues stated by the appellant question the city's ordinance and overall SUP process not just SUP processes for cannabis. The appellant's argument actually wrongly conflates the idea of a variance with the process of a SUP permit. A special use permit is specifically allowed for within the ordinance that outlines the zoning for this. Essentially it says if we are within 300 feet of a daycare or school, we would have to get a variance not a special use permit. If we were 300 foot of residential requires a special use permit. That is outlined in the code. It is specifically allocated for, so it is not a variance as the appellant suggests and conflates in their argument. A variance is defined as a variation in the requirements of the land development code. Again, this is not a variance. It was a permit process that the SUP is actually contemplated by the zoning code. Further the appellant's letter wrongly imputes a standard for review that is instead intended to regulate appeals to zoning authority. The code section cited is NMSA Section 3-21-8 (C)(1)(A-D). Title of this section is Appeals to Zoning Authority. This was not an appeal, this was a special use permit. The standards that are being argued for an appeal letter should not have gone against the Planning and Zoning Commission's determination, that being said the section of the code in an appeal setting which we are in today allows, when an appeal alleges that there is an error in any decision or determination by an administrative official the zoning authority by a majority of vote of all of its members may authorize variances from the terms of the zoning resolution. A variance from the planning and zoning resolution. They can do so if they find that that variance is not contrary to public interest where owing to special conditions or literal enforcement of the zoning ordinance will result in unnecessary hardship so that the spirit of the zoning ordinance is observed and substantial justice done so that the goals and policies of the comprehensive plan are implemented. The special use permit process and determination is not an appeal thus the standard is more properly imputed on to today's current proceeding than it would be on the determination of the P&Z Commission's determination. Given the correctly stated standard for appeal review the appellant's burden is to argue in the affirmative that the Council's approval of the resolution is not contrary to public interest, is necessary that the ordinance will result in unnecessary hardship, is allowing the spirit of the zoning ordinance to be observed and is necessary for the goals and policies of the comprehensive plan. The presentation given earlier laid out a couple of the consistencies with the comprehensive plan that the proposed does meet.

Next in regard to the SUP process in general, the appellant calls into question the SUP process by attacking the city's SUP requirements outlined in Section 38-54. They state no standard other than to determine the impacts of the surrounding issue or use. That itself is a standard and the staff report went into deep detail on how these standards were actually addressed. Aside from that the standard is promulgated by the development code by all SUPs and applies over 25 different enumerated special uses of the city. These include boarding houses, golf courses, group childcare homes, campgrounds, halfway houses and more. Essentially finding in support of the appeal suggest that the city's

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SUP process is unconstitutional and calls into question any SUP permit that any other 25 enumerated issues have been granted under.

Getting back to the seven page staff report from the July 26th hearing. I think it was summarized pretty well earlier in the presentation but essentially findings were found that the proposed use met other cannabis distance requirements but for the residential there is a substantial commercial buffer between the residential and the proposed use so as to not affect the residential use, that the proposed use was consistent with the land usage history. They talked about impact considerations which I think are extremely important. They are in the line of business of the applicant in general and these are traffic, development compatibility, mitigation technique implementation, increase of danger or fire or endanger public safety, determine of orderly phased growth, impairment of public health safety or general welfare, establishment of a spot zone, contradiction of purpose and the intent of the zoning code, impairment of light and air to the adjacent property. Again, compatibility of the neighborhood and character were discussed. Public comment was heard about a nearby use that they felt was sensitive too. That public comment was heard and listened too and it was voted in favor of the SUP being approved. Comprehensive discussions went into compliance with the Elevate Las Cruces comprehensive plan which was important for the proposed uses being approved and again consistency with the purpose and intent of the zoning ordinance. Overall the appellant claims the city's SUP standard is constitutionally questionable as it invites the Planning and Zoning Commission to engage in arbitrary and discriminatory enforcement of the distance requirements but the appellant's letter fails to make a substantive argument about the constitutionality and does not meet the burden to prove unconstitutionality beyond all reasonable doubt and that is a standard actually outlined in case law, contained within the case law cited by the appellant. But there is a case State X Rel Children Youth and Families Department V. Shawna C and in that the case law states a strong presumption of constitutionality underlies each statute and that the defendant has the burden to prove unconstitutionality beyond all reasonable doubt. The appellant's letter actually states that correctly. The state code grants limitations on municipalities on deciding zoning. I think that is a nice use of term because it really enumerates broad power of municipalities in deciding what to do with their zoning. As long as it does not directly conflict with the state law or code it is pretty much allowed. The case cited in the appellant's brief actually does not even address the constitutionality of the ordinance in question because it essentially says cities have the right to decide these things.

Aside from the legal arguments I just want to give a procedural history on this too. We started this process back in April of last year. We submitted our, we had our preapplication hearing meeting I think in May, no in April. Then we submitted in May and then we were heard in July. To my understanding the period for appeal was supposed to end August 12th, the presentation given today indicated that the appeal was received on the 16th, which actually falls outside of the appeals period. So, I am not even sure why we are here in the first place. Beyond that it has been about 180 days. The city has had our number. Allowed us to submit to building, planning and our plans are under review right now by the city which I think are second or third set of comments being received, and we have received no communication about an appeal.

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Really, we found out about this about ten to fifteen days ago by a broker. The city is part of our SUP process, has phone numbers, emails, and correspondence. An email was sent to city staff on August 12th asking about the status of an appeal which said no appeal has been received. We have never received an email after that. We have been in planning and zoning for 120 days without anything. Aside from that we have already been issued a state license which doesn't mean much because that can happen without you guys' approval of course it would be our responsibility to act in compliance with state regs. One hundred and ninety-five days have passed since the P&Z Commission approval, 178 days since the appeal was received. Again, no communication from the city staff directly to the owners or applicant. Beyond that just to kind of bring up this matter and its history in front of you guys. You guys heard Ordinance No. 3012 back in October. I am sure you guys remember the ordinance was, should we remove this 300 foot buffer? Essentially at the time you guys looked at it and 28 cannabis businesses had been approved, 6 of them under the SUP process. All 6 of those had gotten nearly unanimous approval by P&Z. So, the question was, should we remove this in its entirety? City staff decided not to, which I think is the correct process. I do think that looking at the impact of these on the neighborhood should be left to planning and zoning and to the city to decide but again it just notes as to how close we were to today's appeal being moot. One vote amongst your staff members and now we are being asked to decide a constitutional matter with very little argument as to why this constitutional matter is relevant. It was really a cut and paste of the objection letter that was considered by the P&Z Commission in May making their determination and at the end of the day I think it is almost an impossible burden for the appellant to show that or to prove that the city's SUP process that has been in place for a very long time is an unconstitutional process.

I think that is it. I am happy to answer any questions you guys have. I have limited my discussion to legality because that seems to be the scope of the appeal. I would be very happy to discuss the proposed business. The business owners, their history in the industry. Nuisance mitigation techniques and anything that they have done. These guys are multi state operators. Very experienced husband and wife team, very community oriented. We are not a public company, we are a family run business that is trying to come to this city. Has invested substantially in the process already and is now being told very late in time that everything they have done so far may be tossed out into the garbage. My request today is that the Council members vote down the proposed resolution as the appellant fails to meet their burden or state legitimate grounds for appeal. Planning and Zoning Commission's determination properly supported approval of SUP through proper consideration of the proposed businesses impact on the surrounding area. Excuse me, I need some water. Any questions?

Mayor Miyagishima said Shaun if I may, I am going to ask a question to you and then of Community Development and then I am going to open it up to my colleagues. Can you clarify your position? Are you their legal counsel?

Shaun Maddox said General Counsel, Chief Compliance Officer and minority partner in the business.

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Mayor Miyagishima asked so you feel that the SUP is not the right method, that it is more of a variance, is that what I am understanding?

Shaun Maddox said no I feel the SUP is the proper method. It is not a variance. The appellant suggest that it conflates an SUP with a variance. I feel the SUP is a proper method. I think the way the Planning and Zoning Commission heard this, opened it up to public comment and to consider its impact on the surrounding area is the right method.

Mayor Miyagishima said let me ask Community Developments So, Dave or Larry, do you all have the administrative where with all or power to grant this change. It is 218 feet as opposed to 300 feet as far as a buffer. Do you have to take this to Planning and Zoning?

David Weir said Mayor and City Council the way the ordinance is written is that these cannabis uses are permitted uses with conditions and the buffer is a condition. However, if they fall withing that district that distance it goes to Planning and Zoning Commission as a special use permit for review. So, the ordinance has a tiered system and they are not the only special use permit that is treated that way. Our cell towers have that requirement if you are within a certain distance of a residential area that staff can't approve that administratively it has to go through a special use permit process. Also the size of a business in our C-1 commercial district, if it is larger than 2,000 square feet, again it is something that staff can't approve administratively it has to go through the special use permit process and also our daycares prior when you have one to six children, that is something that can be done as a home occupation or home right in a district. Once you go to seven to twelve then you have to go through the special use permit process. So, this is a practice that has been followed by the city throughout my tenure of going forward. The slide I put up has the relevant sections and talks about cannabis uses and the districts it is allowed in conditional use. Then goes through the special use permit section where it shows what the definition is and that where it says that if you don't meet those 300 foot buffers then you kick to the special use permit process.

Mayor Miyagishima said so let me ask Jocelyn. Jocelyn you have heard what Community Development said and what Mr. Maddox has said. Do you feel that the process that we are using is the correct process or should we table this and get the correct process in place?

Jocelyn Garrison, Acting City Attorney said actually Mayor just on this subject I have issued a few different confidential memos and I would just ask that everyone refer to those memos and that we speak privately about that. I do think that if you need to table it so that we can speak about it then I would advise that.

Mayor Miyagishima said okay, let me open this up to my colleagues and see what they want to do. We will start with Councilor Graham, Bencomo and Flores.

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Councilor Graham said right now we are just talking about what we want to do because I thought we were waiting.

Mayor Miyagishima said you can ask questions of.

Councilor Graham asked I thought we were waiting for the other parties to speak or we are just going?

Mayor Miyagishima said well if you had questions of what you had heard so far.

Councilor Graham said no, I am just saying I do not want to table this.

Mayor Miyagishima said okay, let's go to the, if you don't have any questions of what was said.

Councilor Graham said I don't have questions I have things to say. Should I do it now?

Mayor Miyagishima said we can have the applicants who placed the appeal and hear what they have to say. Is that what you want to do?

Councilor Graham said okay sure and then I am first, thanks.

Mayor Miyagishima asked who is here representing? If you can just kind of stay, stand by. There you go. Who are here to discuss the appeal? Is there a group/team? I see former Mayor. I am going to go forward with the applicants who asked for the appeal and so these two in front of us. Former Mayor Smith. Who is the one who asked for the? Who filed the appeal? Who are the representatives?

Councilor Flores asked who filed it?

David Weir said Mayor and City Council the appeal was filed by Karen Wooten who is a local attorney. In her appeal letter she says she was representing aka Tutti Bambini and Ruben Smith.

Mayor Miyagishima said okay well I see Ruben Smith. So, does he want to come? Do you have a team? Is it just you or? Okay. Is someone from Tutti Bambini here as well? We too will give you up to 15 minutes to speak and then after that I don't know sir I will open it up to members of the public okay if you are not with this group.

Christine Rivera said do you swear or affirm that the testimony that you are about to give is the truth and nothing but the truth, under penalty of law?

Sister Beth Daddio, representing Tutti Bambini said yes. Sorry my hearing aids are not set up for this. I am here on behalf of Tutti Bambini and our main, main concern for this proposal is the safety involved in what we do that would be right across the street. Most of our customers are volunteers, are elderly. We

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have a lot of grandparents. We have older volunteers. We are also concerned about the safety of our children. We do not want something to happen that would perpetuate the idea that we are not a safe place for people to come to shop or to take care of their needs. We are a retail store. We also have a mission to help the children in our community who are from low income families. If it is ok I would like to read a letter from Billie Taylor who is the President of our Board of Directors.

For eight years Tutti Bambini has been located on the corner of Alameda and El Molino. Across Alameda from the proposed cannabis retail location. Our mission is to help children challenged by poverty and have special needs. We operate a children's store at this location and we set all of our prices to address the needs of all low income can afford. We also work with local agencies who give vouchers to their clients and they can come to our store and they can be redeemed for clothing for children in need. In the future we plan, we have dedicated a space for children to come to our store for story time. We are concerned about the safe environment that we can provide at this time. There are three dispensaries in our part of town. Tutti Bambini would be across the street from this dispensary, this proposed dispensary. We also have another dispensary called Sacred Garden, which is across the side street of El Molino. So, we would have two dispensaries right in our location. We who work and live there are the voices that should have the most impact on your decision to deny this permit. Respectively, Billie Taylor, President of the Board of Tutti Bambini.

Mayor Miyagishima said thank you Sister Beth. Is there anything else you wanted to say?

Sister Beth Daddio said no, just that I think our first concern has to be for our customers. We have had a few incidents that have occurred with people have been smoking cannabis in our parking lot have proceeded to come into our store. It is very frightening for our clientele when this happens. We usually have an incident that goes along with that. So that is our main concern. We also know that there are people who sit in their cars in our parking lot that are smoking marijuana so to have another one is of a concern to us. Thank you.

Christine Rivera said do you swear or affirm that the testimony that you are about to give is the truth and nothing but the truth, under penalty of law?

Ruben Smith said yes, I do. Mr. Mayor, City Councilors to begin with, I am here for two reasons. I own a residential building, a house that I purchased within the 300 feet limit and I bought that specifically for Sister Beth. She wanted a place to live that was very near across the street to Tutti Bambini and Jardin. Legally that is why I am here. But I must tell you something in particular for some of the new city councilors that may not know something about this lady, and she is going to kick me once I do that. I am going to wait till the Mayor finishes because I believe Representative Bencomo needs to hear it too. Sister Beth came to me when I was first elected with her partner Sister Anna. We were right at the beginning of building the Community of Hope. That I assume you all know about. She wanted to build a component for the young kids and they called it Jardin de Los Ninos. History after that she said that wasn't

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sufficient. So, what she did is she created the La Tienda, which is right across the street from Tutti Bambini. Are you familiar with that? That is where they sell gently used clothes for women. That wasn't good enough so what she did was go across the street and opened Tutti Bambini. Tutti Bambini raises money for infants, for babies that are essentially homeless. She has been doing that ever since I have known her. I have known her for some 15-20 years. She never wants to get recognition for that, but this is the kind of person we have in our community that all she is asking for is let us continue to thrive. I know there was one City Councilor referring to the cannabis industry, they don't want to see it just survive, they want to see it thrive. I would hope. I would hope that in the pit of my heart that you as Mayor and City Council would want to look out at what is going to be the implications of not only this location but all cannabis locations. They said there is three. There is actually going to be five within a two block area of Tutti Bambini. Five. This reminds me years ago, once again first elected that I got a call on a Sunday. Mayor there is some kind of construction going on. I think it was on the corner of Mesquite and Amador. Huge cranes and what not. Long story short, they were putting a cell tower in right in the historical district, Mesquite Historical District. Long story short. Called the City Manager, called and they figured out a way to call a halt. What that did to the city is gave us an opportunity to figure out long range how are we going to address the locations of cell towers within our city. If you noticed, we did ensure that it would not be built within downtown areas. It would have to be built on the outside areas. This is the same challenge I believe you all have as you sit here. I believe we are the only community that doesn't have hours of when they can close. Which is not a big deal. Most of them close early anyway but the proliferation of locations all over the city and now we have three huge lounge areas that are going to be opening up. You as elected officials I would think, what is the perception of people outside the city. For years and years, we worked on this city to work on the perception. What is it that people love about the city? A lot of retirees. I can guarantee you most of those retirees are going to be looking at this city from a standpoint of, I am one right now, I am a retiree. From the standpoint of what is it going to look like when you're driving around and you got these cannabis locations all over the place. I am not against cannabis. I am not going to debate that issue about alcohol and cannabis that is for another time but I can tell you I think you as an elected body of this city needs to look at that very, very hard and the implications. Biggest implication is on Tutti and La Tienda. They do more for this community for the homeless then I think almost anyone else does. So, I think, personal opinion more research needs to be done on this kind of an issue. I don't think it is going to put them out of business at all if this is tabled so you can look at this. One other issue, I don't know if any of you have spoken to any school board members or the Superintendent. Did you know that they are considering, they are talking about putting another facility in that location where they are at now, across the street. That's important. That is a discussion I think that you as elected officials need to be doing with your counterparts, Mayor to Superintendent. You as elected officials with the elected school board members they would have a concern if they get to that point and have a cannabis shop right across the street. I would encourage you to think about the future perception of this city as to what we are doing and how we are feeling about it. Thank you, Mr. Mayor.

Mayor Miyagishima asked is there anybody else in your team, I guess? So, I am going to ask if, open up to council so they can ask questions of either

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yourselves or city staff or Mr. Maddox. So, I am going to start with, I will just start with Councilor Abeyta, Graham, Bencomo, Flores.

Councilor Abeyta said I am going to defer to Councilor Graham first and then I will go after her, thank you.

Councilor Graham said thank you everyone. I don't have questions I am just going to pop off a little bit. Thank you everyone who presented, who shared their perspectives. Thank you, Sister Beth, for everything that you do for our community. All that said I've asserted in the past my changing perception about cannabis as I have grown into being an elected official. I see cannabis as a medicinal substance that is a positive impact on our community. That is a positive impact on our economic development prospects. So, I always throw that out there at the top. I won't speak on the constitutionality of the SUP. I will speak though on what David's presentation, what the remaining variance issue was which was the residential zone and to bring up yet again if we were talking about a multifamily housing complex, if we were talking an apartment, this wouldn't even be an issue. This is. This to me is the kind of classist nonsense that planning and zoning perpetuates through our communities so I am expected to believe that it is too dangerous to have a cannabis dispensary near a single family home but that is not an issue for folks who live in multifamily housing. I think that is discriminatory. I think that is hypocritical and I was one of the nonwinning voters to get rid of the buffer in the past. I would hope whatever it takes to get that back on an agenda again I don't know what the procedure is for that. If we can revisit that and perhaps some of my colleagues would have rethought their stances on the buffer zone. So again, please know that I do consider others feelings on this. I consider the implications. I do more reading and put more time into this then you need to know but yeah just reiterating my stance. Thank you.

Mayor Miyagishima said Councilor Abeyta, then Bencomo and Flores.

Councilor Abeyta said thank you. One question that I want to ask right away is with regards to the appeal if it was submitted in time? That is highly concerning if the applicant had been checking. If there had been any appeals or there had not been and then a few days later? That seems like quite concerning.

David Weir said Mayor and Councilor Abeyta in the packet you see the appeal letter and it is dated the 8th. We did not actually receive that till the 12th and then at that time we were also working on the amendment to remove the buffer from the residential areas. The only thing I can contribute it to is, we determined that it did meet the timeframe, but we asked if they, the appellants, would allow the discussion of amending the ordinance to take place before we actually put it on one of your agendas. So, staff feels that we met the deadlines of that. If we drop the ball a little bit on the conversation with all the parties, I will apologize for that.

Councilor Abeyta said thank you and while I appreciate all of the individuals who spoke today, giving personal stories and supplemental information that burden of proof for the appeal was not within this scope of what was said by Mr. Ruben so at this point I am not inclined to overturn.

Councilor Bencomo said thank you so much David and both parties that presented. Just a couple of procedural questions. The gentleman said that the representative for the business, they were not notified that an appeal letter had been submitted. David can you talk about who is supposed to notify the business of that and where did we fall short on that?

David Weir said Mayor and Councilor Bencomo it would be the Community Development. We would relay that to both the applicant and the appellant and in this case we also had conversation with the property owner and the realtor that represented the property. We made every effort to contact all of those individuals and they said if there was something that didn't take place that was an oversight. But we have been in conversation with all those parties.

Councilor Bencomo said yes, thank you I appreciate you raising that. I know Community Development is working incredibly hard and Economic Development to support this new industry. I always appreciate that, David. As Sister Beth mentioned, I had noted it as well probably for a little bit different reasons but I did know that Sacred Gardens is a couple of blocks down from this and I know before they were recreational sales they were medical cannabis. So, they have been there for several years correct?

David Weir said Mayor and Councilor Bencomo, you are correct. Prior to the recreational cannabis medicinal uses were considered similar to a pharmacy and were permitted by right without any additional review.

Councilor Bencomo said right. So, Sacred Gardens now has recreational use. Did they have to go through a special use permit?

David Weir said Mayor and Councilor Bencomo they did not because of the state statute. If you had an existing medicinal use you were grandfathered in and were allowed to have recreational sales without meeting local zoning requirements.

Councilor Bencomo said okay, thanks for clarifying that David. I was getting ready to sort of say that there was huge inconsistencies if that was the case, which is why I have for a long time disagreed with the arbitrary 300 foot buffer anyway. I also, these are sort of my last, actually no I have one more question regarding this, property. How long has this been empty? Abandoned?

David Weir said Mayor, I don't believe that is has actually been empty. There are still cars for sale on the lot. So, it would be a trick change in use and then there would be improvements for the new use taken place. But there is not any nonconformities on it and it is actually being used today.

Councilor Bencomo said I could have sworn that the car dealership was gone but thank you for clarifying that. I will say that the Denny's now behind this is empty and I think a few blocks north there is a couple empty properties and so obviously on El Paseo we now how much blight there is there. For me it is always really important people want us to increase development in these areas

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and when we development we are like wait a minute. So, I think again, it just offers some inconsistencies. I will just say a couple of things. I was recently talking to High Horse Cannabis that has the 24 hour shop on Valley and they were telling me that they are right next to a little mall where there is a butcher shop, t-shirt place. They actually have gotten incredible feedback about how their 24 hour service has impacted the safety in a positive way of that neighborhood in that area. So, I think it is incredible. I think we also have to note that when we talk about issues of crime rising that is, I don't think that is factual. I don't think that is factual information. Especially when we are sitting here talking about being under oath. I think it is critical that we bring data and evidence when we make such heavy accusations of any particular business and so I think that is important to raise. I will also say that, Sister Beth in case you can't hear me. Sister Beth, I will call you after this, I adore and respect you and so I have to apologize in advance for disagreeing with you today. I deeply love and respect what you do for the community. Thank you Sister Beth I think that you are an incredible human being and I have known you for a long time and what you do for our community is actually tremendous. I truly hope that perhaps you can build a partnership around this new business on how to keep your community safer. I would suggest that you reach out to Officer Glymph who may come do an assessment if you are experiencing some security concerns. I know Tutti Bambini will be fine for two reasons. One you provide an incredible service to our community and two you are deeply beloved. I don't think you are going anywhere so I just wanted to note that as well Sister Beth. But I will also be voting no today because just simply on the basis that this 300 buffer is arbitrary and I would argue with Councilor Graham, I would agree with Councilor Graham that I hope we get that back because I think it is irresponsible and I think it is some huge inconsistencies as to how we are discriminating against certain retailers. So, I will stop there Mayor, thank you.

Mayor Miyagishima said Councilor Flores.

Councilor Flores said thank you Mr. Mayor. Mr. Weir, to me the Community Development is not the defendant in this case. Mr. Maddox made it very clear that he did not receive the notice until, the notice of appeal or whatever it is called in your world until August 16th, which is four days beyond the appeal date. So, on that matter I would say that and based on everything else that he presented that it is moot. That we shouldn't be here. That if he as legal counsel and part owner of that entity didn't receive it until August 16th, notice was not met and therefore the August 12th deadline would control. So why are we here, Mr. Weir?

David Weir said Mayor and Councilor Flores, I can only treat it from a standpoint of what the zoning ordinance says. It states to appeal a decision of the Planning and Zoning Commission within a timeframe you submit that to the City of Las Cruces with your letter with intent to appeal and then there is a fee involved with it and then the city will process that to the Planning and Zoning Commission. I am only following what our standards are. What the zoning code outlines and that is why we process that to you today.

Councilor Flores said I think that is fundamentally unfair and laws are made or ordinances or rules or whatever are made to be fair. Not to accommodate a

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municipality. I think that it is just fundamentally wrong but based on the fact that the defendant excuse me, the appellant didn't make any clear convincing argument as to what the damage would be. I am very familiar with Tutti Bambini and am very grateful for the work they do. I donate beautiful clothing there, it's a store. It is a nice store. The graphics you showed of its location. That is a very busy intersection. If someone is very happy on cannabis, I doubt very much that they are going to try to cross the street to somehow go into Tutti Bambini. The whole thing it is just so but just on the fact, the fairness issue. Whether the process that you just iterated is what you go by. It is still unfair to the respondent. Based on substantive issues as well I would vote to deny the appeal. Thank you, Mr. Mayor. Thank you, Mr. Weir,

Mayor Miyagishima said I have one question to ask. Dave, and then I will open it up to members of the public. So, Dave the cannabis, it's an ordinance that states that if it is within 300 feet of a residential area it would require a variance or in this case a special use permit?

David Weir said Mayor, that is correct. The cannabis use was recreational cannabis use was written into our zoning ordinance and adopted by council and it states if you can meet those buffers staff can approve a permit or a use or a business registration. If one of those distances aren't met it goes to the special use permit and it can be approved or denied by the Planning and Zoning Commission.

Mayor Miyagishima said okay. So, it still currently exists? It hasn't been removed? It is still a law basically?

David Weir said you are correct.

Mayor Miyagishima said I want to hear from member of the public who raised their hand who wish to speak. So, I just have two? Just two people? Okay so this gentleman here first then ma'am if you want to come forward. We will give you three minutes each. Is there someone else? Yes, Gary. So, three minutes each, that is fine. This gentleman, madam and then yourself Gary.

Israel Palma, Member of the Public said my name is Israel Palma. I live at 370 La Colonia. My house shares the parking lot with the doctor there on the corner and Tutti Bambini. We happen to be very good neighbors. We live across the street from each other. We all do good things for the community and the people that cannot afford to help themselves, but I do have concern as a homeowner. I don't have the legal expertise or the slide presentation but this slide that is up there needs to be redefined. I have so many bullet points. I would rather just read them really quick. Hopefully I am not too illogical or too discombobulated with my presentation but in the first place the car lot has about three or four cars left in it. Practically it is sold. It wouldn't be closing down if it was a successful business. I have lived there since 2014 when I moved down here from Carlsbad. I was a school counselor. I think I thought on this for thirty years. The influx on cannabis in the community and I have very negative opinions of it. I think it does lead to somewhere else and I do disagree with the decision to allow it to come into our community. It seems like everything that is happening and I will enumerate some of it, is leading to a

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definition of my neighborhood right next to Tutti Bambini and the doctor there. It seems to be that the decision is going to be to make this further into a ghetto and I say that because since 2014 I have noticed that the gentrification that usually goes on from the historic district was moving south at one time has stopped. And La Colonia of all names, Colonia, is not part of that gentrification at this time. Since I moved in it was a very good neighborhood and like I said that car lot has been there and right now it is closing down for this change. The Denny's next door like you mentioned is closed down, is boarded up. The Wells Fargo branch right next door to the Denny's is all boarded up. I think the only thing that is left is the ATM machine there. The Truck Stop, Truck Store excuse me, behind that branch is now practically moribund, it doesn't have any activity in front of it. The Wells Fargo Bank, you may not be aware of it. At the corner of Main and Lohman is closing down in March. So there goes another business out of whack. El Paseo going south there is a, south of the car lot there is a blood for sale place where they pay you for donating blood, just across the street. The Sutherlands is across the street from that and it is pretty much on its last leg. I have been there since I got here in 2014 buying my supplies to fix up my house and I have invested thousands and thousands.

Mayor Miyagishima said excuse me Mr. Palma you are out of time but I will give you another 20 seconds or so.

Israel Palma said okay, the theater was closed down, the shoe store, that was closed down. The gas station across the street was closed down. The sushi place closed down. The Mexican restaurant across the street from it was closed down. There is so many things that have been affected negatively by the trend in our community. I just don't want my house to be devalued by the influx of these businesses in town. I have been broken into three times because there is traffic between what I call the Emerald City, not the Emerald City, City of Hope and discount stores down south. Crime is going through the roof. I still had about another half hour presentation because there were so many inconsistencies with their presentations and the reality of my house, my value. Thank you.

Mayor Miyagishima said ma'am and then Gary Sandler. Said I just need you to state your name.

Jo Ruprecht, Member of the Public said my name is Jo Ruprecht. I am a long-time resident. At one point I had a house near Pioneer Woman's Park. Currently I live in the North Alameda area. We worked with Officer Glymph recently to reestablish our neighborhood watch. When we did that Officer Glymph informed us about things going around in the neighborhoods near us and part of what was told to us by the officer is how many times both La Tienda de Jardin and Tutti Bambina have been vandalized or broken into and had damage done. I think Sister Beth and Mayor Smith are not focusing on that but it was told to us by a city officer as far as a problem in that area for businesses both of which then were up and functioning. La Tienda now as I understand it is closed. I don't know if it is temporary or if it is permanent but that is another empty space. I have two comments to you about this. It is not about it being a cannabis business per se. I don't see this as the problem necessarily. One of my problems is that this right here is an inherently unfair unequal preceding.

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You have got the legal counsel for the applicant for the SUP. Speaking very legalese, I have got a PhD. I have done legal stuff with and against motions. He is giving you a lot of legal jargon and on the other side while Karen Wooten is a recognized attorney in town. I am familiar with her work. She is not here. She is not here. There was no explanation for that, but Sister Beth and Mr. Smith are left to fend for themselves trying to deal with a very well thought out, very legal, and very carefully phrased argument. That's not fair. It seems to me that in itself would invite you to table this so that perhaps if Attorney Wooten was simply unavailable at this point of particular time. Perhaps she could actually come and represent the appellants in this case. The other thing I have is a question for you about codes and about ordinances because all too often in the last 10 years to 12 years in particular I have had to familiarize myself with one ordinance or another that is affecting my life or something that somebody I care about is trying to do. You have got an ordinance that specifies for some reason in print and adopted 300 feet as a buffer. What I am hearing from a couple of the councilors is we don't like having 300 feet. It's arbitrary. Well, anytime you name a number like that it is arbitrary. I could say I don't have to have a setback this far from the sidewalk, it's arbitrary. In this case you are being asked to say yes to something where the violation of that 300 feet is more than 25%.

Mayor Miyagishima said Ms. Ruprecht I will give you another 30 seconds.

Jo Ruprecht said okay, so just on the numbers they are telling you 300 feet and then so many feet as the crow flies. But you're looking at a difference of 25%. What other ordinances are you going to look at and say it's okay to have 25% less than what we said in the ordinance. It ignores all the work of councils before you and it ignores the practicality and there is a reason for it to be there. It is just not picked out of thin air. Thank you for your attention.

Councilor Flores said Mr. Mayor.

Mayor Miyagishima said one more Councilor. This gentleman and then you can ask questions. Please.

Councilor Flores said Mr. Sandler.

Mayor Miyagishima said gentleman. You didn't like that word?

Gary Sandler, Member of the Public said good afternoon, Council and good afternoon Mayor. My name is Gary Sandler. I am kind of involved in this. I represented the seller of the property and I also represented the buyer of the property. I also have an office downtown and I drive by there a hundred times a day. A couple times during the evening, usually I am home by then but that is a dark corner and when all those businesses are closed there is nothing going on there. When this business comes in it is going to be well lit. It is going to have a lot of traffic of people coming and going. Watching out for what is going on there and watching out for themselves. I think that is going to be a real improvement to the corner but the real reason I wanted to speak is to bring a little humanity to this. I wanted to tell you a little bit about the folks who are developing this. Norm and Darlene Yossef. They live in Los Angeles County. They are from

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San Diego. That is where I lived before I moved here. I grew up with my parents in retail. They grew up with their parents in retail, at least Norman did for sure and so he has been following in his father's footsteps, in his family's footsteps. He was an entrepreneur ever since he could, he was washing cars when he was 12. When cannabis in 2016, when recreational cannabis was allowed here in New Mexico, or sorry in California in 2016 he thought I'd like to be in that business. So, he and his wife put all their effort and money into that business and they grew it to what they have now which is 7 locations and they are trying to open more locations. They look for towns where they can be a part of what is going on there and with the community. They are not just some corporations that is just putting unknown people in here. It is a family business. With regard to the car lot itself. That owner has been there 25 years and he is retiring. He is just thrilled that he has sold that property. Now he and his wife get to go wherever they are going to go and fight on aircrafts and whatever else may happen. The cars are still there because he is winding down the business. He is actually rented back from these owners while they work with the city to put their remodeling and building permits in place. So, the message here that I wanted to bring is that this is a family business, it will improve the corner. They have their hearts and their and their money and their dreams all wrapped up in this type of business that they are trying to build for themselves, and I really believe that you should not approve this, I lost the word. Anyway, I appreciate you, thank you for your time, any questions?

Mayor Miyagishima said if we do, we'll ask you. So, there is no one else that wishes to speak? Okay. I am going to say something and then I am going to let my colleagues say something. So, I am going to say something directly to Mr. Maddox. Mr. Maddox I was reelected unfortunately November 2019 and shortly thereafter I had taken oath of office. I take an oath to uphold the constitution of the United States, the laws of the state of New Mexico and the ordinances of the city of Las Cruces and the ordinances are laws. If this had been in a resolution that is another story. That is a policy, council can overturn that but because this is still an ordinance and I just got a confirm from our Community Development. Based on those findings, based on that fact I have to vote for this. It is not within the purview. It is 82 feet away from or 218 feet to a residential, which is included in the ordinance so that is why. You know I am just one vote. I am just sharing with you my reason. I just wanted you to be aware of that. It is my opinion that if I was to vote against this that I would be breaking the law basically because it is an ordinance. I just wanted to share that. I am going to open it up to Council, my colleagues and see if they have any further comments and then after that we will go for the vote. Councilor Flores and Councilor Abeyta?

Councilor Flores said thank you, Mr. Mayor. Yes, we were presented with a modification of the special use permit by the Community Development Department and Katherine Harrison-Rogers did the presentation and I think I was the only one that voted yes on that and that one would be taken care of this particular issue. Anyway, I would like to have that presentation again and hopefully. I was really distraught that my colleagues didn't agree at least the majority. So, can we get that back on the calendar, Mr. Mayor? So, we can have that presentation again. But again, I will be voting to deny the appeal. Thank you. Thank you, Mr. Mayor

Mayor Miyagishima said I believe Councilor Abeyta. You had your?

Councilor Abeyta said no, Mayor I will pass. Thank you.

Mayor Miyagishima said okay so if there is nothing further just as a clarification a no vote means to deny and they will be allowed to move forward and a yes vote would be to approve the overturning and then they would not be allowed. Okay?

Councilor Becki Graham made a motion to Approve Resolution No. 23-095. Councilor Johana Bencomo seconded the motion. DEFEATED. 1-6 (opposed: Councilor Kasandra Gandara, Councilor Tessa Abeyta, Councilor Becki Graham, Councilor Johana Bencomo, Councilor Becky Corran, and Councilor Yvonne Flores).

8.5 COUNCIL BILL NO. 23-017; ORDINANCE NO. 3023: AN ORDINANCE REPEALING SECTIONS 2-1206 THROUGH 2-1211 AND ENACTING NEW SECTIONS 2-1206 THROUGH 2-1213, LCMC 1997 AS AMENDED, ENTITLED INVESTMENT POLICY.

Erika Jaquez, Treasurer gave the overhead presentation.

Councilor Becki Graham made a motion to Approve Ordinance No. 3023. Councilor Tessa Abeyta seconded the motion. Carried unanimously.

9. BOARD APPOINTMENTS

9.1 Councilor Graham appointed Steve Harry Gaskell to the Senior Programs Advisory Committee.

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. 23-020; ORDINANCE NO. 3026: AN ORDINANCE AMENDING CHAPTER 24, PROCUREMENT CODE, OF THE LAS CRUCES MUNICIPAL CODE.

Council agreed to bring it forward.

11. CITY COUNCIL MEMBER BOARD REPORTS AND COMMENT

11.1 Mayor Miyagishima

None.

11.2 Councilor Gandara

We had a very successful Las Cruces Days. We were able to meet with many of our Legislators and the Governor. We had Mr. Pili with us. It is the first time that I think he has met the Governor. I look forward to what comes next.

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11.3 Councilor Flores

None.

11.4 Councilor Corran

I just want to thank Utilities for following up with a constituent about her bill. Adrienne really helped me figure out some of the resources and I also visited the Utilities desk where Jamar really helped us figure out what all the options are for folks who are facing stress related to utility bills. I do really want to thank the service that was provided in that context.

11.5 Councilor Bencomo

I had a great meeting with Legends West neighborhood a few ago. I am excited for the next steps. I just wanted to thank you all for helping me host that meeting.

It was a very exciting time in Santa Fe last week. We had a great meeting with the Governor, and I think she really understands how much we are prioritizing the airport, our anti-poverty programs. Just glad to have Larry Horan there. We also had a great follow up meeting with someone who does a lot of housing work there. I am looking forward to following up with Natalie Green, our Housing Manager on some of it. Tapping into some funds that the Governor has set aside for affordable housing and so I am really excited about that opportunity. I also got the opportunity to speak to some Legislators about the MRA Legislation. It is going to be so meaningful. I also got to talk to Kristina Ortiz from Taos, who is going to be leading on it from the house side.

I also went to the new Attorney General, he is really ramping up his office here in Las Cruces. He really wants to do a lot of work on housing protections, on consumer protections and civil rights.

I just wanted to note, Ifo, Mayor Pro Tem and I visited Jardin de Los Ninos a couple of weeks ago and we did a listening session with some of the parents who are in their program and one of the things that came up during that session was just around how some parents feel around the sports that Parks and Rec holds sometimes the requirements are a bit rigid. A lot of folks perhaps can't even go to the sign-up opportunities that they have at MacArthur and so they are just asking for some leniency around that. I just wanted to lift that up and for staff to look into that and I can always connect staff to whoever that person was that said that so they can explain it better than I am doing right now.

11.6 Councilor Graham

Great news on our Community Schools front, Mayor Pro Tem and Councilor Flores will be as fellow board members will be especially happy to hear we will have our seventh Community School here in the city. That will be Conlee Elementary. Absolutely wonderful that we are growing our Community Schools pipeline. Congratulations to the Community School's staff that made this

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happen. We are really hoping to get a high school in that Community Schools pipeline.

11.7 Councilor Abeyta

Today we had a University District Citizens Design Committee meeting where there is a going to be a new Starbucks over on the other side of Lorenzo's and in the coming months it looks like in a few more meetings on new items that are happening in the area.

We will also have a University Waterline Project meeting tomorrow from 5:30-7:00 at Corbett Center Student Union, third floor in the Senate Chambers to give an update on that water project line.

We had a Quality of Life meeting a week ago where we did see the noise ordinance and there is a no recommendation on it based on some findings and that will be coming to council as a full. I know that with Oversight one of the information items that we had was the start of the new Inspector General. I believe he was able to meet everyone right before the meeting.

I am a little concerned about one of the items we had for public comment today. That about the request for the memorial for the child that was killed at Veteran's Park. In some of the conversations we have had about Veteran's Park, I know that there has been a lot of concern of even children in the area. There has been a little to be honest I felt hostility against kids being included in this zone and I think from members of that board. I think that to me is something I have in the back of my mind. I am a little concerned about that too, especially given these types of requests. I would love to see term limits. I would like to see when those individuals are up as well.

12. CITY MANAGER REPORT

12.1 Ifo Pili

Something from our Economic Development Department, just an update on our Store Front Repair Program. There is already 30 applications in the queue and they are working with those businesses. It looks like it is going to be a really good program and helpful to these businesses.

I also have a list here of projects from Public Works. These projects are listed on our Capital Improvements Projects tab on the Public Works page. I think moving forward I will bring some projects as part of my City Manager's Report. We are starting off with streets here because that is a big one. Here are some of the projects that you already know about just for the record. University Avenue waterline, mill and overlay project that is going to start late February early March, about 140 working days is going to be the timeline and that project is Torentine Drive to Triviz Drive. The first meeting is on the 7th at 5:30 and there is one in July to be determined and then the pavement replacement phase 2B is going to start in spring over the course of 90 working days. The striping maintenance project will begin, and this will include all city streets with existing striping starting on Lohman Avenue. That is going to be over the next six months starting late January.

13. ADJOURNMENT

13.1 Councilor Tessa Abeyta made a motion to Adjourn at 4:17 p.m. Councilor Yvonne Flores seconded the motion. Carried unanimously.

Mayor

City Clerk



City of Las Cruces

City Council Action and Executive Summary

23-100

Type of Action:

☒ Resolution

☐ Ordinance

☐ TIDD Resolution

District: ☒ 1 ☒ 2 ☒ 3 ☒ 4 ☒ 5 ☒ 6 ☐ N/A

1st Reading: **Adopted:** March 6, 2023

Drafter: Susan Gonzales **Department:** Financial Services

Program: Grants Management **Line of Business:** Fiscal Management

Title: **A RESOLUTION TO APPROVE THE SUBMISSION OF A GRANT APPLICATION TO THE NEW MEXICO DEPARTMENT OF TRANSPORTATION, MUNICIPAL ARTERIAL PROGRAM, FOR THE FISCAL YEAR 2023/2024, FOR INTERSECTION IMPROVEMENTS ALONG SPRUCE AVENUE IN THE AMOUNT OF \$300,000, REQUIRING A CITY MATCH IN THE AMOUNT OF \$100,000, FOR A TOTAL PROJECT COST OF \$400,000.**

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

PURPOSE(S) OF ACTION:

Approve grant application.

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. As per the Grant Policy approved by City Council on May 4, 2018; the City Council will be presented with a Resolution to approve cash match requests for grant applications in excess of \$250,000 prior to the application being submitted. City Council approval is also required when funders request a Resolution in order to apply regardless of the match amount.

The intersections of Spruce Ave./N. Telshor Blvd. and Spruce Ave./N. Triviz Dr. have been identified to undergo improvements including geometric modification, traffic signal replacement, bike lane installation, sidewalk/ADA ramp modification, median curb installation, 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 that currently has traffic volumes of more than 15,000 vehicles per day.

The State of New Mexico Department of Transportation (NMDOT) Municipal Arterial Program (MAP) requires the City to contribute a 25% cash match in the amount of \$100,000 for a grant application total of \$400,000. Funding requested: New Mexico Department of Transportation is \$300,000 (75%), and the City of Las Cruces is \$100,000 (25%). The City will be responsible for paying the entire cost for any other work if required as part of the project.

The grant application is due March 15, 2023, to NMDOT. NMDOT requires a governmental resolution to be submitted with the MAP application.

The project aligns with the Elevate Las Cruces Plan through goals CL-6 and CL-8; as well as Public Works Strategic Plan Strategic Result 1 and 2.

SUPPORT INFORMATION:

Agenda Item #6.1.

[Exhibit A Proposed Source of Matching Funds](#)

[Attachment A MAP 24 Spruce](#)

[Attachment B MAP 24 Spruce-Traffic Analysis](#)

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 allow the City to submit the application to NMDOT by the due date of March 15, 2023.
2. Vote "No"; this will not allow the City to submit the proposed application.
3. Vote to "Amend"; this could change the proposed application and require Council direction.
4. Vote to "Table"; this will delay the application development process and potentially not allow the City to meet the application deadline of March 15, 2023.

REFERENCE INFORMATION:

CL-6 and CL-8; as well as Public Works Strategic Plan Strategic Result 1 and 2

RESOLUTION 23-100

A RESOLUTION TO APPROVE THE SUBMISSION OF A GRANT APPLICATION TO THE NEW MEXICO DEPARTMENT OF TRANSPORTATION, MUNICIPAL ARTERIAL PROGRAM, FOR THE FISCAL YEAR 2023/2024, FOR INTERSECTION IMPROVEMENTS ALONG SPRUCE AVENUE IN THE AMOUNT OF \$300,000, REQUIRING A CITY MATCH IN THE AMOUNT OF \$100,000, FOR A TOTAL PROJECT COST OF \$400,000.

The City Council is informed that:

WHEREAS, the City of Las Cruces (City), Public Works Department/Engineering & Architecture Program desires to submit an application to the New Mexico Department of Transportation (NMDOT) Municipal Arterial Program (MAP) funding opportunity for FY2023/2024 in the amount of \$300,000 for Spruce/Telshor/Triviz Intersection Improvements along Spruce Avenue; and

WHEREAS, NMDOT requires a governmental resolution to be submitted with the MAP application; and

WHEREAS, the City proposes to undergo improvements at the intersections of Spruce Ave./N. Telshor Blvd. and Spruce Ave./N. Triviz Dr. including geometric modification, traffic signal replacement, bike lane installation, sidewalk/ADA ramp modification, median curb installation, 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 that currently has traffic volumes of more than 15,000 vehicles per day; and

WHEREAS, the proposed improvements will provide improved traffic safety and connectivity for the area; and

WHEREAS, the grant application for construction costs would require the City to contribute a 25% cash match in the amount of \$100,000 for a total project amount of \$400,000, with said match and any excess project costs above the grant match amount to complete the project to be funded through the Public Works Traffic Signal and Street Lighting Operation fund.

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

(I)

THAT submission of the grant to the NMDOT, Map funding, FY2023/2024, in the amount of \$300,000 for the Spruce/Telshor/Triviz Intersection Improvement Project be approved.

(II)

THAT City will provide a cash match in the amount of \$100,000, as shown in Exhibit "A", the Proposed Source of Matching Funds, attached and made a part of this Resolution, is hereby approved.

(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 #6.1.

APPROVED

ATTEST:

Moved by:

Seconded by:

AYES

NAYS

A RESOLUTION TO APPROVE THE SUBMISSION OF A GRANT APPLICATION TO THE NEW MEXICO DEPARTMENT OF TRANSPORTATION, MUNICIPAL ARTERIAL PROGRAM, FOR FISCAL YEAR 2023/2024, FOR INTERSECTION IMPROVEMENTS ALONG SPRUCE AVENUE IN THE AMOUNT OF \$300,000, REQUIRING A CITY MATCH IN THE AMOUNT OF \$100,000, FOR A TOTAL PROJECT COST OF \$400,000.

[illegible]

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City of Las Cruces®

PEOPLE HELPING PEOPLE

SPRUCE AVE INTERSECTION IMPROVEMENTS

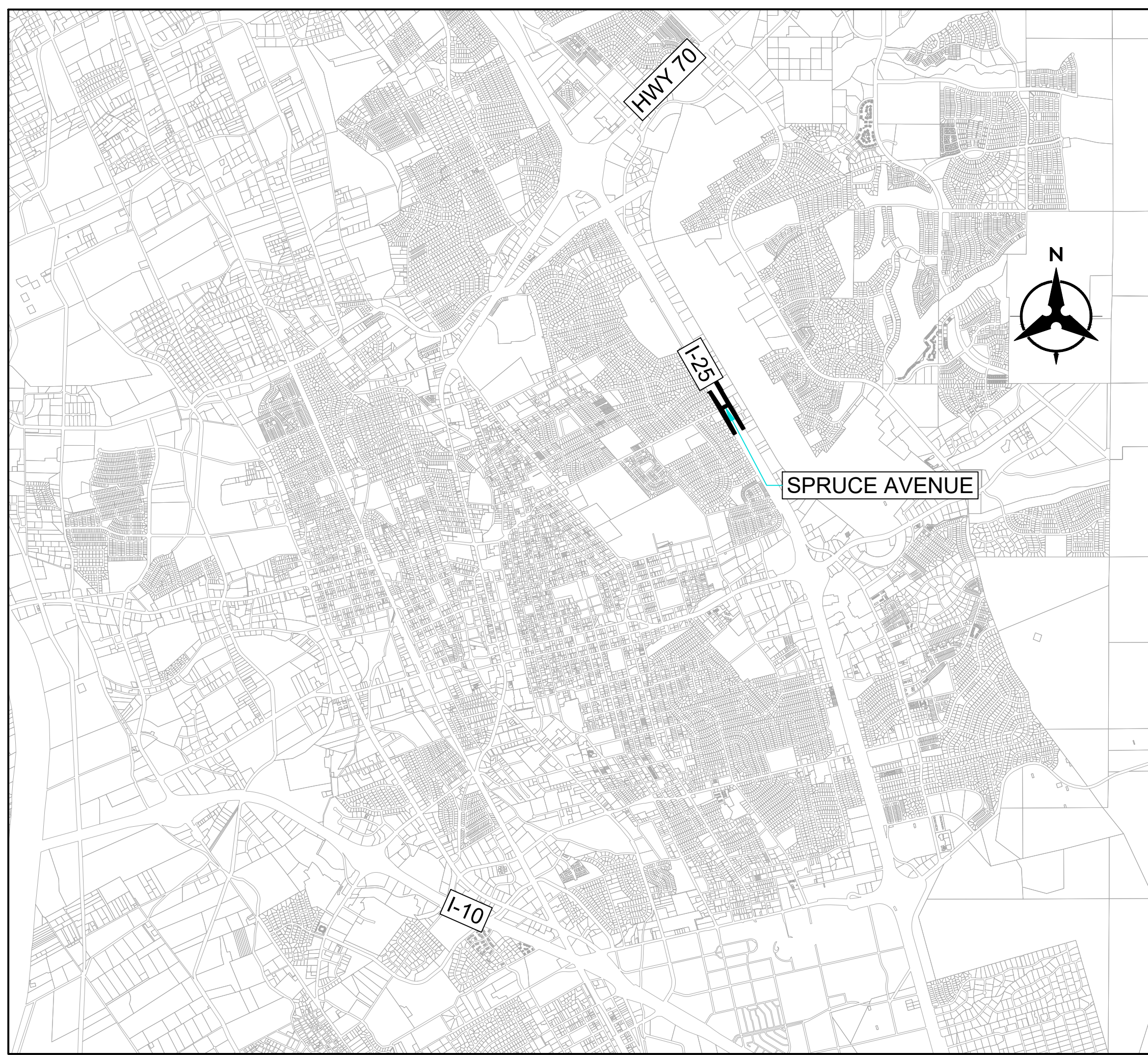
TRIVIZ & SPRUCE INTERSECTION

TELSHOR & SPRUCE INTERSECTION

CLC PROJECT NUMBER:##-##-### BHI PROJECT NUMBER: 20200219

SHEET INDEX

SHEET NO.	DWG. NAME
	GENERAL
G-1	COVER SHEET
G-2	GENERAL NOTES AND LEGEND
	GEOMETRIC DESIGN
D-1	TRIVIZ DRIVE
D-2	N TELSHOR BLVD, NORTH
D-3	N TELSHOR BLVD, SOUTH
D-4	SPRUCE AVENUE
	SIGNING AND STRIPING
T-1	TRIVIZ DRIVE
T-2	N TELSHOR BLVD, NORTH
T-3	N TELSHOR BLVD, SOUTH
T-4	SPRUCE AVENUE
	SIGNALIZATION
S-1	SPRUCE @ TRIVIZ SIGNAL LAYOUT
S-2	SPRUCE @ TELSHOR SIGNAL LAYOUT
	TEMPORARY TRAFFIC CONTROL
TC-1	SEQUENCE OF CONSTRUCTION
	RIGHT OF WAY
	ROW LIMITS



VICINITY MAP
NTS

LAS CRUCES CITY COUNCIL

MAYOR:	KEN MIYAGISHIMA
COUNCILOR:	KASANDRA GANDARA
COUNCILOR:	TESS ABEYTA-STUVE
COUNCILOR:	GABRIEL VASQUEZ
COUNCILOR:	JOHANA BENCOMO
COUNCILOR:	GILL M SORG
COUNCILOR:	YVONNE M FLORES
CITY MANAGER:	IFO PILI

ABBREVIATIONS

PIPE MATERIALS

AC	ASBESTOS CEMENT PIPE	GALV	GALVANIZED STEEL PIPE
BSP	BLACK STEEL PIPE	MNL	MONEL PIPE
CI	CAST IRON PIPE	PE	POLYETHYLENE PIPE
CISP	CAST IRON SOIL PIPE	PVC	POLYVINYL CHLORIDE PIPE
CMP	CORRUGATED METAL PIPE	RCCP	REINFORCED CONCRETE
CPP	CONCRETE PRESSURE PIPE		CYLINDER PIPE
CS	CARBON STEEL	RCP	REINFORCED CONCRETE PIPE
CU	COPPER WIRE	SST	STAINLESS STEEL PIPE
DI	DUCTILE IRON	TRPR	THERMOPLASTIC REINFORCED PIPE
DIP	DUCTILE IRON PIPE	TYG	TYGON TUBING
DWV	DRAIN WASTE VENT	VCP	VITRIFIED CLAY PIPE
FRP	FIBERGLASS REINFORCED PLASTIC	XT	STEEL PIPE

CIVIL DESCRIPTIONS

EOP	EDGE OF PAVEMENT	TOW	TOP OF WALL
EOR	EDGE OF ROAD	FG	FINISHED GRADE
RP	RADIUS POINT	FF	FINISHED FLOOR
MH	MANHOLE	TOC	TOP OF CONCRETE
BC	BUILDING CORNER		

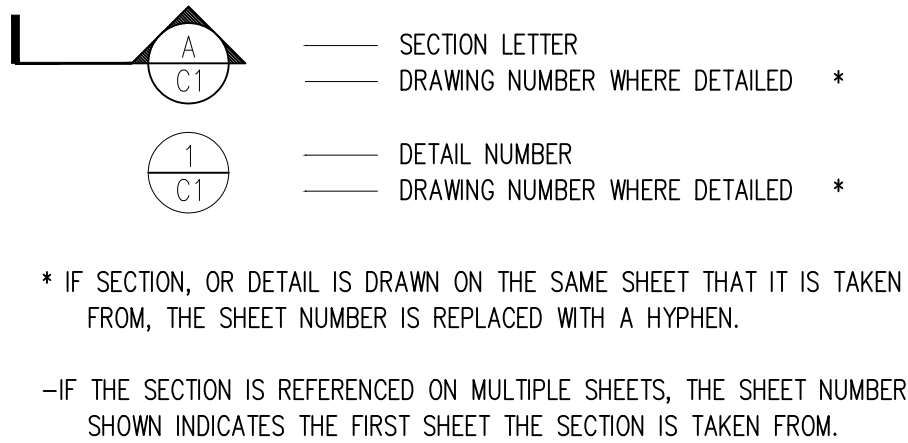
CLC GENERAL UTILITY NOTES

- THE ENGINEER AND OWNER ARE NOT RESPONSIBLE FOR JOB SITE SAFETY OR COMPLIANCE TO OSHA REGULATIONS. IT SHALL BE THE CONTRACTORS RESPONSIBILITY FOR JOB SAFETY OR COMPLIANCE TO OSHA REGULATIONS.
- SHOULD THE OWNER FIND THE JOB SITE TO BE UNSAFE FOR THE RESIDENTS AND/OR THE CONSTRUCTION WORKERS, THE OWNER SHALL ISSUE A STOP WORK NOTICE. COSTS AND TIME RELATED TO CORRECTION OF THE UNSAFE CONDITIONS, INCLUDING LOST TIME, AND REMOBILIZATION SHALL BE THE RESPONSIBILITY OF THE CONTRACTOR.
- SHOULD CONFLICTING INFORMATION OR INTERFERENCE PROBLEMS APPEAR IN THE CONSTRUCTION DRAWINGS, THE CONTRACTOR SHALL BRING THAT INFORMATION TO THE ATTENTION OF THE PROJECT MANAGER IMMEDIATELY PRIOR TO INSTALLATION. FAILURE TO DO SO SHALL NEGATE ADDITIONAL COMPENSATION TO THE CONTRACTOR FOR LOST TIME.
- LOCATIONS OF EXISTING UNDERGROUND UTILITIES ON PLANS ARE APPROXIMATE ONLY. THE CONTRACTOR SHALL CALL NM811 FOR UTILITY LOCATES PRIOR TO COMMENCEMENT OF ANY CONSTRUCTION ACTIVITIES. CONTRACTOR SHALL FIELD VERIFY HORIZONTAL AND VERTICAL LOCATION OF MARKED, DRAWN, AND VISUALLY IDENTIFIED UTILITIES PRIOR TO BEGINNING TRENCHING AND INSTALLATION CONSTRUCTION. ANY DAMAGE TO EXISTING MARKED UTILITIES DURING CONSTRUCTION IS THE RESPONSIBILITY OF THE CONTRACTOR AND SHALL BE REPAIRED AT NO ADDITIONAL EXPENSE TO THE OWNER.
- ALL CONSTRUCTION MATERIALS AND WORKMANSHIP DONE WITHIN THE PUBLIC RIGHT-OF-WAY SHALL CONFORM TO THE CITY OF LAS CRUCES UTILITY STANDARDS 2013 EDITION (INCLUDING ALL REVISIONS). THE CITY OF LAS CRUCES STANDARDS AND DETAILS ARE AVAILABLE AT: [HTTP://WWW.LAS-CRUCES.ORG/UTILITIES/DOCS/CLC-UTI-stand-0508.PDF](http://www.las-cruc.es.org/utilities/docs/clc-uti-stand-0508.pdf)
- THE CONTRACTOR SHALL NOTIFY ALL UTILITY COMPANIES BEFORE COMMENCING WORK AND SHALL BE RESPONSIBLE FOR COMPLYING WITH ONE CALL PROCEDURES (NEW MEXICO ONE-CALL 811). ANY DAMAGE TO EXISTING UTILITIES MUST BE IMMEDIATELY REPORTED TO THE CITY INSPECTOR AND THE APPROPRIATE UTILITY COMPANY & NM811.
- CONTRACTOR SHALL STAMP (NOT CUT) FRESH CONCRETE TOP OF CURB WITH G,S, AND W DIRECTLY ABOVE GAS, SEWER, AND WATER SERVICE LOCATIONS FOR EACH RESIDENT (PROPERTY). FOR SERVICES BORED UNDER EXISTING CURB AND GUTTER, CONTRACTOR SHALL GRIND G, S OR W INTO THE TOP OF CURB. CONTRACTOR SHALL GRIND OFF ANY OLD MARKINGS THAT ARE NO LONGER ACCURATE OR RELEVANT. COST IS INCIDENTAL TO THE PROJECT.
- THE CONTRACTOR WILL BE REQUIRED TO SUBMIT ACCURATE, DETAILED, AND COMPLETE SURVEYED 'AS-BUILT' DRAWINGS OF ALL UTILITY IMPROVEMENTS WITHIN THE PUBLIC RIGHT-OF-WAY PRIOR TO FINAL PAYMENT. THESE PLANS SHALL BE UPDATED AT LEAST EVERY TWO WEEKS AND SHALL BE SUBJECT TO APPROVAL BY THE CITY OF LAS CRUCES. NO FINAL PAYMENT WILL BE MADE UNTIL AS-BUILT DRAWINGS ARE APPROVED.
- TREES TRUNKS SHALL HAVE A 10.0' MINIMUM CLEARANCE FROM ALL SERVICE LINES. WHERE NOT FEASIBLE THE SERVICE LINE ALIGNMENT SHALL BE COORDINATED AND APPROVED BY THE CITY OF LAS CRUCES.
- CONTRACTOR SHALL BE FAMILIAR WITH THE EXISTING FEATURES AT THE SITE PRIOR TO SUBMITTING BIDS, INCLUDING ALL EXISTING SURFACING, LANDSCAPING, IRRIGATION SYSTEMS, GROUND COVERINGS, SIGNS, FENCES, ETC.
- EXISTING ROADWAY, UNLESS OTHERWISE CALLED OUT, SHALL BE RETURNED TO TO THE SURFACE GRADE EXISTING PRIOR TO CONSTRUCTION. CONTRACTOR SHALL ENSURE THAT THERE IS POSITIVE DRAINAGE TO ALL DRAINAGE STRUCTURES AND THROUGH ALL INTERSECTIONS.
- CONTRACTOR SHALL OBTAIN APPROVAL FROM THE CITY OF LAS CRUCES PRIOR TO ANY UTILITY EXPLORATION WORK. ANY EXPLORATION THAT DOES NOT RECEIVE PRIOR APPROVAL WILL NOT BE COMPENSATED FOR.
- ALL UNDERGROUND UTILITY TIE-IN POINTS SHALL BE VERIFIED HORIZONTALLY AND VERTICALLY PRIOR TO CONSTRUCTION.
- CONTRACTOR SHALL MAINTAIN EXISTING WATER AND GAS LINES INCLUDING TRACER WIRE DURING CONSTRUCTION. ANY DAMAGED PORTIONS SHALL BE REMOVED AND REPLACED. CONTINUITY ON TRACER WIRE SHALL BE MAINTAINED. COSTS ARE INCIDENTAL TO THE PROJECT.
- CONSTRUCTION ON PRIVATE PROPERTY SHALL BE COORDINATED W/ PROPERTY OWNER AND CITY OF LAS CRUCES REPRESENTATIVE. EXISTING STRUCTURES, LANDSCAPING, FENCES, CONCRETE, SIGNS, DRIVEWAYS, ETC. SHALL BE RETURNED TO THEIR ORIGINAL OR BETTER CONDITION PRIOR TO CONSTRUCTION. HAND DIGGING MAY BE REQUIRED. COST OF SUCH SHALL BE CONSIDERED INCIDENTAL TO THE PROJECT.
- CONTRACTOR SHALL USE MEANS AND METHODS TO ENSURE THAT SURROUNDING BUILDINGS, INFRASTRUCTURE, LANDSCAPING, FENCING, DRIVEWAYS, CONCRETE, ETC. DO NOT GET DAMAGED. DAMAGE CAUSED BY CONSTRUCTION ACTIVITIES WILL BE REPAIRED BY THE CONTRACTOR AT NO ADDITIONAL COST TO THE OWNER OR CITY.
- CONTRACTOR SHALL VIDEO THE ENTIRE PROJECT SITE PRIOR TO CONSTRUCTION AND PROVIDE A CD OF THAT VIDEO TO THE CITY OF LAS CRUCES FOR APPROVAL PRIOR TO CONSTRUCTION. COST SHALL BE CONSIDERED INCIDENTAL TO THE PROJECT.
- CONTRACTOR SHALL MAINTAIN WATER, GAS, AND SEWER SERVICE TO THE RESIDENTS DURING CONSTRUCTION. ANY SHUT DOWNS MUST BE APPROVED AND COORDINATED WITH THE CITY OF LAS CRUCES AND RESIDENTS. IT MAY BE NECESSARY TO PROVIDE TEMPORARY SERVICE TO SOME RESIDENTS DURING THIS CONSTRUCTION PROJECT. COST OF SUCH SERVICE SHALL BE INCIDENTAL TO THE PROJECT.
- CONTRACTOR SHALL VERIFY ALL DIMENSIONS AND GRADES BEFORE PROCEEDING WITH THE WORK. ANY DISCREPANCIES FOUND SHALL BE BROUGHT TO THE ATTENTION OF THE CITY OF LAS CRUCES IMMEDIATELY, OTHERWISE THE CONTRACTOR SHALL BE HELD RESPONSIBLE FOR THEIR ACCURACY.
- CONTRACTOR SHALL IMPLEMENT BEST PRACTICES FOR DRAINAGE MANAGEMENT AND EROSION CONTROL AT ALL TIMES DURING THE CONSTRUCTION PERIOD.
- CONTRACTOR IS RESPONSIBLE FOR MAINTAINING ALL SURVEY MARKS/BENCHMARKS AND ALL COSTS ASSOCIATED WITH RE-ESTABLISHING ANY SUCH MONUMENTATION. ALL WORK SHALL BE COMPLETED BY A LICENSED SURVEYOR.
- PROVISIONS FOR ADEQUATE TRAFFIC CONTROL DURING CONSTRUCTION ARE THE RESPONSIBILITY OF THE CONTRACTOR. CONTRACTOR SHALL NOTIFY ALL PROPERTY OWNERS PRIOR TO CONSTRUCTION AND PROVIDE A SCHEDULE OF CONSTRUCTION ACTIVITIES THAT WILL AFFECT ACCESS TO THEIR HOMES. ANY TRENCHES OR OPEN PITS LEFT OVER NIGHT SHALL BE IN ACCORDANCE WITH THE CITY OF LAS CRUCES GENERAL CONDITIONS. NO WORK WITHIN PUBLIC RIGHTS OF WAY SHALL BE LEFT UNCOVERED OVER WEEKENDS UNLESS APPROVAL IS RECEIVED FROM THE CITY OF LAS CRUCES. CONTRACTOR SHALL MAINTAIN ACCESS TO ALL PROPERTIES DURING CONSTRUCTION.
- DISPOSAL OF ALL REMOVAL ITEMS SHALL BE DONE BY THE CONTRACTOR IN COMPLIANCE WITH ALL APPLICABLE REGULATIONS AND ORDINANCES. THE CITY SHALL DESIGNATE WHERE ALL SALVAGED ITEMS ARE TO BE TAKEN. THE COST OF HAULING AND DISPOSAL OR SALVAGING SHALL BE CONSIDERED INCIDENTAL TO THE WORK.
- LOCATE DOUBLE WYE CLEAN-OUTS IN THE PARKWAY WHEN FEASIBLE. OTHERWISE CLEANOUTS SHALL BE LOCATED AS CLOSE TO THE PROPERTY LINE AS IS PRACTICABLE.
- CONTRACTOR TO USE DUE CARE IN EXPOSING EXISTING TELEPHONE FACILITIES WITHIN THE CONSTRUCTION ZONE. EXPOSED CABLES AND/OR DUCTS ARE TO BE SUPPORTED AND/OR PULLED BACK DURING THE EXCAVATION. SEWER, GAS, AND/OR WATER LINE SHALL BE INSTALLED TO MAXIMIZE SEPARATION BETWEEN THE UTILITIES AND THE TELEPHONE FACILITIES. COST IS TO BE INCIDENTAL TO THE PROJECT.
- CONTRACTOR SHALL COORDINATE WITH MR. KLAUS KEMMER, SOLID WASTE ADMINISTRATOR, AT 528-3543 FOR THE WASTE COLLECTION SCHEDULE. WHEN SCHEDULED COLLECTION CONFLICTS WITH CONSTRUCTION ACTIVITIES, THE CONTRACTOR SHALL RELOCATE THE 'DUMPSTER' TO AN ACCESSIBLE LOCATION FOR COLLECTION AND RETURN IT TO THE ORIGINAL LOCATION AFTER COLLECTION HAS BEEN COMPLETED. THIS ACTIVITY IS INCIDENTAL TO THE CONTRACT WORK.
- SERVICE LINE TRENCHES IN YARDS SHALL BE 4"-6" WIDE MAXIMUM AND SHALL BE COMPACTED TO 85% OF MAX. MOD. DENSITY. MANUAL DIGGING AND BORE & JACKING MAY BE REQUIRED IN SOME AREAS.
- IN STREET R.O.W., SERVICE LINE TRENCHES SHALL BE 12" WIDE MAXIMUM AND COMPACTED TO 95% MAX. MOD. DENSITY.
- DOOR HANGERS WILL BE DISTRIBUTED ONE TO TWO WEEKS PRIOR TO THE CONTRACTOR BEGINNING ANY WORK ON THE STREET. THIS WORK IS INCIDENTAL TO THE CONTRACT WORK.
- CONTRACTOR SHALL GIVE UTILITY CUSTOMERS A MINIMUM OF FORTY-EIGHT (48) HOURS NOTICE PRIOR TO ANY INTERRUPTION OF SERVICE. MAXIMUM SERVICE INTERRUPTION IS FOUR (4) HOURS.
- ALL CONTRACT EMPLOYEES WILL BE OPERATOR QUALIFIED AS PER FEDERAL, STATE, & CITY REQUIREMENTS.
- METER CHANGE OVERS: CONTRACTOR TO NOTIFY CITY PROJECT MANAGER 48 HOURS PRIOR TO WORK.

CLC GENERAL NOTES

- ACCESS TO LOCAL BUSINESS AND RESIDENCE SHALL BE KEPT OPEN AT ALL TIMES. ANY ACCESS CLOSURE MUST BE SCHEDULED AT LEAST 24 HOURS IN ADVANCE WITH PROPERTY OWNER AND APPROVED BY THE CITY PROJECT MANAGER
- THE CONTRACTOR SHALL NOT DISTURB ANY STRUCTURES OR FACILITIES OUTSIDE CONSTRUCTION LIMIT. THE REPLACEMENT OF ANY DAMAGED STRUCTURE OF FACILITIES SHALL BE AT THE CONTRACTORS EXPENSE WITH NO DELAY
- THE CONTRACTOR SHALL SUBMIT 5 COPIES OF THE CONSTRUCTION SCHEDULE, DEMONSTRATING EACH ACTIVITY WITH THE PROPOSED START AND COMPLETION DATE, AND ALL ACTIVITIES COMBINED AS A NETWORK, 10 DAYS AFTER THE AWARD OF THE CONTRACT. THIS SCHEDULE SHALL BE IN A DETAILED BAR CHART FORMAT. THE CONTRACTOR SHALL SUBMIT AN UPDATED SCHEDULE WITH EACH PAY ESTIMATE.
- THE CONTRACTOR SHALL NOT DISTURB, COVER, OR REMOVE ANY SURVEY MONUMENTS, INCLUDING TRIANGULATION STATIONS, BENCHMARKS, MONUMENTS, SECTION CORNERS, N.M.D.O.T. MONUMENTS, LAND GRANT MARKERS, OR ANY OTHER PERMANENT REFERENCE MARKERS LOCATED WITHIN THE CONSTRUCTION LIMITS OR ON THE RIGHT-OF-WAY LINE OF THIS PROJECT UNLESS WRITTEN DOCUMENTATION REGARDING REFERENCING OF SAID MARKER HAS BEEN PROVIDED BY THE CONTRACTOR TO THE CITY PROJECT MANAGER FOR HIS/HER APPROVAL. THE CONTRACTOR SHALL RESET DESTROYED MONUMENTS IN ACCORDANCE WITH STATUTE 61-23-1 N.M.S.A. AT HIS/HER OWN EXPENSE. THE CONTRACTOR SHALL BE ASSESSED A ONE THOUSAND DOLLAR (\$1,000.00) PENALTY FOR EACH MONUMENT WHICH HAS NOT BEEN PROPERLY REFERENCED PRIOR TO ITS DISTURBANCE OR DESTRUCTION.
- THE CONTRACTOR SHALL BE REQUIRED TO CONFINED HIS WORK WITHIN THE CONSTRUCTION LIMITS OR RIGHT-OF-WAY. PARKING OF PRIVATE VEHICLES SHALL NOT BE ALLOWED ALONG CONSTRUCTION AREAS THROUGHOUT CONSTRUCTION LIMITS. IT SHALL BE THE CONTRACTOR'S RESPONSIBILITY TO PROHIBIT ASPHALT VEHICLES AND EQUIPMENT, ROLLERS, CRANES, ETC., FROM DRIVING UPON, ACROSS, OR TURNING ON PRIVATE PROPERTY ADJACENT TO PROJECT WORK AREAS.
- ALL WORK ON THIS PROJECT SHALL BE PERFORMED IN ACCORDANCE WITH APPLICABLE FEDERAL, STATE, AND LOCAL LAWS, ORDINANCES, RULES AND REGULATIONS CONCERNING CONSTRUCTION SAFETY AND HEALTH.
- CONTRACTOR SHALL REPLACE ANY DAMAGED FENCES, BLOCK WALLS, LANDSCAPING OR ANY SURFACE FEATURES TO EXISTING OR BETTER CONDITION.
- THE CONTRACTOR SHALL VERIFY THE RELATIVE ELEVATION OF BENCHMARKS, AS SHOWN ON PLANS, AND SHALL ESTABLISH AND REFERENCE THE CENTERLINE OF SURVEY IN SUCH A WAY THAT IT COULD BE REESTABLISHED AND REFERENCED TO AT ANY TIME DURING THE CONSTRUCTION OF THIS PROJECT.
- MAXIMUM WEIGHT OF TRUCKS SHALL CONFORM TO N.M.D.O.T. STANDARDS. CONTRACTOR TO REPLACE ANY DAMAGED STREETS USED DURING CONSTRUCTION HAULING. NO EXTRA PAYMENT WILL BE MADE THEREFORE.
- CONTRACTOR SHALL NOTIFY ALL PROPERTY OWNERS ON A WEEKLY BASIS THE STATUS OF CONSTRUCTION, AND ANTICIPATED COMPLETION DATE. NOTIFICATION SHALL INCLUDE ANY SCHEDULED UTILITY OUTAGES, ALONG WITH EXPECTED DURATION.
- CONTRACTOR SHALL REMOVE ALL STRUCTURES AND OBSTRUCTIONS THAT ARE WITHIN THE CONSTRUCTION AREA (ROW OR SLOPE LIMITS). REMOVAL AND DISPOSAL OF THESE ITEMS SHALL BE INCIDENTAL TO CONSTRUCTION AND NO ADDITIONAL PAYMENT WILL BE MADE UNLESS A BID ITEM IS PROVIDED.
- THROUGHOUT THE LIFE OF THIS PROJECT THE CONTRACTOR SHALL KEEP THE LOCAL NEWS MEDIA INFORMED OF LANE CLOSURES WHICH WILL RESTRICT THE NORMAL FLOW OF TRAFFIC. (CITY OF LAS CRUCES PUBLIC INFORMATION OFFICER - 541-2200) THERE WILL BE NO DIRECT MEASUREMENT OR PAYMENT FOR THESE ADVISORIES.
- WORK ON BOSTON SHALL BE COMPLETED DURING THE SUMMER MONTHS WHEN SCHOOL IS OUT OF SESSION. ALL UTILITY OUTAGES OR ROAD CLOSURES SHALL BE COORDINATED WITH THE SCHOOL DISTRICT. THEY SHALL ALSO BE NOTIFIED OF ANY SCHEDULE CHANGES. THE CONTACT PERSON WITH THE SCHOOL DISTRICT IS GLORIA MARTINEZ: (575) 527-6052
- CONTRACTOR SHALL RELOCATE EXISTING MAILBOXES OUTSIDE OF SIDEWALK PATH AND TO AN ACCESSIBLE LOCATION IN COORDINATION WITH MAILBOX OWNER. THIS WORK IS INCIDENTAL TO THE CONTRACT AND COMPLETED AT NO ADDITIONAL EXPENSE TO THE OWNER.

GENERAL DRAWING SYMBOLS



MISCELLANEOUS SYMBOLS

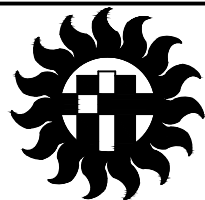
SYMBOL	DESCRIPTION
	DEMOLITION WORK
	CONCRETE CAST IN PLACE
	CONCRETE BLOCK
	BASECOURSE SURFACE AREA
	PAVEMENT SURFACE AREA
	GROUT
	GRAVEL
	CHECKERED PLATE
	BAR GRATING
	STEEL UNLESS NOTED OTHERWISE
	EARTH FILL
	UNDISTURBED EARTH
	BUILDING OR STRUCTURE FOOTPRINT
	EXISTING EMBANKMENT (REVERSE SYMBOLS FOR CHANNEL)
	PROPOSED EMBANKMENT (REVERSE SYMBOLS FOR CHANNEL)
	CONTROL POINT / BENCHMARK
	BORING
	TREE, SIZE & TYPE
	TREE TO BE REMOVED
FF:XX.XX	FINISHED FLOOR ELEVATION
FG:XX.XX	FINISHED GRADE ELEVATION
FL:XX.XX	FINISHED GRADE AT FLOW LINE
TW:XX.XX	FINISHED GRADE AT TOP OF WALL
TOC:XX.XX	FINISHED GRADE AT TOP OF CONCRETE

SITEWORK AND UTILITY LEGEND

EXISTING WATER LINE		NEW WATER LINE	
EXISTING BUTTERFLY VALVE		NEW BUTTERFLY VALVE	
EXISTING GATE VALVE		NEW GATE VALVE	
EXISTING FIRE HYDRANT		NEW FIRE HYDRANT	
EXISTING FIRE DEPT. CONNECTION		NEW SANITARY SEWER LINE	
EXISTING SANITARY SEWER LINE		NEW SANITARY SEWER MANHOLE	
EXISTING SANITARY SEWER MANHOLE		NEW SANITARY SEWER FORCE MAIN	
EXISTING SANITARY SEWER FORCE MAIN		NEW SANITARY SEWER SERVICE	
EXISTING SANITARY SEWER SERVICE		NEW SANITARY SEWER CLEANOUT	
EXISTING SANITARY SEWER CLEANOUT		NEW GAS LINE	
EXISTING GAS LINE		NEW OVERHEAD ELECTRIC LINE	
EXISTING TELEPHONE LINE		NEW POWER POLE	
EXISTING FIBER OPTIC LINE		NEW LIGHT	
EXISTING UNDERGROUND ELECTRIC LINE		NEW STORM DRAIN LINE	
EXISTING OVERHEAD ELECTRIC LINE		NEW STORM DRAIN MANHOLE	
EXISTING POWER POLE		NEW PROPERTY/ROW LINE	
EXISTING LIGHT		NEW MAJOR CONTOUR	
EXISTING STORM DRAIN LINE		NEW MINOR CONTOUR	
EXISTING STORM DRAIN MANHOLE		NEW SPOT ELEVATION	
EXISTING CABLE TV LINE		NEW CURB LINE	
EXISTING PROPERTY/ROW LINE		NEW SIDEWALK	
EXISTING MAJOR CONTOUR		NEW EDGE OF ASPHALT	
EXISTING MINOR CONTOUR		NEW CHAINLINK FENCE	
EXISTING SPOT ELEVATION		FUTURE UTILITY LINE	
EXISTING CURB LINE			
EXISTING SIDEWALK			
EXISTING EDGE OF ASPHALT			
EXISTING WIRE FENCE			
EXISTING CHAIN LINK FENCE			
EXISTING WALL			
EXISTING RAILROAD TRACKS			
EXISTING BUILDING			

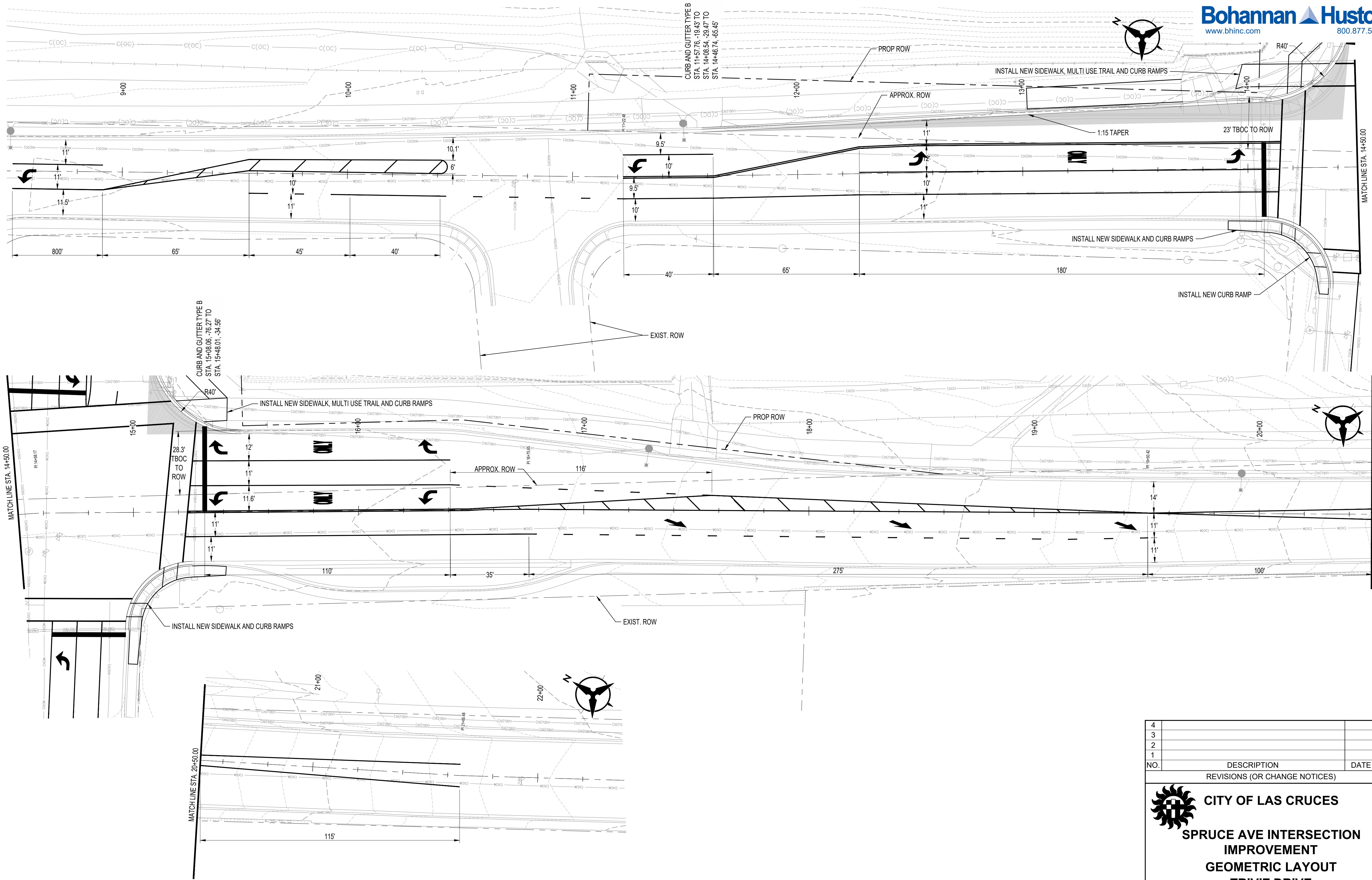
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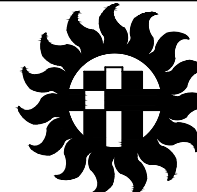
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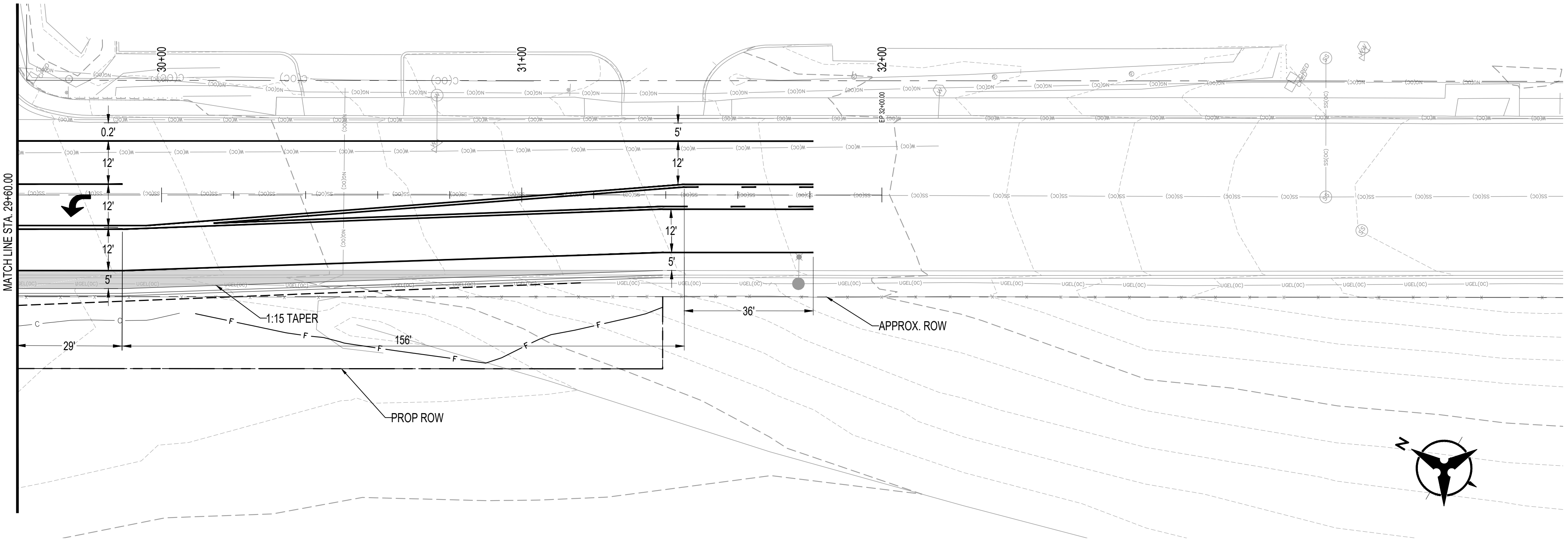
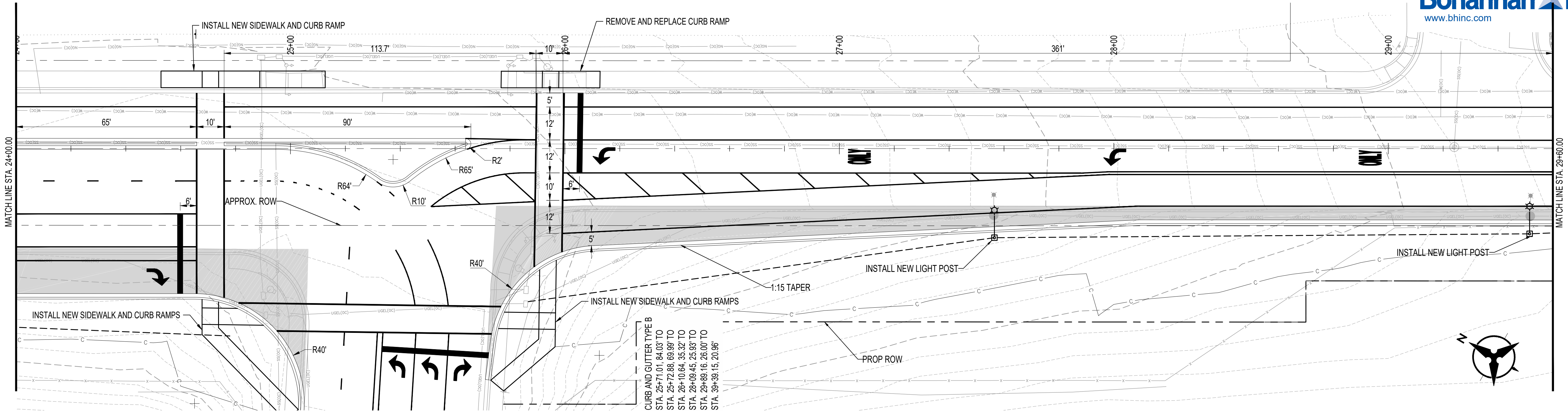


CITY OF LAS CRUCES

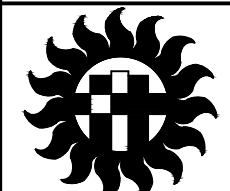
SPRUCE AVE INTERSECTION
IMPROVEMENT
GENERAL NOTES AND LEGEND

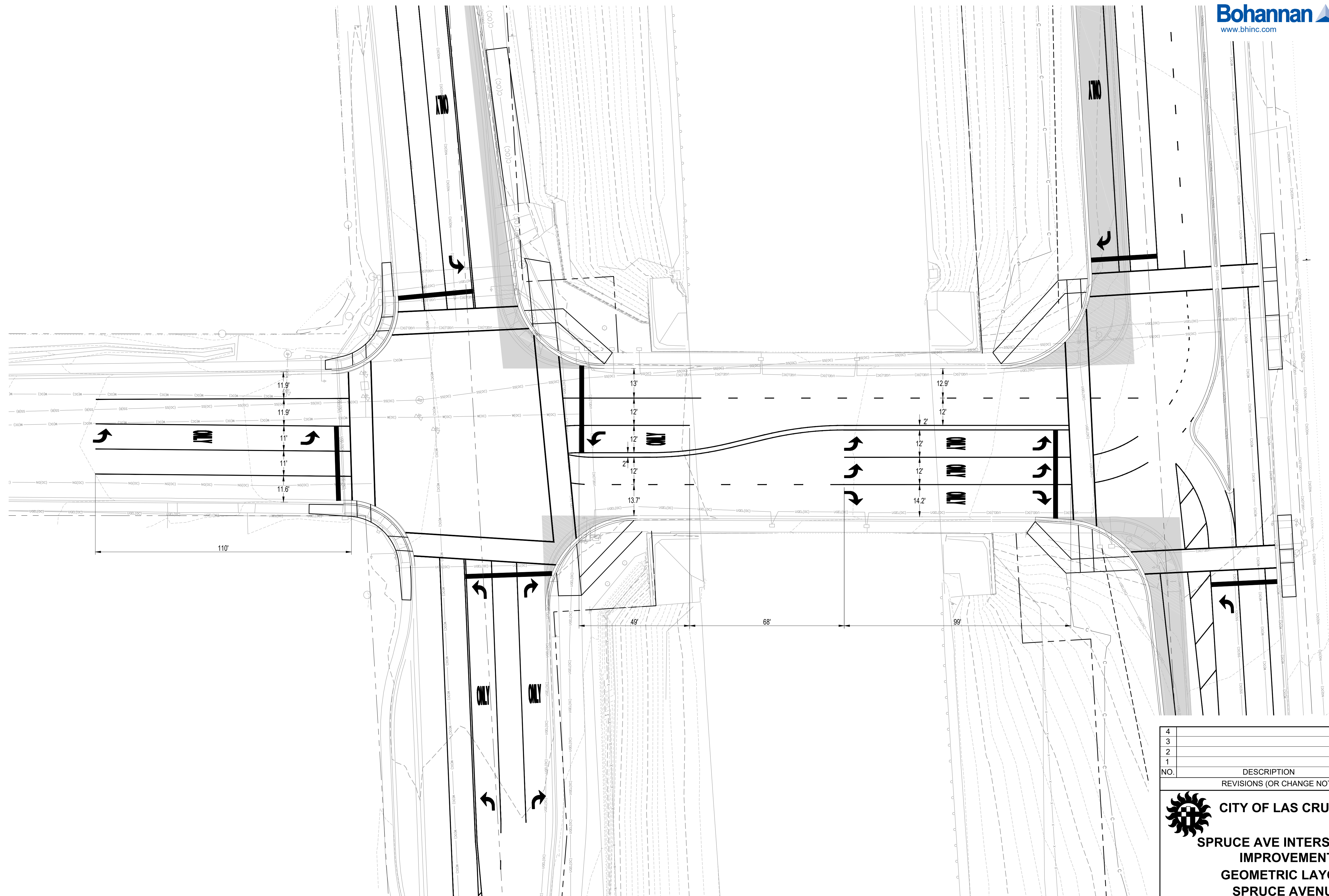


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SPRUCE AVE INTERSECTION IMPROVEMENT			
GEOMETRIC LAYOUT			
TRIVIZ DRIVE			

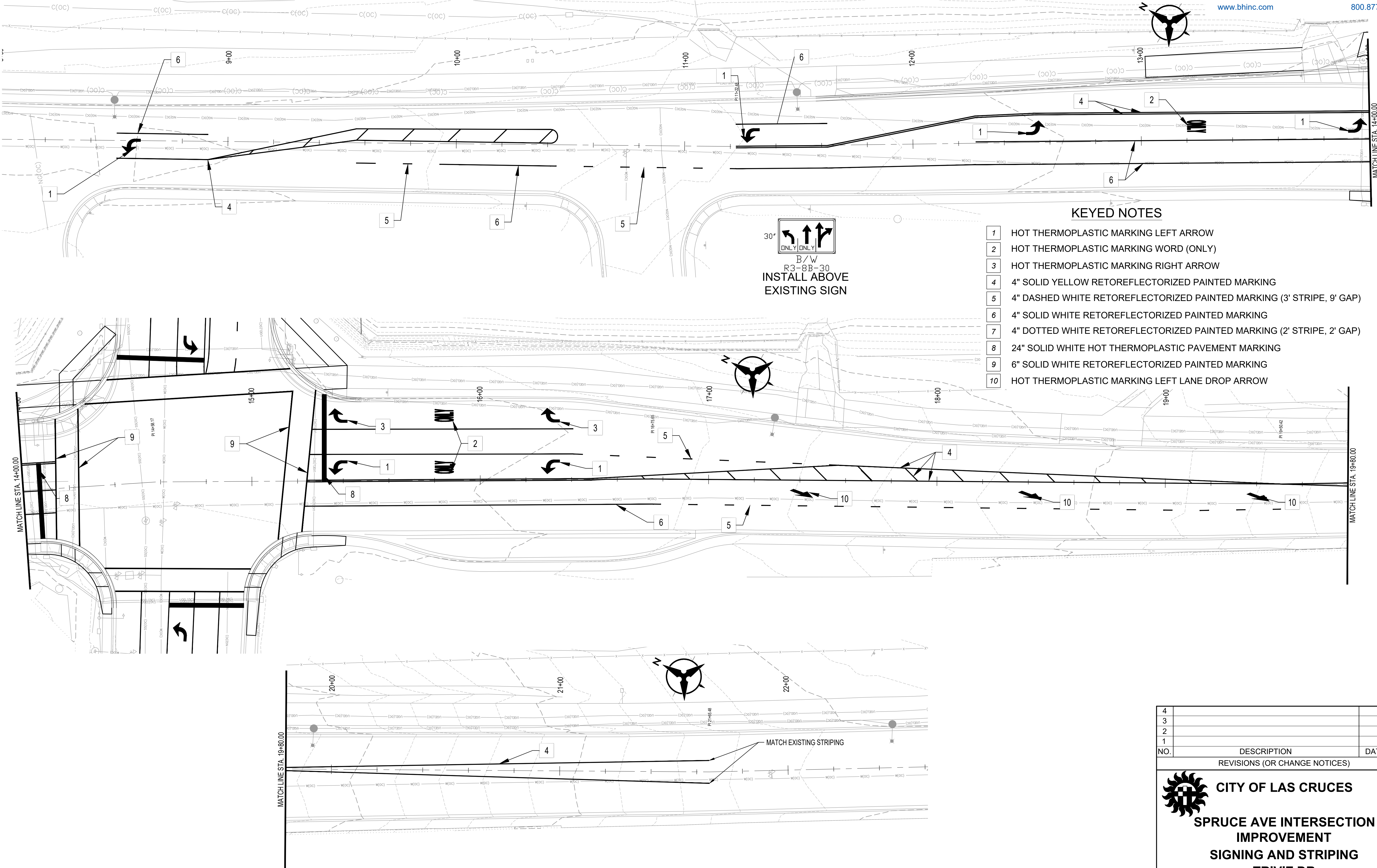


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**CITY OF LAS CRUCES**
**SPRUCE AVE INTERSECTION
IMPROVEMENT
GEOMETRIC LAYOUT
N TELSHOR BLVD, NORTH**

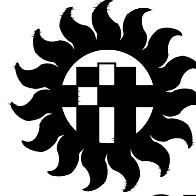


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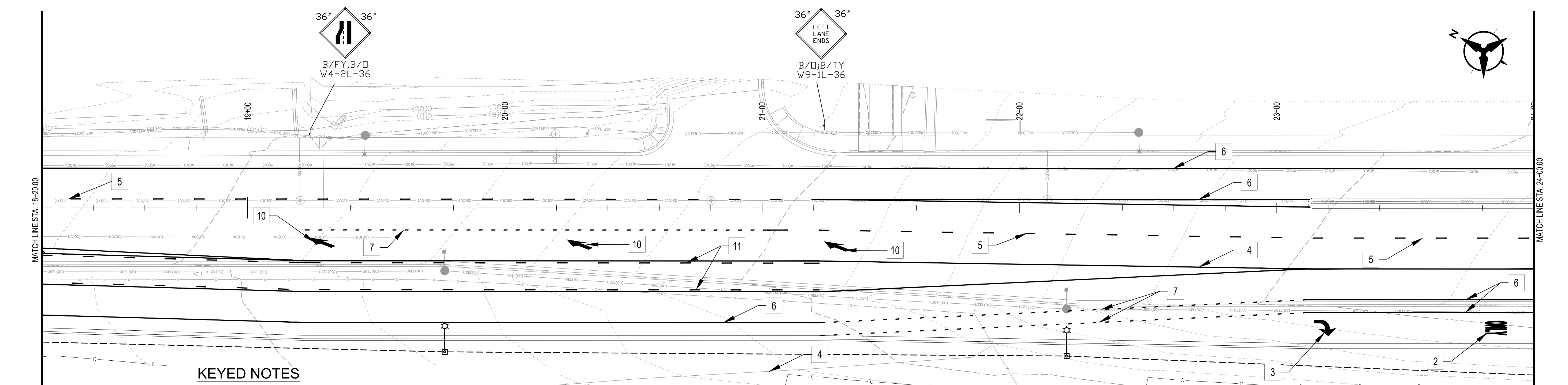
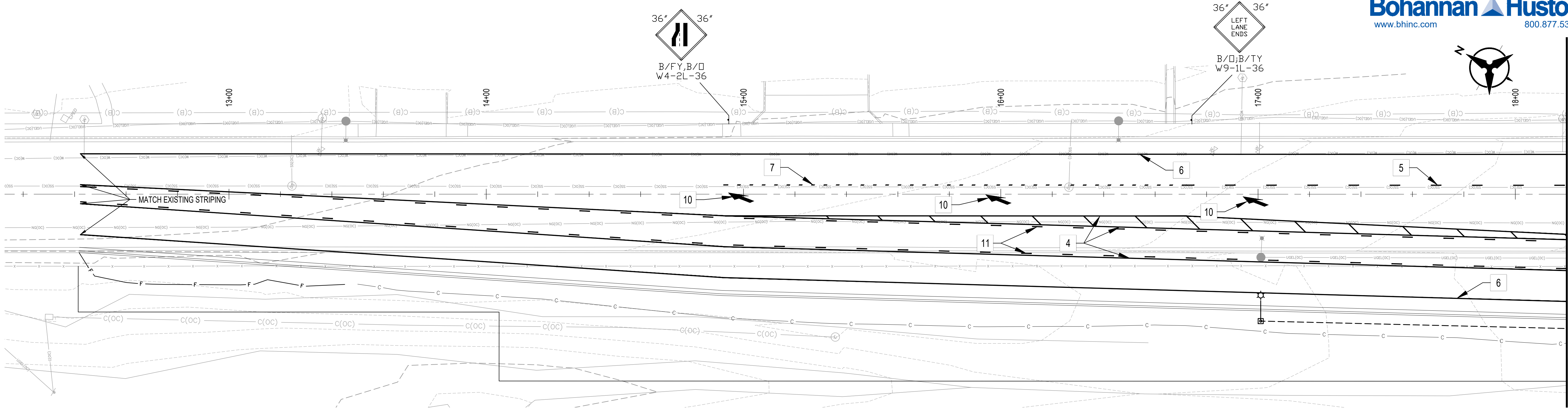


- KEYED NOTES**
- 1 HOT THERMOPLASTIC MARKING LEFT ARROW
 - 2 HOT THERMOPLASTIC MARKING WORD (ONLY)
 - 3 HOT THERMOPLASTIC MARKING RIGHT ARROW
 - 4 4" SOLID YELLOW RETOREFLECTORIZED PAINTED MARKING
 - 5 4" DASHED WHITE RETOREFLECTORIZED PAINTED MARKING (3' STRIPE, 9' GAP)
 - 6 4" SOLID WHITE RETOREFLECTORIZED PAINTED MARKING
 - 7 4" DOTTED WHITE RETOREFLECTORIZED PAINTED MARKING (2' STRIPE, 2' GAP)
 - 8 24" SOLID WHITE HOT THERMOPLASTIC PAVEMENT MARKING
 - 9 6" SOLID WHITE RETOREFLECTORIZED PAINTED MARKING
 - 10 HOT THERMOPLASTIC MARKING LEFT LANE DROP ARROW

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NO.	DESCRIPTION	DATE	BY
REVISIONS (OR CHANGE NOTICES)			



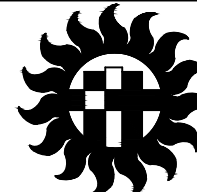
CITY OF LAS CRUCES
SPRUCE AVE INTERSECTION
IMPROVEMENT
SIGNING AND STRIPING
TRIVIZ DR



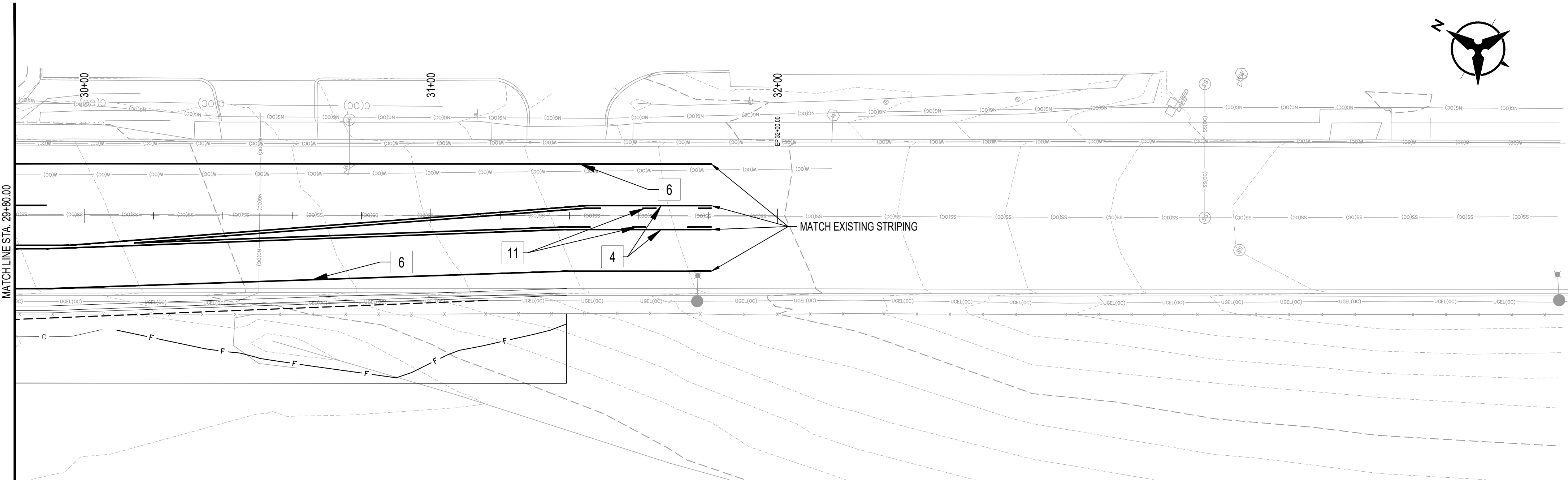
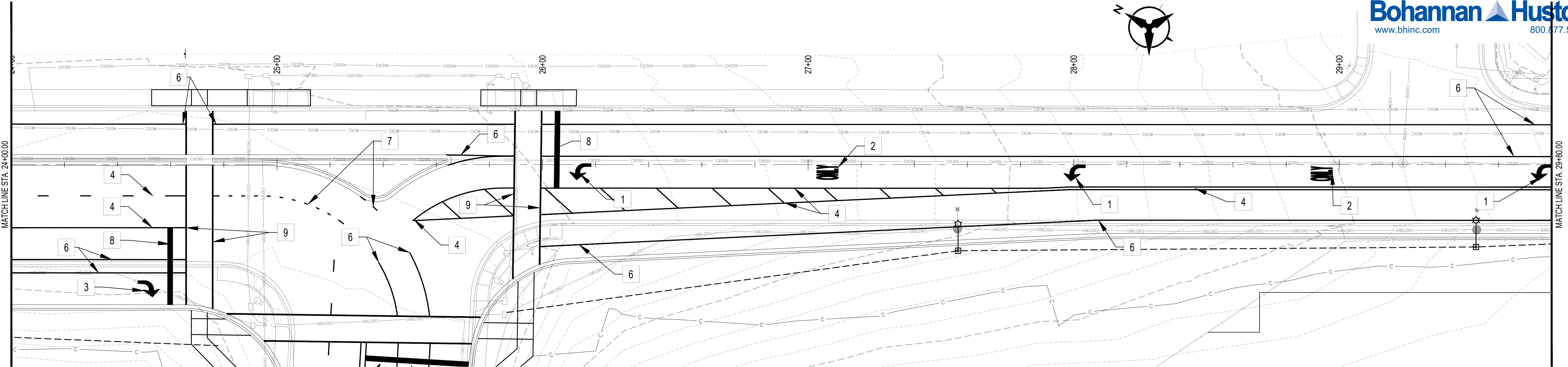
KEYED NOTES

- | | |
|----|---|
| 1 | HOT THERMOPLASTIC MARKING LEFT ARROW |
| 2 | HOT THERMOPLASTIC MARKING WORD (ONLY) |
| 3 | HOT THERMOPLASTIC MARKING RIGHT ARROW |
| 4 | 4" SOLID YELLOW RETOREFLECTORIZED PAINTED MARKING |
| 5 | 4" DASHED WHITE RETOREFLECTORIZED PAINTED MARKING (3' STRIPE, 9' GAP) |
| 6 | 4" SOLID WHITE RETOREFLECTORIZED PAINTED MARKING |
| 7 | 4" DOTTED WHITE RETOREFLECTORIZED PAINTED MARKING (2' STRIPE, 2' GAP) |
| 8 | 24" SOLID WHITE HOT THERMOPLASTIC PAVEMENT MARKING |
| 9 | 6" SOLID WHITE RETOREFLECTORIZED PAINTED MARKING |
| 10 | HOT THERMOPLASTIC MARKING LEFT LANE DROP ARROW |
| 11 | 4" DASHED WHITE RETOREFLECTORIZED PAINTED MARKING (3' STRIPE, 9' GAP) |

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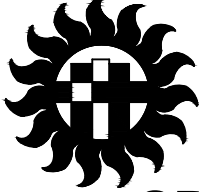
CITY OF LAS CRUCES
SPRUCE AVE INTERSECTION IMPROVEMENT
SIGNING AND STRIPING
N TELSHOR BLVD



KEYED NOTES

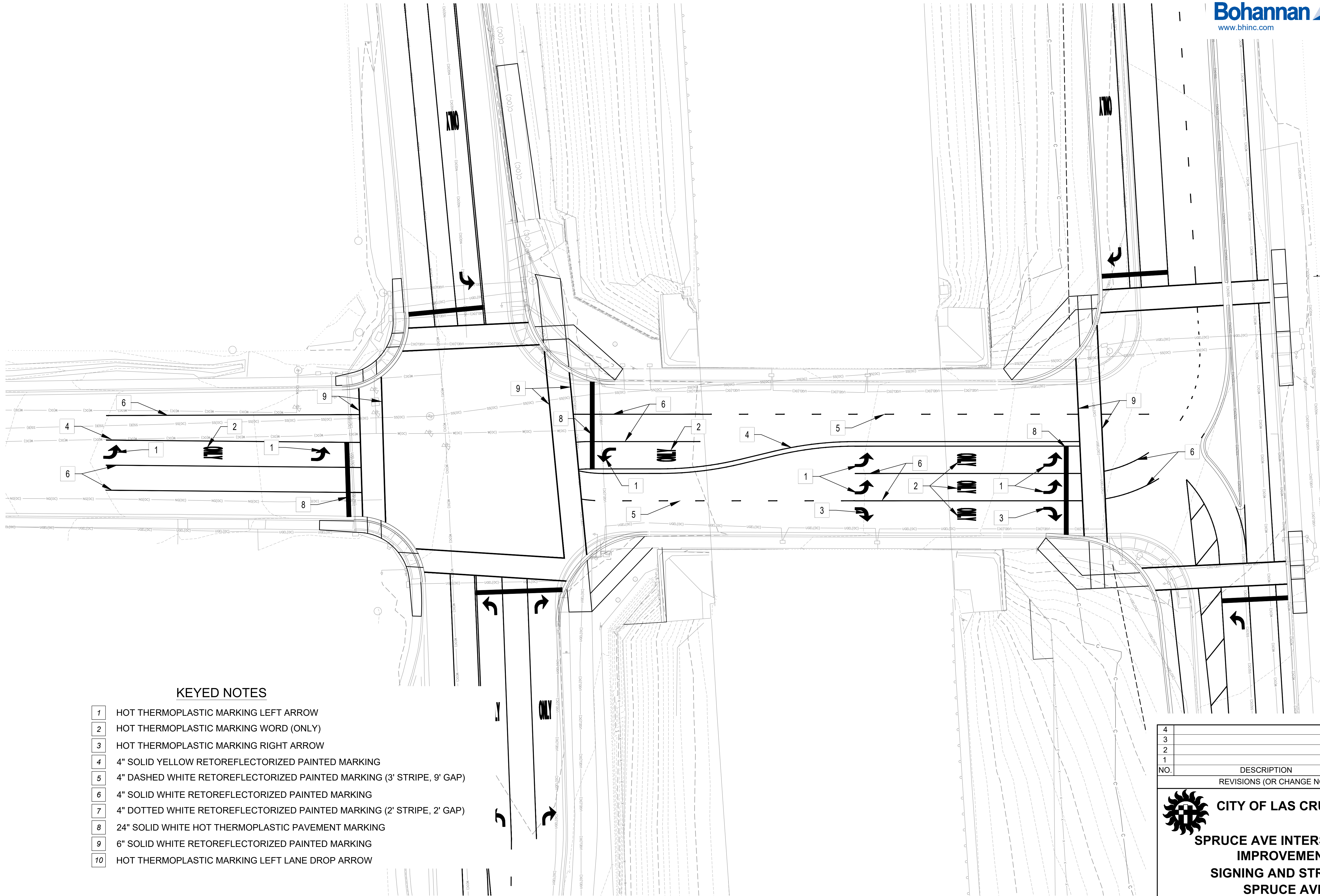
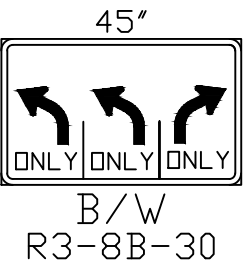
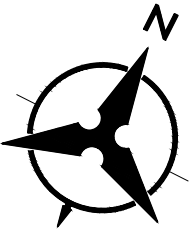
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- 10 HOT THERMOPLASTIC MARKING LEFT LANE DROP ARROW

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CITY OF LAS CRUCES

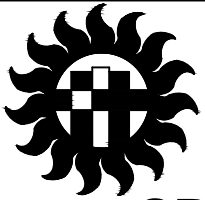
SPRUCE AVE INTERSECTION
IMPROVEMENT
SIGNING AND STRIPING
N TELSHOR BLVD



KEYED NOTES

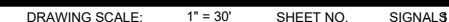
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- 9 6" SOLID WHITE RETOREFLECTORIZED PAINTED MARKING
- 10 HOT THERMOPLASTIC MARKING LEFT LANE DROP ARROW

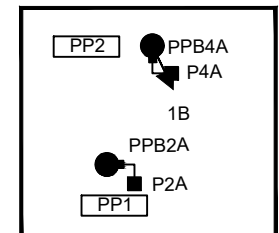
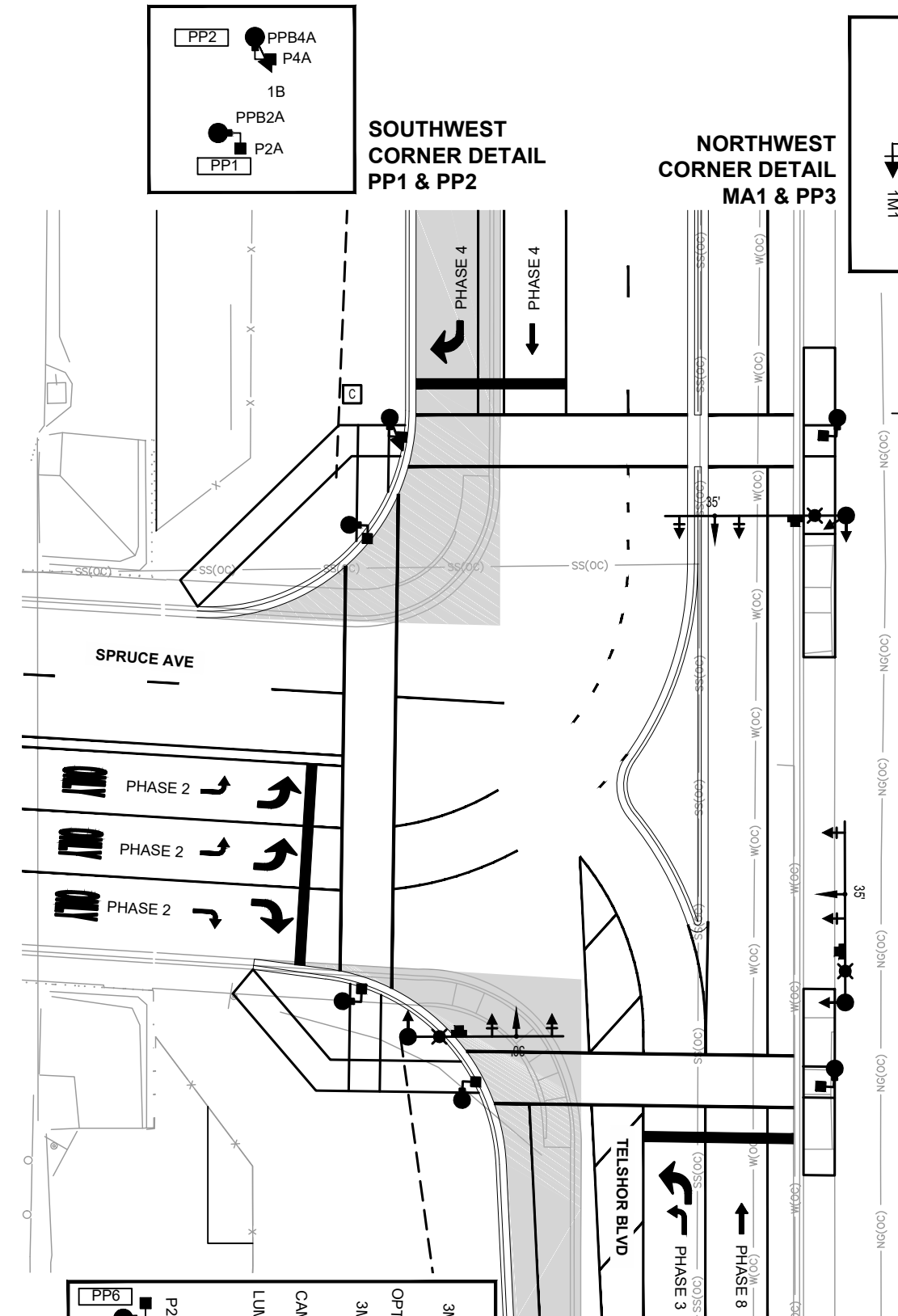
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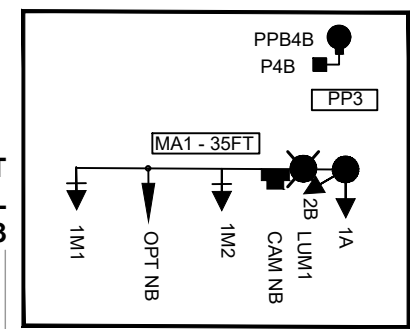
CITY OF LAS CRUCES

**SPRUCE AVE INTERSECTION
IMPROVEMENT
SIGNING AND STRIPING
SPRUCE AVE**

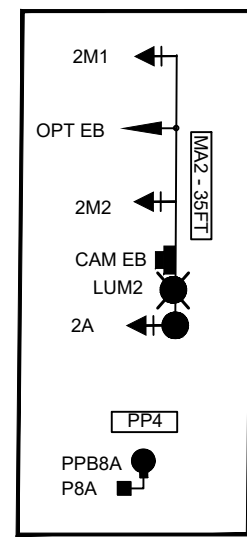




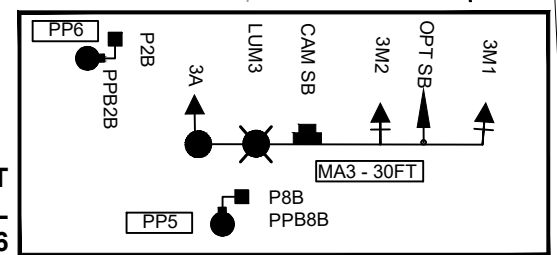
**SOUTHWEST
CORNER DETAIL
PP1 & PP2**



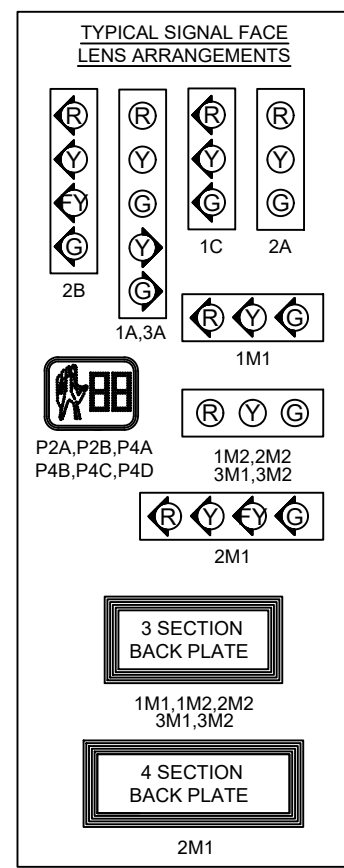
**NORTHWEST
CORNER DETAIL
MA1 & PP3**



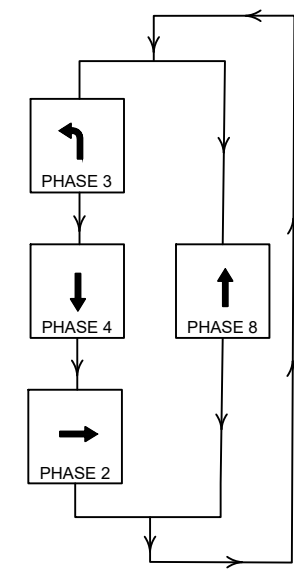
**NORTHEAST
CORNER DETAIL
MA2 & PP4**



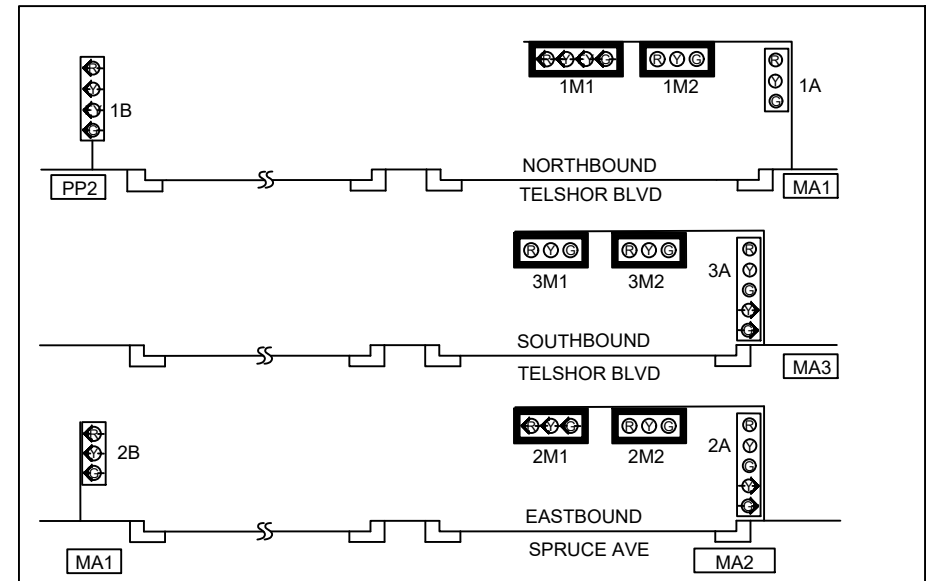
**SOUTHEAST
CORNER DETAIL
MA3 PP5 & PP6**



SIGNAL PHASING



TRAFFIC SIGNAL CONFIGURATION BY APPROACH



FLASH CONDITION

RED BALL 1M1,1M2,1A,1B
3M1,3M2,3A

RED BALL 2M1,2M2,2A,2B

INITIALIZATION

ALL RED, THEN PHASE 2

SYMBOL KEY

- MAX SIGNAL & CABINET ID
- CONDUIT RUN ID (SIGNALS)
- CONDUIT RUN ID (POWER SERVICE)
- CONDUIT RUN ID (LIGHTING)
- CONDUIT RUN ID (INTERCONNECT)

NOTES

- ALL SIGNAL PULL BOXES ARE LARGE SIZE
- ALL LIGHTING PULL BOXES ARE STANDARD SIZE

ABBREVIATIONS

- MA1 MASTARM NUMBER
- PP1 PEDESTAL POLE NUMBER
- PPB1 PEDESTRIAN PUSH BUTTON NUMBER
- CC1 CONTROL CABINET NUMBER
- SC1 SPLICE CABINET NUMBER
- PB1 PULL BOX NUMBER (SIGNALS)
- PBS1 PULL BOX NUMBER (POWER)
- 3A SIGNAL HEAD NUMBER
- P1 PEDESTRIAN SIGNAL NUMBER
- MH1 TRAFFIC MANHOLE NUMBER
- OPT OPTICOM
- CAM VIDEO DETECTOR
- M1 METER
- OVLP OVERLAP

SIGNAL POLES AND MASTARMS					
ID#	TYPE	STATION	OFFSET	LUMINAIRE MOUNTING HEIGHT	LUMINAIRE ARM
MA1	MASTARM - 35' TYPE III			40'	20'
MA2	MASTARM - 35' TYPE III			40'	20'
MA3	MASTARM - 30' TYPE III			40'	20'
PP1	PEDESTAL - 10'			-	-
PP2	PEDESTAL - 15'			-	-
PP3	PEDESTAL - 10'			-	-
PP4	PEDESTAL - 10'			-	-
PP5	PEDESTAL - 10'			-	-
PP6	PEDESTAL - 10'			-	-

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DATE

BY

REVISIONS (OR CHANGE NOTICES)

CITY OF LAS CRUCES

SPRUCE AVE INTERSECTION IMPROVEMENT

SPRUCE @ TELSHOR SIGNAL LAYOUT

SUGGESTED TRAFFIC CONTROL SEQUENCE OF CONSTRUCTION:

PHASE 1.A:

CONSTRUCT NORTHWEST C&G, SIGNAL, AND CURB RETURN/ RT TURN LANE OF N. TELSHOR BLVD. CONSTRUCT SOUTHWEST C&G, AND CURB RETURN/ WIDENING OF N. TELSHOR BLVD; INSTALL SIGNAL MASTARM AND EQUIPMENT ON SOUTHWEST CORNER. INCLUDING SIDEWALK RELOCATIONS.

CONSTRUCT NEW C&G AND CURB RETURNS ALONG TRIVIZ; INSTALL NEW TRAFFIC SIGNAL MASTARMS AND EQUIPMENT ALONG TRIVIZ.

TRAFFIC CONTROL:

CONSTRUCT TEMPORARY TRAFFIC SIGNALS AT BOTH INTERSECTIONS.

SPRUCE:

ON EB APPROACH TO TRIVIZ MAINTAIN LT TURN LANE, THRU MIDDLE LANE AND RT LANE CONVERT TO RT TURN ONLY. BETWEEN TRIVIZ AND TELSHOR CLOSE OUTSIDE LANES OF BOTH EB & WB SPRUCE AVE, UTILIZING BARRICADES, DRUMS AND "RIGHT LANE CLOSED XXFT" SIGNAGE; OPEN INSIDE EB LT TURN LANE BUT UTILIZE THE MIDDLE LANE AS RT TURN ONLY.

N. TELSHOR BLVD:

MAINTAIN 10' NB THRU LANE MEASURED FROM LIP OF GUTTER. PROVIDE 10' LT TURN LANE ON NB APPROACH TO INTERSECTION. PROVIDE 1-10' SB THRU LANE & 1-10' RT TURN LANE ON SB APPROACH TO INTERSECTION. SHIFT SB THRU LANE BACK TO EXISTING STRIPING SOUTH OF THE INTERSECTION.

TRIVIZ:

ON NB APPROACH CLOSE EXISTING RT TURN LANE, DELINEATE 1- 11' RT TURN LANE, 1-11' THRU LANE, AND 1-11' LT TURN LANE, WHILE MAINTAINING A11' SB THRU LANE. ON SB APPROACH 1-11' RT/THRU LANE, 1-10' LT TURN LANE; REMOVE QUICK CURB AT INTERSECTION AND SHIFT NB THRU LANE TO UTILIZE THE EXISTING SOUTHBOUND LEFT TURN LANE PROVIDING 1- 11' THRU LANE.

PHASE 1.B:

INSTALL 2- TRAFFIC SIGNAL MASTARMS AND EQUIPMENT ON EAST SIDE OF N. TELSHOR BLVD.

N. TELSHOR BLVD:

MAINTAIN 4' BICYCLE BUFFER ON NB. SHIFT 10' NB THRU LANE MEASURED FROM EDGE OF BICYCLE LANE. PROVIDE 10' LT TURN LANE ON NB APPROACH TO INTERSECTION. PROVIDE 1-10' SB THRU LANE & 1-10' RT TURN LANE ON SB APPROACH TO INTERSECTION. SHIFT SB THRU LANE BACK TO EXISTING STRIPING SOUTH OF THE INTERSECTION.MAINTAIN TRAFFIC CONTROL AS IN PHASE 1.A; CLOSE NB BICYCLE BUFFER ON N. TELSHOR BLVD.

PHASE 2:

CONSTRUCT MEDIAN ISLAND ON N. TELSHOR BLVD.

TRAFFIC CONTROL:

N. TELSHOR BLVD.

1-10' NB THRU LANE MEASURED FROM LIP OF GUTTER. SPLIT NB LT TURN LANE OFF FROM NB THRU LANE AND PROVIDE BUFFER BETWEEN TURN LANE AND THRU LANE. UTILIZE NEWLY CONSTRUCTED SB RT TURN LANE AND THRU LANES; NO MODIFICATION TO THEIR OPERATION.

SPRUCE:

CLOSE OUTSIDE LT TURN LANE.

PHASE 3:

CONSTRUCT NEW ADA RAMPS AND SIGNAL MASTARMS AND EQUIPMENT ALONG WEST SIDE OF TRIVIZ.

TRAFFIC CONTROL:

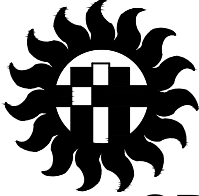
SPRUCE:

CLOSE OUTSIDE RT LANE ON EB APPROACH TO TRIVIZ USING DRUMS/ BARRICADES. MIDDLE LANE ON APPROACH TO BE THRU/RT TURN. CONVERT OUTSIDE LANE ON WB APPROACH TO TRIVIZ TO RT TURN ONLY. CLOSE OUTSIDE LANE ON WB DEPARTURE FROM INTERSECTION UNTIL CLEAR OF CONSTRUCTION ON NORTHWEST CORNER. NB APPROACH- NO CHANGES TO OPERATIONS.

TRIVIZ:

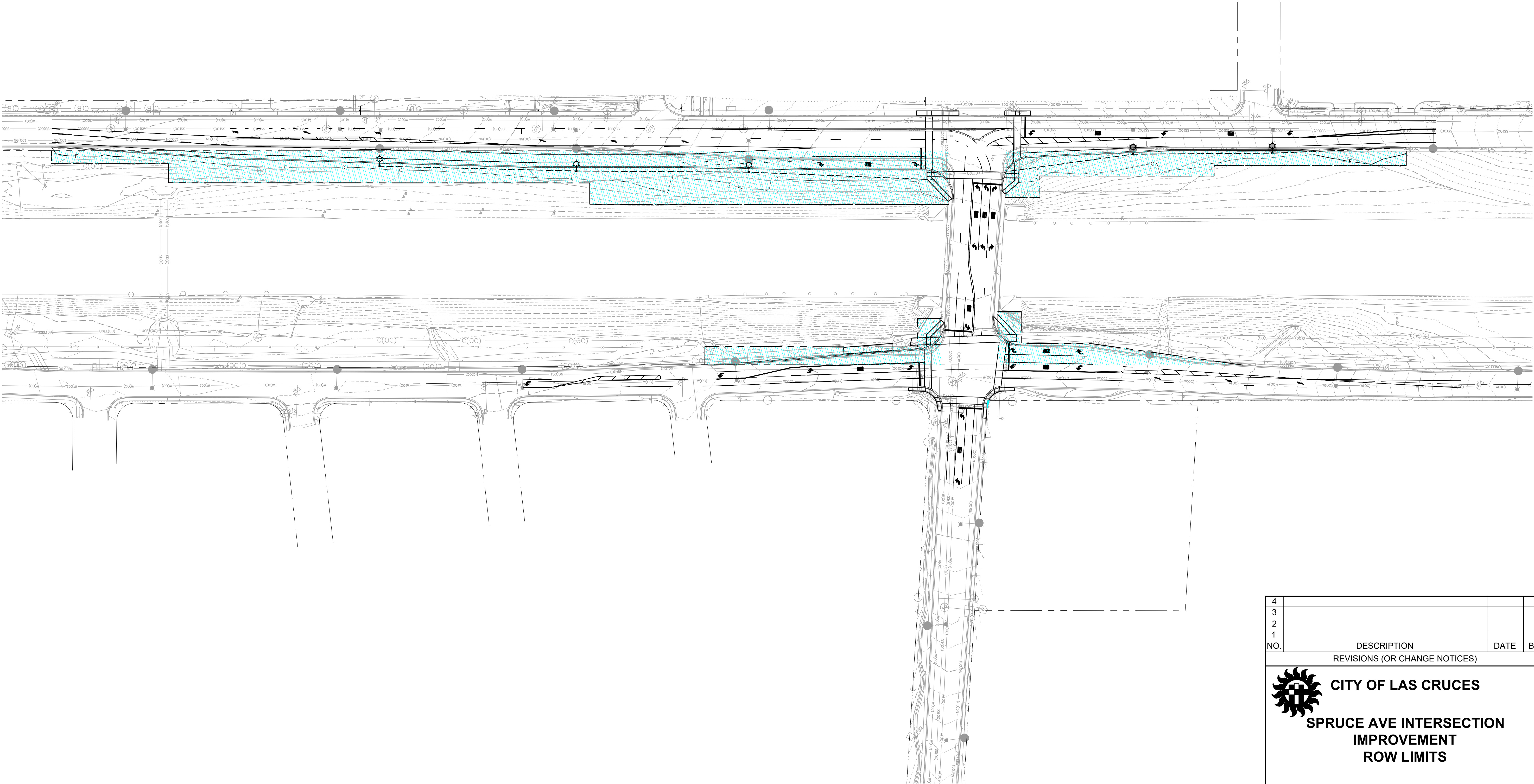
CLOSE OUTSIDE LANE OF SB APPROACH TO INTERSECTION, MAINTAIN CLOSED THROUGH INTERSECTION THEN OPEN AGAIN ONCE PAST CONSTRUCTION ON SOUTHWEST CORNER OF INTERSECTION.

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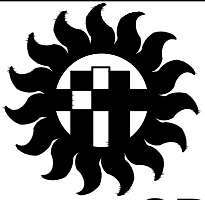


CITY OF LAS CRUCES

SPRUCE AVE INTERSECTION
IMPROVEMENT
SEQUENCE OF CONSTRUCTION



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REVISIONS (OR CHANGE NOTICES)			



CITY OF LAS CRUCES
SPRUCE AVE INTERSECTION
IMPROVEMENT
ROW LIMITS

WITHOUT MADRID EXTENSION
EXISTING & PROJECTED TURNING MOVEMENTS

INTERSECTION: TRIVIZ AND SPRUCE

AM Peak Hour

		Eastbound SPRUCE			Westbound SPRUCE			Northbound TRIVIZ			Southbound TRIVIZ		
		Left	Thru	Right	Left	Thru	Right	Left	Thru	Right	Left	Thru	Right
2019 Volumes		46	420	99	192	399	63	39	127	112	187	235	21
	Change												
2019 Volumes		46	420	99	192	399	63	39	127	112	187	235	21
	1.1% Background Growth (2019-2025)	3	28	7	13	26	4	3	8	7	12	16	1
2025 Volumes		49	448	106	205	425	67	42	135	119	199	251	22
	0.81% Background Growth (2025-2040)	6	54	13	25	52	8	5	16	15	24	30	3
2040 Volumes		55	502	118	230	477	75	47	152	134	224	281	25
PHF		0.90			0.90			0.90			0.90		
HV %			2			2			2			2	

PM Peak Hour

		Eastbound SPRUCE			Westbound SPRUCE			Northbound TRIVIZ			Southbound TRIVIZ		
		Left	Thru	Right	Left	Thru	Right	Left	Thru	Right	Left	Thru	Right
2019 Volumes		59	542	64	209	401	226	64	282	214	153	218	58
	Change												
2019 Volumes		59	542	64	209	401	226	64	282	214	153	218	58
	1.1% Background Growth (2019-2025)	4	36	4	14	26	15	4	19	14	10	14	4
2025 Volumes		63	578	68	223	427	241	68	301	228	163	232	62
	0.81% Background Growth (2025-2040)	8	70	8	27	52	29	8	37	28	20	28	8
2040 Volumes		71	648	77	250	479	270	77	337	256	183	261	69
PHF		0.95			0.95			0.95			0.95		
HV %			2			2			2			2	

WITHOUT MADRID EXTENSION
EXISTING & PROJECTED TURNING MOVEMENTS

INTERSECTION: TELSHOR AND SPRUCE

AM Peak Hour

		Eastbound SPRUCE			Westbound SPRUCE			Northbound TELSHOR			Southbound TELSHOR		
		Left	Thru	Right	Left	Thru	Right	Left	Thru	Right	Left	Thru	Right
2019 Volumes		389	0	346	0	0	0	186	145	0	0	191	472
	Change												
2019 Volumes		389	0	346	0	0	0	186	145	0	0	191	472
	1.1% Background Growth (2019-2025)	26	0	23	0	0	0	12	10	0	0	13	31
2025 Volumes		415	0	369	0	0	0	198	155	0	0	204	503
	0.81% Background Growth (2025-2040)	50	0	45	0	0	0	24	19	0	0	25	61
2040 Volumes		465	0	414	0	0	0	222	173	0	0	228	564
PHF		0.94			0.94			0.94			0.94		
HV %			2			2			2			2	

PM Peak Hour

		Eastbound SPRUCE			Westbound SPRUCE			Northbound TELSHOR			Southbound TELSHOR		
		Left	Thru	Right	Left	Thru	Right	Left	Thru	Right	Left	Thru	Right
2019 Volumes		565	0	344	0	0	0	384	362	0	0	234	452
	Change												
2019 Volumes		565	0	344	0	0	0	384	362	0	0	234	452
	1.1% Background Growth (2019-2025)	37	0	23	0	0	0	25	24	0	0	15	30
2025 Volumes		602	0	367	0	0	0	409	386	0	0	249	482
	0.81% Background Growth (2025-2040)	73	0	45	0	0	0	50	47	0	0	30	59
2040 Volumes		675	0	411	0	0	0	459	433	0	0	280	540
PHF		0.93			0.93			0.93			0.93		
HV %			2			2			2			2	

C. ALTERNATIVE 3: HIGH-T INTERSECTION WITH DUAL EASTBOUND LEFT
(WITHOUT MADRID EXTENSION)

In 2040 without the Madrid extension, the Triviz and Telshor intersections are expected to operate overall acceptably, however, there will be some failing movements. Telshor operates under capacity but the northbound left will queue beyond the available storage. The proposed dual eastbound left turn lanes are not expected to experience high delay or queue spillover into the Triviz intersection.

Triviz operates overall acceptably with the northbound thru, northbound right, and southbound left expected to operate at LOS E or F in the PM. No movements are reported to have queueing beyond available storage.

Note, analysis of both intersections required use of HCM 2000 procedures as HCM 6 does not support turning movements with shared and exclusive lanes, custom phasing, or phasing conflicts.

See Table 20 for capacity analysis results and Table 21 for queue results.

Table 20 2040 Signalized Intersection Capacity Analysis Results Alternative 3 (Without Madrid Extension)						
Intersection	2040 AM Peak			2040 PM Peak		
	Delay	V/C	LOS	Delay	V/C	LOS
Triviz & Spruce Dedicated SBR/NBT/NBR	26.2	0.69	C	38.8	0.98	D
				NBT*, NBR**, SBL*		
Telshor & Spruce	11.6	0.59	B	17.8	0.94	B
* Movements LOS E						
** Movements LOS F						

Table 21 Queue Results Alternative 3 (Without Madrid Extension)			
Movement	Available Length (ft)	Queue (ft)	
		AM	PM
Telshor			
Eastbound Left	235	116	177
Northbound Left	180	130	#356
# 95 th percentile volume exceeds capacity; queue may be longer			

B. FUTURE NETWORK ANALYSIS (2040)

1. WITHOUT MADRID EXTENSION

In the 2040 analysis year, without the Madrid extension, all intersections will continue to operate as they did in 2025 with the expected increases in overall delay.

See analysis results in Table 28 below for failing movements.

Table 28 2040 Signalized Intersection Capacity Analysis Results Without Madrid Extension						
Intersection	2040 AM Peak			2040 PM Peak		
	Delay	V/C	LOS	Delay	V/C	LOS
Main^ & Solano	154.9	4.21	F**	42.9	1.01	D**
	EBL**, WBL**, SBL**			EBL**, WBL**, WBT*, NBL*, SBL*		
Solano^ & Madrid	15.8	0.79	B	9.0	0.81	A
Solano^ & Spruce	31.0	0.89	C	41.2	0.95	D
	-			NBT*, NBR*		
Main^ & Triviz/Elks	106.9	1.96	F**	66.3	1.42	E**
	EBL**, EBT**, EBR**, NBL**, SBL**			EBL**, EBT*, WBT**, NBL*, NBT**, SBL**		
Triviz^ & Spruce	29.6	0.94	C	34.4	0.88	C
	SBL*, SBR*			NBT*, SBL*		
Del Rey^ & Telshor	39.4	0.69	D	22.4	0.94	C
	WBT**			-		
Telshor^ & Spruce	41.0	1.00	D	85.3	1.05	F
	EBL**, EBR*			EBL**, SBR**		
Telshor^ & Lohman	39.9	1.03	D**	64.4	1.14	E**
	EBL**, NBL*			EBL**, EBT**, WBL*, NBL**, SBL*		
* Movements LOS E ** Movements LOS F ^ North-South						

At the unsignalized intersection of Triviz & Madrid, the eastbound approach degrades to LOS F in both AM and PM peak hours.

Table 29 2040 Unsignalized Intersection Results Without Madrid Extension								
Intersection	2040 AM Peak				2040 PM Peak			
	Delay	V/C	Queue	LOS	Delay	V/C	Queue	LOS
Triviz & Madrid	15.7	-	-	-	12.4	-	-	-
Northbound Left	9.6	0.15	25	A	9.3	0.16	25	A
Eastbound Approach	67.5	0.92	250	F	78.9	0.9	200	F
HCM 95 th percentile queue rounded to next 25-foot increment								



City of Las Cruces

City Council Action and Executive Summary

3027; Council Bill 23-021

Type of Action:
☐ Resolution
☒ Ordinance
☐ TIDD Resolution

District:	☐ 1	☐ 2	☒ 3	☐ 4	☐ 5	☐ 6	☐ N/A
1st Reading:	February 21, 2023			Adopted:	March 6, 2023		
Drafter:	John Castillo			Department:	Community Development		
Program:	Land Use Development			Line of Business:	Development Center		
Title:	AN ORDINANCE APPROVING A ZONE CHANGE FROM C-1 (COMMERCIAL LOW INTENSITY) TO C-2 (COMMERCIAL MEDIUM INTENSITY) ON A PROPERTY ENCOMPASSING 0.264 ± ACRES. THE ZONE CHANGE REQUEST SEEKS TO BRING THE PROPERTY INTO COMPLIANCE WITH THE 2001 LAS CRUCES MUNICIPAL CODE, AS AMENDED. THE SUBJECT PROPERTY IS LOCATED AT 2505 MISSOURI AVENUE.						

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-1 (Commercial Low Intensity) to C-2 (Commercial Medium Intensity) on a developed parcel of land located at 2505 Missouri Avenue. The purpose of the proposed zone change is to bring the property into compliance with the 2001 Las Cruces Municipal Code, as amended as it currently does not meet the maximum gross floor square footage of 2,500 as outlined in the development standards of the C-1 zoning district and is considered a legal non-conforming property. The property is currently 3,189 square feet and is being used as a Cannabis retail establishment that received approval for a Special Use Permit in June of 2022.

The property is zoned C-1 (Commercial Low Intensity) which has a 2,500 sq. ft. maximum building gross floor area requirement as outlined in the development standards of the C-1 zoning district. The proposed zone change request will allow the business owner to operate from the entire 3,189 sq. ft. building. The rezoning will support increased attraction and retention of business at this location while bringing the property into compliance with the zoning code. The surrounding neighborhood has a mixture of retail, office, and residential land uses. Based on the existing neighborhood, the proposed zone change is compatible with the surrounding area, specifically the commercial corridor, and would be in harmony with Section 38-2 of the 2001 Zoning Code.

The proposed zone change is consistent with the intent of Elevate Las Cruces including the Future Development Map and several Goals, Policies, and Actions. Missouri Avenue is classified as an arterial roadway in Elevate Las Cruces' Future Thoroughfare Map and the MPO Future Thoroughfare Plan. The subject property is also located near a proposed Mixed-Use Corridor within the Urban Neighborhood Place Type. As Mixed-Use Corridors support residential and non-residential land uses along the roadway or trail corridors and the Urban

Agenda Item #6.2.

Neighborhood Place Type includes a variety of residential housing types and areas that support neighborhood development. These corridors link existing urban destinations such as downtown, medical complexes, and NMSU, and projected Town Centers and Neighborhood Centers. The Mixed-Use Corridor concept also provides a feasible way for transforming communities to incorporate urban form and intensity among single-family neighborhoods of lower density. They weave new mixed-use development into older opportunity areas - reinvigorating commercial corridors and increasing the value of adjacent residential areas.

On August 23, 2022 the Planning and Zoning Commission (P&Z), per Section 38-10 B. 2. B. of the 2001 Zoning Code, as amended, recommended approval of the proposed zone changes by a vote of 6-0-0 (One Commissioners Seat Vacant) based on the following findings, also reflected in Exhibit "B":

- The subject property is located along a principal arterial roadway where medium to high-intensity zoning such as the proposed C-2 zoning designation is encouraged
- The proposed zone change will allow for the expansion of an existing business, increase employment, and increase the value of the subject property and the surrounding area. (2001 Zoning Code, Article 1, Section 38-2N)
- Based upon staff's analysis of the proposal, the proposed zone change request meets the intent of the Elevate Las Cruces Comprehensive Plan
- Is compatible with adjacent uses and zoning districts; meets the purpose and intent outline in Section 38-2 of the 2001 Zoning Code, as amended; and fulfills the purpose of the Las Cruces Municipal Code Section 2-382

The case was publicly noticed in accordance with the City's notification provisions; staff received no phone calls in support or protest of the zone change prior or during the P&Z hearing.

SUPPORT INFORMATION:

[Exhibit "A" -Legal Description](#)

[Exhibit "B"-Findings](#)

[Attachment "A" -2505 Missouri PZ Staff Report](#)

[Attachment "B" -08-23-2022 P&Z 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:

Agenda Item #6.2.

1. Vote "Yes", this will approve the Ordinance and affirm the P&Z recommendation for approval. The subject property located at 2505 Missouri Avenue will be rezoned from C-1 (Commercial Low Intensity) to C-2 (Commercial Medium Intensity).
2. Vote "No", this will deny the Ordinance and will reject the recommendation made by the P&Z. The current zoning designation of C-1 (Commercial Low Intensity) will remain on the subject property. Denial of the zone change will require new information or facts of finding not identified or presented during staff review or the P&Z meeting.
3. Vote to "Amend", this could allow the City Council to modify the Ordinance by adding conditions as determined appropriate.
4. Vote to "Table", this could allow the City Council to table/postpone the Ordinance and direct staff accordingly.

ORDINANCE 3027; COUNCIL BILL 23-021

AN ORDINANCE APPROVING A ZONE CHANGE FROM C-1 (COMMERCIAL LOW INTENSITY) TO C-2 (COMMERCIAL MEDIUM INTENSITY) ON A PROPERTY ENCOMPASSING 0.264 ± ACRES. THE ZONE CHANGE REQUEST SEEKS TO BRING THE PROPERTY INTO COMPLIANCE WITH THE 2001 LAS CRUCES MUNICIPAL CODE, AS AMENDED. THE SUBJECT PROPERTY IS LOCATED AT 2505 MISSOURI AVENUE.

The City Council is informed that:

WHEREAS, K. Payne Relief LLC., property owner, has submitted a request for a zone change from C-1 (Commercial Low Intensity) to C-2 (Commercial Medium Intensity) for 2505 Missouri Avenue; and

WHEREAS, the proposed C-2 zoning designation will allow for additional attraction and current retention of the existing business, as well as, bring the property into compliance with the 2001 Las Cruces Municipal Code, as amended; and

WHEREAS, the proposed site is in the Urban Neighborhood Place Types and adjacent to a proposed Mixed-Use Corridor as shown on the Future Development Map within Elevate Las Cruces Comprehensive Plan which supports neighborhood commercial development and a variety of residential housing types at medium-to-high densities uses; and

WHEREAS, the Planning and Zoning Commission, after conducting a public hearing on August 23, 2022, recommended that said zone change request be approved by a vote of 6-0-0 (one Commissioner seat vacant).

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-2 (Commercial Medium 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

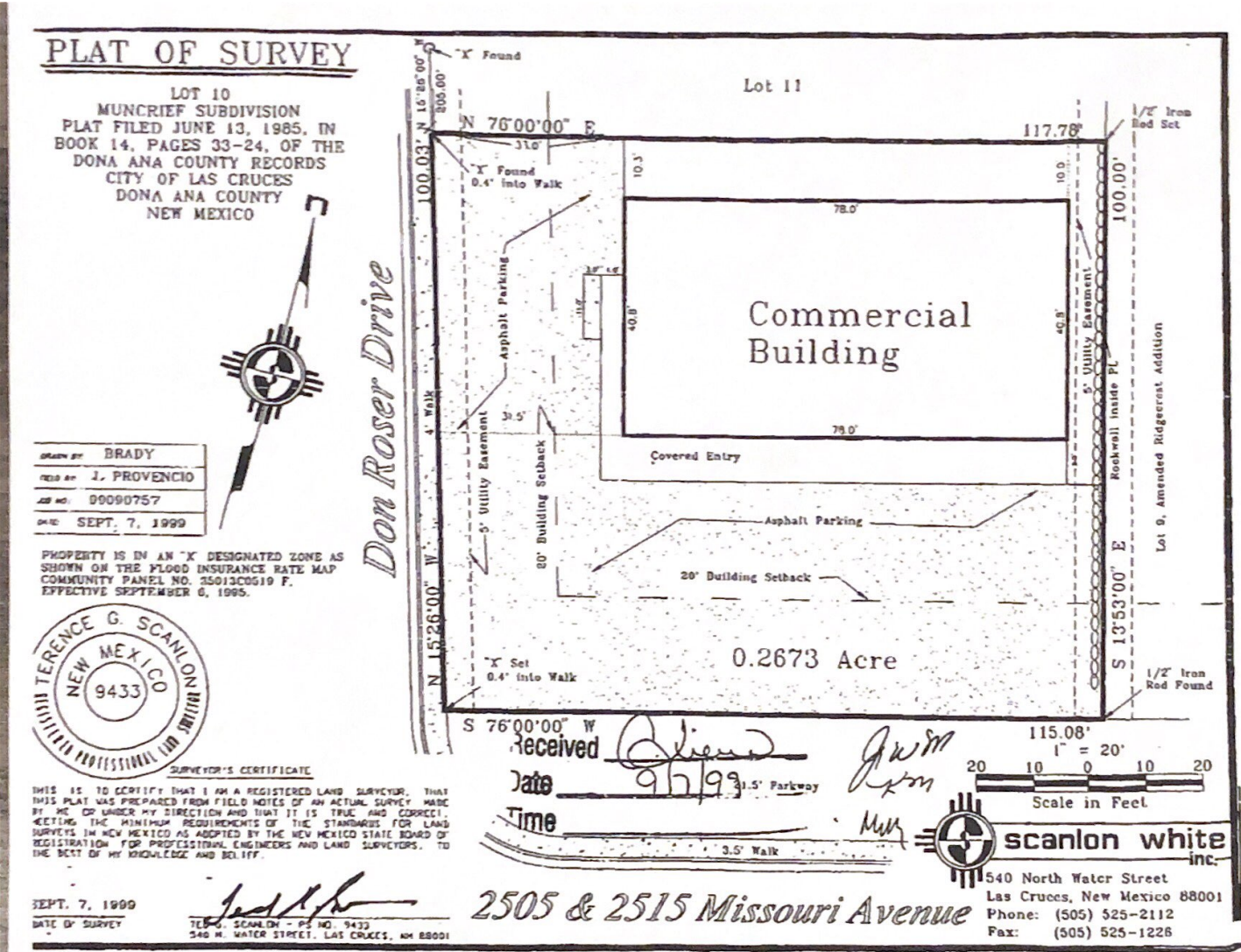
ATTEST:

Moved by:

Seconded by:

AYES

NAYS



FINDINGS

- The subject property is located along a principal arterial roadway where medium to high intensity zoning such as the proposed C-2 zoning designation is encouraged
- The proposed zone change will allow for expansion of an existing business, increase employment, and increase the value of the subject property and the surrounding area. (2001 Zoning Code, Article 1, Section 38-2N)
- Based upon staff's analysis of the proposal, the proposed zone change request meets the intent of the Elevate Las Cruces Comprehensive Plan based on the following Goals, Policies and Actions:
 - CE-3: Centers and Corridors
 - CE4: Develop mixed-use neighborhoods that incorporate wide range of recreational, commercial, and civic uses.
 - Policy CE-4.2
 - Action CE 4.1.2
 - CP-4: Seek a balance of business recruitment, retention, and expansion to diversity economic opportunities
 - Policy CP-4.2
 - CL-18: Provide opportunities for residents to improve their mental health and physical health.
- Is compatible with adjacent uses and zoning districts; meets the purpose and intent outline 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
MOUNTAINS OF OPPORTUNITY

Planning & Zoning Commission 08/23/2022
CASE 22ZO0500094: REZONING

STAFF CONTACT: John Castillo, (575) 541-2288,
jcastillo@las-cruces.org

OWNER: K. Payne Relief, LLC – DBA From the Earth

REPRESENTATIVE: Keifer Payne

DISTRICT: District #3

SITE ADDRESS: 2505 Missouri Avenue.

EXISTING ZONING: C-1 (Commercial Low Intensity)

REQUEST: Rezone from C-1 (Commercial Low Intensity)
to C-2 (Commercial Medium Intensity)

RELATED APPLICATIONS: N/A

STAFF RECOMMENDATION: Approval

SUMMARY OF REQUEST CASE 22ZO0500094:

The applicant is requesting a zone change from C-1 (Commercial Low Intensity) to C-2 (Commercial Medium Intensity) for a property that encompasses 0.264 ± acres. The proposed zone change would allow for expansion of the existing development and would 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 located along a principal arterial roadway where medium to high intensity zoning such as the proposed C-2 zoning designation is encouraged.
- The proposed zone change will allow for expansion of an existing business, increase employment, and increase the value of the subject property and the surrounding area. (2001 Zoning Code, Article 1, Section 38-2N).
- Based upon staff's analysis of the proposal, the proposed zone change request meets the intent of the Elevate Las Cruces Comprehensive Plan; 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.

REZONING

PROPOSAL AND LAND USE HISTORY

PROJECT DESCRIPTION:

The applicant is seeking to bring a commercially developed parcel into compliance for future additions to the existing development. The subject property is 0.264 ± acres in size, with a structure that is 3,198 ± square feet in size, which exceeds the maximum building gross floor area requirement of 2,500 square feet of the existing C-1 (Commercial Low Intensity) zoning designation. The applicant is currently using no more than the required 2,500 square feet of the building to satisfy the requirement of the C-1 zoning district. The applicant is proposing to utilize the entire 3,198 ± square foot building as business begins to grow, which requires the property to come into compliance with the 2001 Zoning Code, as amended. The proposed zone change to C-2 (Commercial Medium Intensity) would bring the property into compliance with the 2001 Zoning Code, as amended.

LAND USE HISTORY:

The property was commercially zoned prior to 1970. In 2008 the property was further subdivided via the Muncrief Subdivision leading to the 0.264 ± acre lot that exists today. The building that exists currently on the property was built in 1977 and is 3,198 ± square feet in size. The lot sits at the corner of Don Roser Drive and Missouri Avenue.

ZONING DECISION CRITERIA AND POLICIES

POLICY	DOES IT COMPLY?
Neighborhood Character and Compatibility	Yes
Comprehensive Plan 2040	Yes
Thoroughfare Plans	Yes
Purpose and Intent of the Code: Section 38-2	Yes
Criteria for Decisions: Section 2-382	Yes
New Mexico Case Law	Yes

NEIGHBORHOOD CHARACTER AND COMPATIBILITY:

The property is located within an area containing a mix of zoning districts. These districts include R-1a (Single-Family Medium Density), C-1 (Commercial Low Intensity), C-2 (Commercial Medium Intensity), and C-3C (Commercial High Intensity – Conditional). The single-family uses within the R-1a district are directly northeast of the subject property. Several other properties containing multi-family residential, retail, service and office uses surround the subject property. The two roads providing ingress/egress to the property are Don Roser Drive and Missouri Avenue, both minor arterial roadways as designated by the Mesilla Valley Metropolitan Planning Organization (MPO) . From a staff perspective, the proposed zone is compatible with the area and would pose no greater impact to surrounding properties.

COMPLIANCE WITH ELEVATE LAS CRUCES COMPREHENSIVE PLAN:

The property is located within an area designated as a The Suburban Neighborhood Place Type as shown on the Future Development Map in the Elevate Las Cruces Comprehensive Plan. The Suburban Neighborhood Place Type provides for low-to-moderate density residential land uses intermixed with areas of commercial development. As part of this, office and retail uses are some of the predominant land uses found in this place type.

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.
 - Goal CE-4: Develop mixed-use neighborhoods that incorporate a wide range of recreational, commercial, 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-4: 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.
- Community Livability:
 - Goal CL-18: Provide opportunities for residents to improve their mental health and physical health.

The goals and policies outlined within the Comprehensive Plan support the expansion of office and commercial uses, which supports economic growth and revitalization within the City's core, creates opportunities for the business community, and helps provide services to the surrounding residential community.

COMPLIANCE WITH THOROUGHFARE PLANS:

Missouri Avenue and Don Roser Drive are minor arterial roadways, as designated by the Mesilla Valley MPO Future Thoroughfare Plan and Elevate Las Cruces Future Thoroughfare Map, where medium to high intensity commercial uses and zoning are considered appropriate.

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 relevant purpose and intent statements to the proposed zone change are:

- A. Ensure that all development is in accordance with this Code and the Las Cruces Comprehensive Plan and its elements;
- B. Give reasonable consideration to the character of each zoning district and its peculiar suitability for particular uses;
- L. Ensure the development proposals are sensitive to the character of existing neighborhoods; and

Q. Mitigate conflicts among neighbors.

Review by City of Las Cruces staff determined the proposed zone change would not adversely impact the surrounding area. The proposed zone change will also allow for the expansion of an existing business and provide additional opportunities for employment in the City of Las Cruces.

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.

Based on reviews of applicable codes and policies, City Staff did not identify any issues associated with the proposed zone change. The existing use and proposed addition will not contradict the purpose and intent of the Zoning Code nor impair public health, safety, or general welfare of the City.

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 subject property was zoned commercially prior to 1970. In that previous zoning code, commercially zoned properties did not have a maximum lot size requirement nor a maximum building square footage standard. The adoption of the 1981 Zoning Code created more intense commercial zoning categories and added a maximum building square footage of 3,000 square feet to the C-1 zoning district. The adoption of the 2001 Zoning Code then created a less intense commercial zoning category of the C-1 zoning district and added a maximum lot size requirement and reduced the maximum building square footage to 2,500 square feet. This essentially made the property non-conforming with the current 2001 Zoning Code. The proposed zone change to C-2 would bring the property into compliance with the 2001 Zoning Code, as amended.

DEVELOPMENT STANDARDS

SITE COMPLIANCE FOR USES UNDER CURRENT ZONING:

The subject property is currently zoned C-1 (Commercial Low Intensity) and the existing commercial retail store is a permitted use, but the issue of the existing building exceeding the maximum gross floor area standard makes the property non-

conforming. Future proposed additions to the existing facilities requires the property to come into compliance with 2001 Zoning Code, as amended.

SITE SUITABILITY FOR USES UNDER PROPOSED ZONING:

The proposed zoning designation of C-2 (Commercial Medium Intensity) would allow for the permitted and continued use of the retail store and bring the property into compliance with the 2001 Zoning Code, as amended. As designed, the subject property is 0.264 ± acres in size, all of which meet the proposed C-2 zoning designation and eliminates the Maximum Building Gross Floor Area Square Footage. The setbacks for the proposed C-2 zoning on the properties include: front, 15 feet; rear, 15 feet or 0 feet; sides, 5 feet or 0 feet. The maximum allowed height for C-3 zoning is 60 feet.

ADEQUACY OF PUBLIC FACILITIES AND SERVICES:

City water, gas and sewer are available for the site and are adequate for the existing use and any potential new construction and expansions on the property. All adjacent rights-of-way are paved including curb, gutter, sidewalk and lighting.

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 August 5, 2022 for the Planning and Zoning Commission meeting. No public input was received at the time the staff report was drafted.

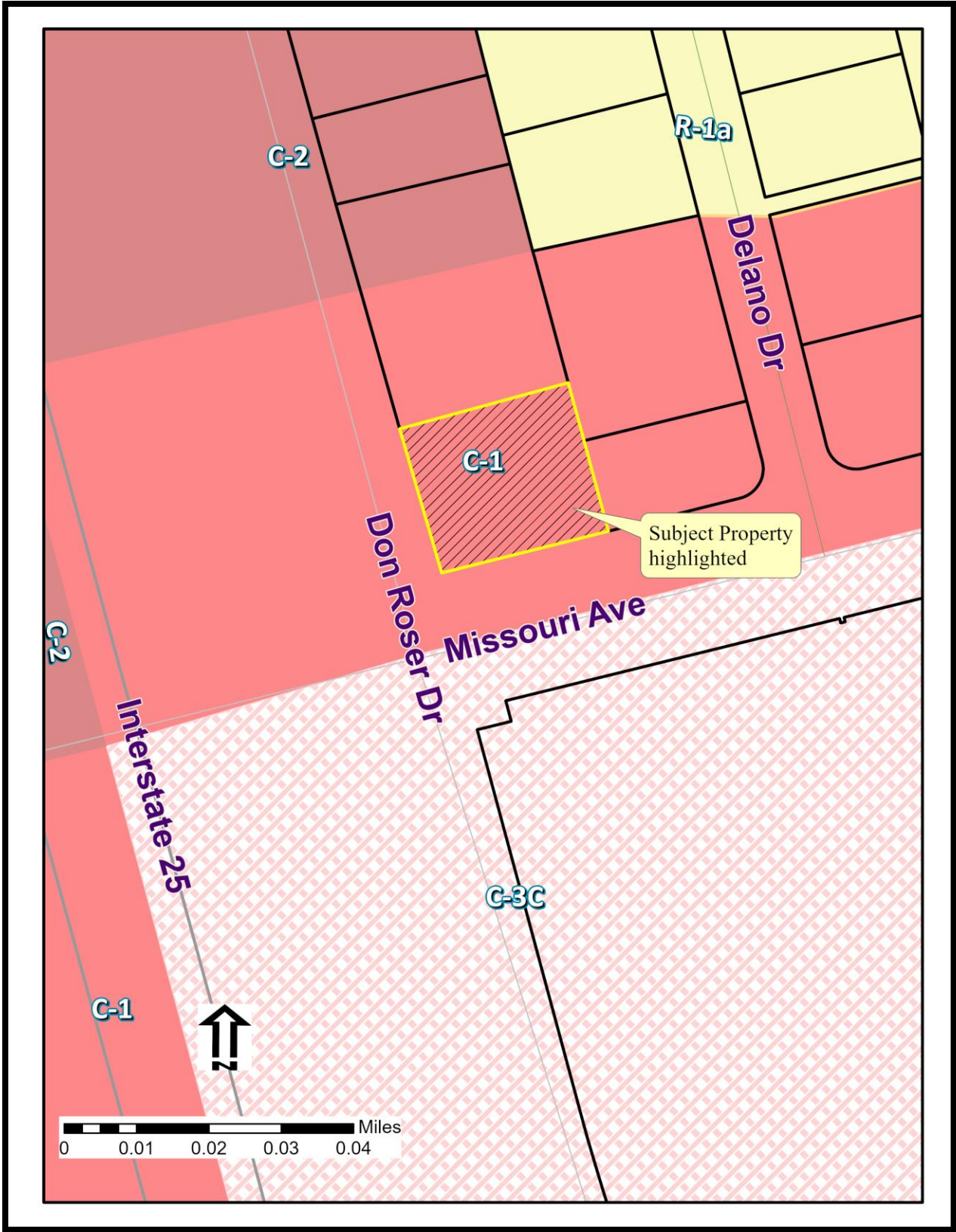
STAFF COMMENTS:

No reviewing departments had any negative comments and there have been no objections to the proposed rezoning.

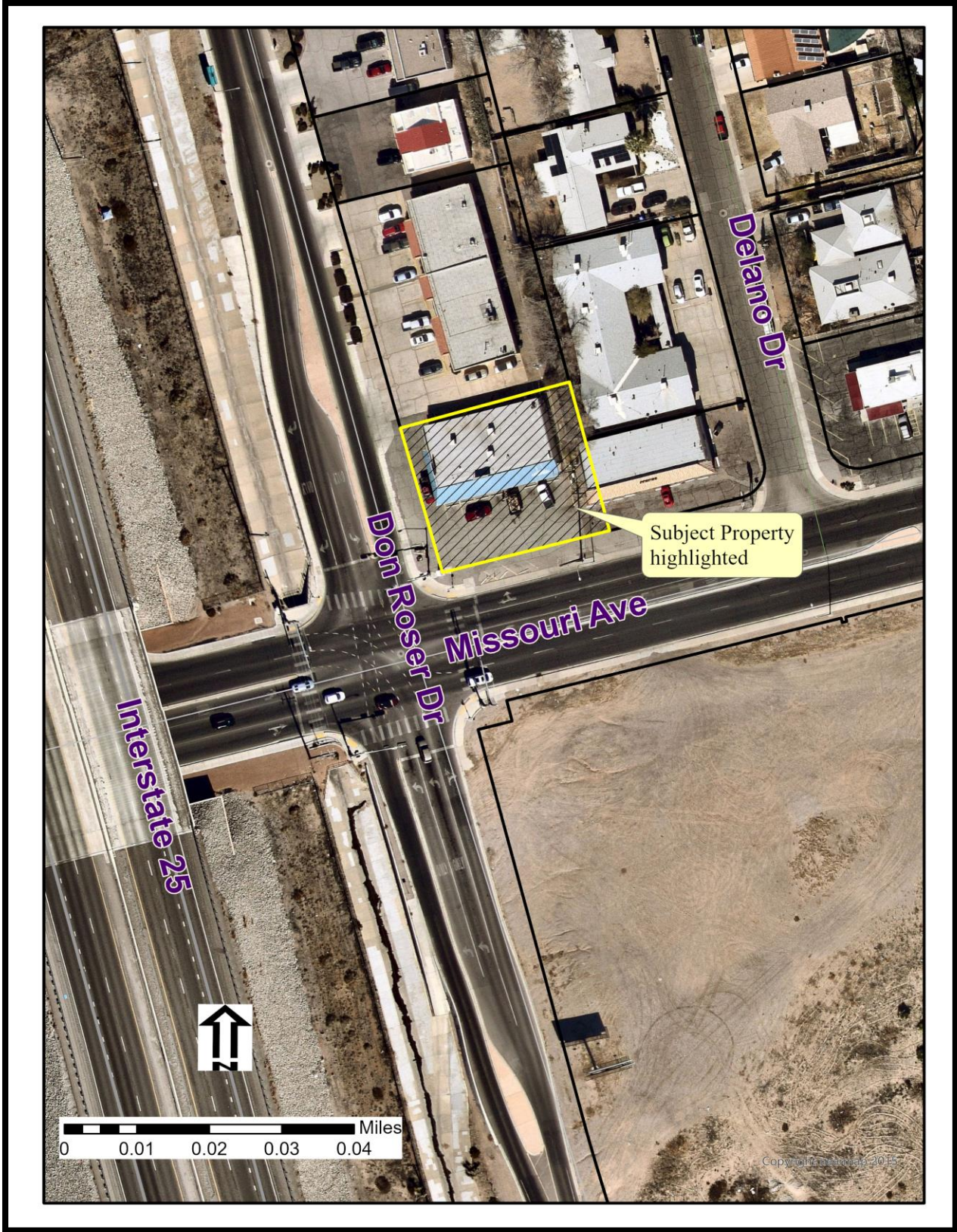
ATTACHMENTS:

1. Zoning Map
2. Aerial Map
3. Site Plan
4. Department Comments

ATTACHMENT 1
Zoning Map

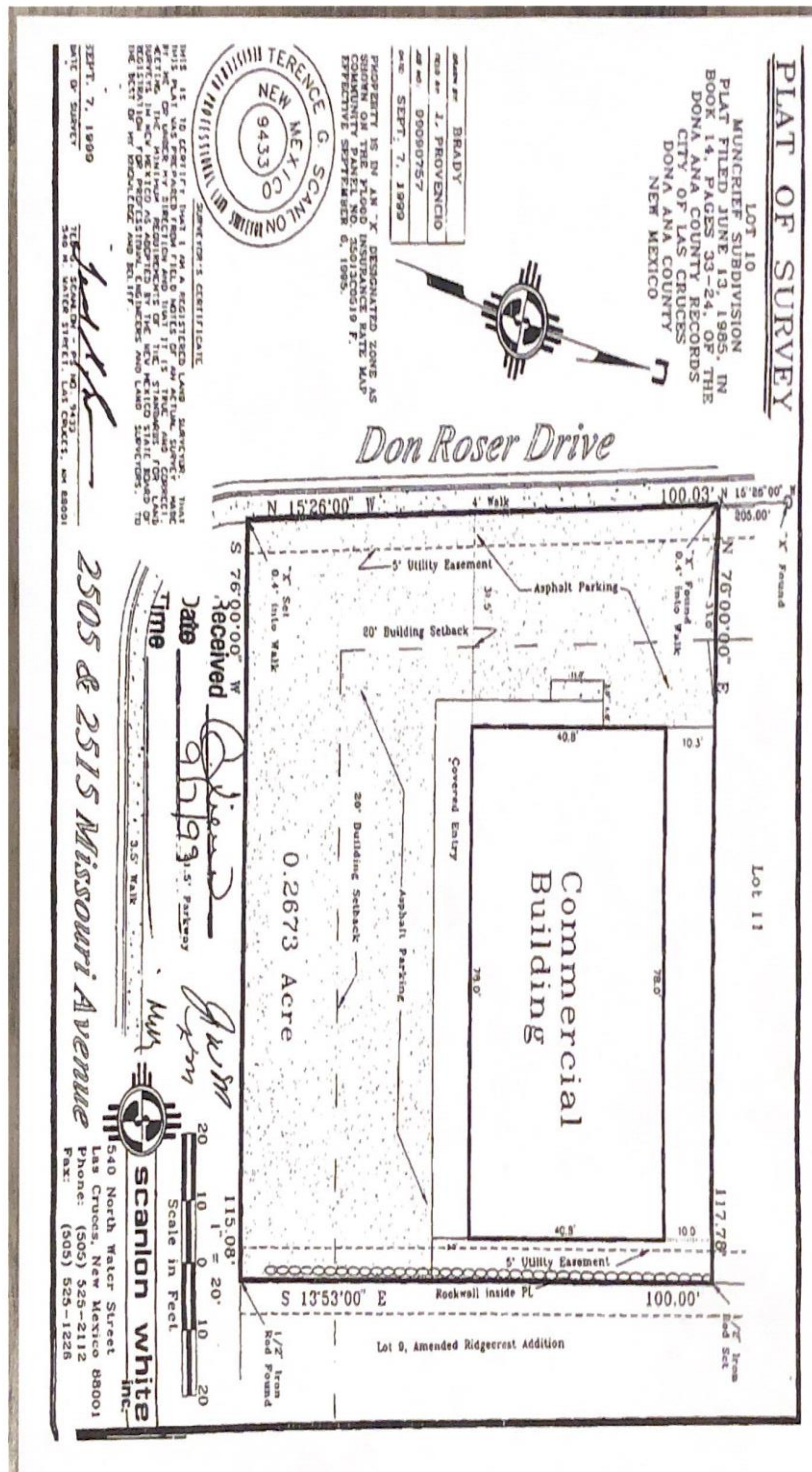


ATTACHMENT 2
Aerial Map



ATTACHMENT 3

SITE PLAN



ATTACHMENT 4

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

**PLANNING AND ZONING COMMISSION
FOR THE
CITY OF LAS CRUCES
City Council Chambers
August 23, 2022 at 6:00 p.m.**

BOARD MEMBERS PRESENT:

Luis Armando Guerrero, Chair
Joaquin Acosta, Member
James Bennett, Member
Scott Kaiser, Vice-Chair
Enrico Smith, Member
Vanessa Vega, Secretary

STAFF PRESENT:

Larry Nichols, Director Community Development Department, CLC
Katherine Harrison-Rogers, Senior Planner
Vincent Banegas, Interim Planner
John Castillo, CLC Planner
Jocelyn Garrison, CLC Senior Assistant City Attorney
Adrian Guzman, CLC Communications
Becky Baum, Recording Secretary, RC Creations, LLC

1. CALL TO ORDER (6:00)

Guerrero: All right. Well good evening everyone. It's been a beautiful past few rainy days in Las Cruces. Just so you all know, I just found out like five minutes ago I'm supposed to run this meeting, so hopefully we go without hiccups. But I think we'll be fine.

2. CONFLICT OF INTEREST

Guerrero: First order of business, is there any conflict of interest with any of the agenda items tonight? No, it does not seem, then I think we're good.

3. APPROVAL OF MINUTES – July 26, 2022

Guerrero: Why don't we move on to the approval of minutes? Could I get a motion to approve the minutes?

Breen I make a motion to approve the minutes.

Kaiser: I'll second.

Guerrero: All righty.

1 Baum: Board Member Vega.
2
3 Vega: Yes.
4
5 Baum: Board Member Smith.
6
7 Smith: Yes.
8
9 Baum: Kaiser.
10
11 Kaiser: I abstain. I was absent last meeting.
12
13 Baum: Thank you. Board Member Bennett.
14
15 Bennett: Yes.
16
17 Baum: Board Member Acosta.
18
19 Acosta: Yes.
20
21 Baum: Board Member Guerrero.
22
23 Guerrero: Yes.
24
25 Baum: Thank you. All right. Excellent. Well, the minute's pass.
26

27 **4. ELECTION OF OFFICERS**
28

29 Guerrero: We are going to be doing an election of officers. As mentioned, the former
30 Chair, Mr. Harvey Gordon, resigned. And we need to decide if I'm going to
31 be the chair, if somebody else wants to do it, totally fine, but yes. I don't
32 know how we do this part.
33
34 Nichols: Mr. Chair. You'll ask the Commission to make nominations, and we get a
35 second, and then we go to vote. But ask the nominee if they're willing to
36 accept the nomination and go to vote.
37
38 Guerrero: Perfect. All righty. Well, does anybody want to make a nomination for
39 Chair?
40
41 Bennett: I nominate Luis as Chair.
42
43 Guerrero: Okay.
44
45 Vega: And then I second.
46

1 Guerrero: All right. Perfect. Then do we still vote or?
2
3 Nichols: You would accept the nomination.
4
5 Guerrero: Yes. Yes, I do.
6
7 Nichols: Yes, So take a vote, please.
8
9 Baum: Board Member Vega. We have too many microphones on. We need to
10 turn them off, please. Thank you. Board Member Vega.
11
12 Vega: Yes. Thank you.
13
14 Baum: Board Member Smith.
15
16 Smith: Yes.
17
18 Baum: Thank you. Board Member Kaiser.
19
20 Kaiser: Yes.
21
22 Baum: Thank you. Board Member Bennett.
23
24 Bennett: Yes.
25
26 Baum: Thank you. Board Member Acosta.
27
28 Acosta: Yes.
29
30 Baum: And Board Member Guerrero.
31
32 Guerrero: Yes.
33
34 Baum: Thank you.
35
36 Guerrero: All right. Perfect. Well, that's solves one of the seats. Now we need to
37 nominate someone for Vice-Chair. Would anybody like to make a
38 nomination for Vice-Chair?
39
40 Bennett: I nominate Scott.
41
42 Vega: I second.
43
44 Guerrero: All right, perfect.
45
46 Kaiser: I am willing.

1
2 Guerrero: Perfect. Then we got a vote then.
3
4 Baum: Board Member Vega.
5
6 Vega: Yes.
7
8 Baum: Board Member Smith.
9
10 Smith: Yes.
11
12 Baum: Board Member Kaiser.
13
14 Kaiser: Yes.
15
16 Baum: Board Member Bennett.
17
18 Bennett: Yes.
19
20 Baum: Board Member Acosta.
21
22 Acosta: Yes.
23
24 Baum: Chair Guerrero.
25
26 Guerrero: Yes. All righty. Awesome. Well that was quick. Now, do we, we don't
27 have any postponements, so we're going to skip that.
28
29 H-Rogers: Mr. Chair.
30
31 Guerrero: Yes.
32
33 H-Rogers: One point of order/ Because Commissioner Kaiser was Secretary now that
34 ...
35
36 Guerrero: Okay, well now never mind. Scratch that. We need to nominate a secretary.
37 Any of the Commissioners wants to nominate someone as the secretary?
38
39 Kaiser: I'll return the favor and nominate Commissioner Vega.
40
41 Guerrero: That sounds great.
42
43 Vega: Is it because I'm a woman?
44
45 Kaiser: Absolutely not.
46

1 Bennett: I'll second.
2
3 Vega: I accept.
4
5 Guerrero: All right. Perfect. Then let's vote.
6
7 Baum: Board Member Vega.
8
9 Vega: Yes.
10
11 Baum: Board Member Smith.
12
13 Smith: Yes.
14
15 Baum: Board Member Kaiser.
16
17 Kaiser: Yes.
18
19 Baum: Board Member Bennett.
20
21 Bennett: Yes.
22
23 Baum: Board Member Acosta.
24
25 Acosta: Yes.
26
27 Baum: Chair Guerrero.
28
29 Guerrero: Yes.
30
31 Baum: Thank you.
32
33 Guerrero: All right. Perfect. I think, is that it? We got all of it. Perfect. All right.
34 Excellent.
35

36 **5. POSTPONEMENTS – None**

37
38 **6. PUBLIC PARTICIPATION**

39
40 Guerrero: Then up next, we have public participation. This is if anybody has anything
41 they would like to share that is not in the agenda. Do we have anybody in
42 the public that would like to come up and speak on something that is not in
43 the agenda? No. All right then that's fine.
44

45 **7. CONSENT AGENDA - None**
46

1 Guerrero: Now we don't have anything on the consent agenda today either.

2
3 **Realize Las Cruces Development Code Update**

4
5 Guerrero: There is a request though, and I'll need a vote from my colleagues, to move
6 item number 10 before we do old business. Would anybody like to make a
7 motion for that?

8
9 Vega: I make a motion to move item number 10.

10
11 Guerrero: Okay. Can I get a second?

12
13 Kaiser: Second.

14
15 Guerrero: All right, perfect. Do we need a vote for that?

16
17 Baum: Board Member Vega.

18
19 Vega: Yes.

20
21 Baum: Board Member Smith.

22
23 Smith: Yes.

24
25 Baum: Board Member Kaiser.

26
27 Kaiser: Yes.

28
29 Baum: Board Member Bennett.

30
31 Bennett: Yes.

32
33 Baum: Board Member Acosta.

34
35 Acosta: Yes.

36
37 Baum: Chair Guerrero.

38
39 Guerrero: Yes.

40
41 Baum: Thank you.

42
43 Guerrero: Perfect. Then in that case we're going to move on to item number 10 which
44 is the Realize Las Cruces Development Code update. Do we have anybody
45 from either City staff or one of the presenters?
46

1 Nichols: Yes, Chair.

2
3 Guerrero: Yes sir.

4
5 Nichols: Katherine will do an introduction. And then we'll have our consultant from
6 Freese and Nichols do a presentation.

7
8 Guerrero: Excellent. Thank you.

9
10 H-Rogers: Good evening Members of the P&Z. This is something that I think we're all
11 really familiar with. We're working on the code rewrite for Realize Las
12 Cruces. Those are all of our development codes, zoning, subdivision, signs,
13 development standards, things of that nature. And we're just doing one of
14 our regular updates to let you know where we are in the process, where
15 we're going. And we have our consultants from Freese and Nichols here to
16 give you a small presentation. And with that I will go ahead and open that,
17 and I will turn it over to Erica Craycraft.

18
19 Craycraft: Good evening members of the Commission. Again, my name is Erica
20 Craycraft with Freese and Nichols joining you today with a brief update on
21 the development code revision. Joining me today is Dawn Warrick and
22 Karen Perez with Freese and Nichols. And other members of our team who
23 you may see at a different meeting are Fred Lopez from Quantum
24 Engineering and local attorney Dana Kyle.

25
26 Today I would like to share with you a reminder of our process and give you
27 an update on our current status, and also preview our upcoming next steps
28 and plans for community engagement. And lastly I'd be happy to take any
29 questions or comments that you may have. First looking at our process,
30 and generally our scope, the items that you see here are the current
31 sections of your development code that we are reviewing in this process.
32 On the left side you see the items that are major reviews, those are your
33 zoning, your zoning map, subdivision regulations, design standards which
34 are things like landscaping and parking requirements, drainage and flood
35 control, and signs. We have about a two year process that is structured into
36 three phases. And our first phase was what we call the diagnostic
37 evaluation. This was a period of about six months that started last spring.
38 During that time, we reviewed your existing plans that you had in place like
39 the Elevate Las Cruces Comprehensive Plan, the Active Transportation
40 Plan, Parks Master Plan, and others. We also took that time to review your
41 existing codes that you have in place today. We had a virtual open house
42 where we invited open-ended community input through a website that is
43 actually still available if anyone would like to participate
44 @realizelascruces.com. And also during that time, we conducted a series
45 of interviews with folks who we consider to be frequent code users. So that
46 included members of the City Council and P&Z who were seated at that

1 time, members of the local development community, several community
2 organizations, and others, during that time to get an understanding of what
3 works well, what maybe doesn't work well, what we should be considering
4 through this update.

5
6 That informed us as we've moved into our current phase, Phase 2, which is
7 actually drafting the code content. We're working very closely with your City
8 staff through this phase and we are about two-thirds of the way through
9 Phase 2. Looking ahead to Phase 3, which we envision being early next
10 year, that will be several months dedicated to refining the final document.
11 Once we have a complete draft that's ready for public review that will go
12 through a refinement process at that time. As I mentioned, we are currently
13 in Phase 2, you can see on the right side the new primary sections that the
14 code will be organized by. For each of those sections we prepare a draft,
15 we being the consultant team. We share that with your City staff. They
16 review it they share their comments with us, and we make revisions to that
17 section. We repeat that process until the draft is ready to move forward.

18
19 We're currently focusing on the design standards and also on the zoning.
20 The first two sections that you see here, general provisions and subdivision
21 regulations, we have an initial draft of those that is actually available on the
22 website, realizelascruces.com on the documents page. If anyone would like
23 to view those initial drafts they are available. Also, there's a brief video
24 about five minutes long with each of those sections that gives you an
25 overview about what the purpose of this section is and also some key things
26 to note about that section. These are posted on the website mainly for
27 transparency purpose. We aren't necessarily asking for any public input on
28 these drafts at this time, but they are available if anyone would like to look
29 at them.

30
31 As we're drafting these sections, we're looking frequently back to your
32 existing plans, especially the Elevate plan. When the City prepared that
33 plan, there was a very robust community engagement process with a lot of
34 different local groups and stakeholders involved in that process that helped
35 to establish that vision in the plan. The plan has about 500 different
36 recommendations that relate to partially the development code, but also
37 capital improvements, other studies that may be required or general
38 policies. So we have been looking especially at the items related to the
39 development code. We took those items, about 200 of them, and
40 categorized them in this table that you see here, just a snippet of, but this
41 is our working list as we're working through the development code where
42 we can keep track of all of the items that Elevate's policy framework
43 recommended, so we can be sure that we are addressing the plans
44 recommendations.
45

1 In terms of the plans physical framework, we're also incorporating that into
2 the code update by looking especially at the place types and overlay place
3 types, you'll see that those relate to the zoning districts. And also to some
4 of the design standards like the roadway design or the landscaping. Those
5 frequently refer back to the place types that came out of the plan. In addition
6 to plan implementation, we're also looking at ways that we can simplify and
7 streamline the document so it's easier to understand. It is a very technical
8 document so we are trying to use tables and flowcharts as much as possible
9 to make sure that everyone can understand the requirements.

10
11 Looking ahead at our next steps and plans for community engagement, you
12 may be aware that there's a technical advisory committee that has started
13 meeting. They were appointed by the Mayor and the Council and there are
14 15 members who are representatives of the local development community,
15 various community organizations, also several professors and other
16 academics who are involved in that committee. It is a City staff led initiative.
17 Your assistant City Manager, Eric Enriquez is the primary staff point of
18 contact for that committee. The committee is reviewing draft sections for
19 preliminary feedback at this time. The sections that they're reviewing are
20 also available on the website at the location I mentioned earlier in case
21 anyone would like to review that content is available for everyone. But
22 again, we're not necessarily asking for community wide input until we have
23 that more polished, complete draft at the beginning of the year.

24
25 So our next steps, we will continue to work with City staff as we have been
26 doing to refine the draft code and get a complete draft ready. City staff will
27 continue working with that technical advisory committee to get any
28 preliminary feedback to help us be informed as we're preparing this initial
29 draft. Once we have that polished draft ready, we'll bring it back to the
30 Planning and Zoning Commission and to City Council for your review and
31 to let us know if you see any issues or anything else that you would like to
32 be addressed before we go out for the formal public involvement and input
33 process. Once we have that green light from you all, we'll start an open
34 house event for additional community feedback on that complete draft. That
35 open house event we envision occurring probably in early spring of next
36 year. And we envision that as being a two evening event where it would be
37 the same event either evening, just to allow more opportunities for folks to
38 attend that in person if they would like. And all of our public engagement
39 activities, we'd like to start with an educational component at the beginning,
40 so everyone has a background and understanding of what the purpose of
41 the code is and how it would apply to them so they have the background
42 that they need to be able to provide meaningful input. At that meeting, we'll
43 also share highlights of the draft once it is completed, that would be
44 something like a top 20 things to know about the draft code. At the meeting
45 we'll have opportunities for feedback from the community. And then that
46 feedback period will also extend for a time after the open house event. So

1 if someone came to that event and that was their first time learning anything
2 about the development code, they would have the background knowledge
3 presented to them at that meeting. They could have some time to go home
4 and review the draft and share their comments with us later, they don't have
5 to necessarily have it that evening. And we would also like to host some
6 one on one discussions that can either be at the event or could be held
7 separately. But we envision those being a sit down conversation with
8 anyone who is a property owner or a business owner, someone who is
9 interested or concerned about how the code might apply to them. So we
10 could sit down with them, look up their individual address, and be able to
11 talk with them about how the existing code applies and how the new one
12 will be different. And then also, in addition to the in person event we would
13 like to have a virtual alternative that's available for a period of time as well,
14 if somebody prefers to participate online rather than in person.

15
16 I mentioned during Phase 1 that we had a virtual open house, that is the
17 screenshot that you see here. It is still available at this time if anyone
18 wanted to go share any open ended comments, they can feel free to do so.
19 Next, also, during that public engagement period, all of the code users that
20 I mentioned that we interviewed during Phase 1, we would like to circle back
21 with them again, at this point and make sure that we kind of close that
22 feedback loop that we incorporated their comments and their concerns were
23 addressed. This is just a reminder of who those code users were that we
24 interviewed back during Phase 1. So we will invite all of these folks to join
25 us again once we have a complete draft and review any of their additional
26 comments or questions.

27
28 Once we have that input through the open house and also for the code user
29 interviews, we'll bring that input back to you all at the P&Z and to City
30 Council. And in addition to presenting the input, we'll also be presenting
31 proposed revisions that we would recommend based on what we heard at
32 the community input. So we'll present that for your feedback and direction.
33 Once we have incorporated that public input into our drafts, then at that time
34 we would move forward with the official formal adoption meetings and public
35 hearings that would go along with that. So that concludes my presentation,
36 I would be happy to take any questions or comments that you may have.
37 Thank you.

38
39 Guerrero: Thank you so much for that presentation. Do we have any questions from
40 the Commission? Seeing none. Why don't we move to public comment? I
41 think I, yes, does anybody from the public have any questions that they
42 would like to ask?

43
44 Nichols: Mr. Chair.

45
46 Guerrero: Yes.

1
2 Nichols: I would just make a brief comment to the Commission. This is a very
3 important study. We kept hearing the word on your presentation and very
4 informative presentation, thank you for that. But you kept hearing the word
5 code. And so this will be a code, this will be part of the laws that we use to
6 gauge our zoning and our land development. It is in concert with the Elevate
7 Las Cruces Comprehensive Plan. This particular code had not been
8 updated or revised for a number of years. But once we had adopted the
9 Elevate Comprehensive Plan, we recognized the necessity to update the
10 land development or the zoning code to work in concert with that. So it'd
11 be brought to you. We're about halfway through, are we with the
12 consultancy and developing this. But it's going to be very well vetted to both
13 Council, the Planning and Zoning Commission, and to the public. And we
14 look forward to new developments. Thank you.

15
16 Guerrero: Yes, absolutely. And thank you so much. You know I remember hearing
17 that the code has not been updated since I believe 2001, I may or may not
18 be correct. But it's been a number of years, and as we all know the City has
19 grown and a lot has changed. And of course now we have the new
20 Comprehensive Plan so I'm excited to see how this is going to fit well with
21 the City. Just one comment real quick, I did notice in your presentation
22 there was something for like virtual alternative for two weeks. Could you
23 maybe explain a little bit more what that would look like?

24
25 Craycraft: Sure. Sure. It could take a variety of forms. We use, one of the tools was
26 the screenshot that I showed with the colorful boxes, that's more the open
27 ended input for a community engagement at a later point. It would likely
28 take the form of a series of informational videos, so everyone can have the
29 background knowledge and the highlights of the draft as well. And also
30 some type of a more interactive survey.

31
32 Guerrero: All right. Thank you. Thank you very much. I think that's a great idea. If
33 we learned anything from the pandemic is that you know people want to
34 participate, they may not always be able to be in person. So thank you for
35 doing that. Does anybody else have any other comments before we move
36 on? Then thank you so much for your time.

37
38 Craycraft: Thank you.

39
40 Guerrero: Sorry. There was a, somebody had raised their hand. I'm sorry, I did not
41 see you. Yes, would you like to come up and make a comment? All right.
42 Perfect. My first swear in. So before you make your comment, I do need
43 to swear you in. First of all, can we get your name?

44
45 Gurley: Gary Gurley.
46

1 Guerrero: All righty. And do you swear and affirm that the testimony you're about to
2 give is the truth and nothing but the truth under penalty of law?
3

4 Gurley: Well, it's a question more than a testimony.
5

6 Guerrero: Okay, well that's okay. We'll give you three minutes. And go ahead.
7

8 Gurley: Okay, I just wanted to know ...
9

10 Guerrero: You might need to speak a little bit closer to the mic.
11

12 Gurley: I wanted to know what the (*inaudible*) was on all of these changes you're
13 going to make to the various cases that you have for zoning changes, as
14 applies to the much larger change that is going to take place in May of next
15 year? And why have all of these minor changes on a periodic basis, and
16 why not wait for the larger change to take place in May and base your
17 decisions on zoning changes on the adjustments that you've made, the final
18 adjustments that you make in May?
19

20 Guerrero: That is a great question. Somebody from City staff want to take that?
21

22 H-Rogers: I'd be happy to answer. My name is Katherine. I'm Senior Planner with the
23 department. So there was no type of moratorium that was placed on the
24 ability for people to proceed with zone changes until this code was adopted.
25 So that allows people who perhaps want to develop or who have a property
26 perhaps that's not in conformance and they want to get a zone change so
27 that they can do maybe a little bit more with their property, they can do that.
28 So they're allowed to go through the process under our current codes. So
29 they can utilize their property or make plans to move forward in the future.
30 But at this point in time, the City elected to not halt development or zoning
31 changes moving forward until that code was adopted. And that's pretty
32 typical, that the City would continue to allow people to proceed with their
33 development plans. Does that answer your question?
34

35 Gurley: Well, how do you know that you're not going to run into a conflict where you
36 make a decision now, which will be in conflict with your final changes?
37

38 H-Rogers: So that's also a really good question. So when we make recommendations
39 involving zone changes we're basing it on our current comprehensive plan,
40 and some of the guidance that that particular plan provides us. That plan
41 was adopted approximately two years ago. And of course the code that
42 we're working on now is also intended to implement that plan. So they
43 should be in alignment. However, there are instances where maybe there's
44 some things that don't quite jive or something may be considered
45 nonconforming moving forward. There are provisions in the code that
46 protect those uses that were made legal under one code, but may have

1 some illegality in a new code, we call it nonconforming, and they're allowed
2 to continue that, they won't be penalized for that.

3
4 Gurley: Okay. That was my main question.

5
6 Guerrero: All righty. Well, thank you very much. Thank you very much Katherine for
7 answering that. And thank you so much to the representative, we look
8 forward to keep working with you.

9
10 **8. OLD BUSINESS - None**

11
12 **9. NEW BUSINESS**

13
14 **9.1 5056 Carter Drive Zone Change:** A zone change request from UR (Urban
15 Ranch) to REM (Residential Estates Mobile) for ± 1.163 acres of property
16 generally located between Cortez Drive and Shannon Road in Council
17 District 6. Submitted by Moy Surveying, Inc. on behalf of Angel Meraz,
18 property owner. (Case # 22ZO0500073)

19
20 Guerrero: All right. Well, we're going to move on to new business. So first of all could
21 I get a motion to hear case or sorry, item 9.1?

22
23 Vega: I make a motion to hear item 9.1.

24
25 Smith: Second.

26
27 Guerrero: All right.

28
29 Baum: Board Member Smith.

30
31 Smith: Yes.

32
33 Baum: Board Member Vega.

34
35 Vega: Yes.

36
37 Baum: Board Member Kaiser.

38
39 Kaiser: Yes.

40
41 Baum: Board Member Bennett.

42
43 Bennett: Yes.

44
45 Baum: Board Member Acosta.

1 Acosta: Yes.

2
3 Baum: Chair Guerrero.

4
5 Guerrero: Yes. All right. Thank you. Go ahead.

6
7 Banegas: Mr. Chairman, Members of the Commission. Vincent Banegas Interim
8 Planner for the record presenting the case before you, case 22ZO0500073.
9 It is a rezoning proposal for property that's located at 5056 Carter Drive.
10 Currently zoned UR, which is an '81 designation called Urban Ranch. And
11 they're seeking to rezone the property to Residential Estates Mobile. That
12 designation is a legitimate zoning district in the 2001 Zoning Code. Just to
13 give you a little background on some of those zoning districts that may no
14 longer be in the current code. When the US 70 annexation took in most of
15 the eastern portion of the City, there were a lot of properties out there that
16 had uses that were not very typical elsewhere in the City, and the City
17 decided to create some additional zoning districts at that time under the '81
18 Zoning Code in order to accommodate the uses. The UR zone was one of
19 them. But through the rewrite of the zoning code resulting in the 2001 code,
20 it no longer exists.

21
22 The property is roughly 1.163 acres in size. The UR designation under that
23 previous code allowed for a minimum lot size of one acre. And one of the
24 unique characteristics, it also allowed the keeping of small and large
25 animals in a semirural atmosphere, that was the purpose and intent of that
26 zone. So at the present time, it is a defunct zoning designation/. It is
27 considered nonconforming, very much like what was just mentioned for that
28 gentleman's question. And so in order to allow future development on the
29 property or changes to the property that would require permits, things of that
30 nature, they have to be brought into compliance. And that would require
31 what we used to call a conversion zone. Taking a look at what's on the
32 property and trying to match it up as best we can with some of the existing
33 designations in the 2001 Zoning Code as amended. The property sits within
34 the suburban neighborhood place type pursuant to the Elevate Las Cruces
35 Comprehensive Plan. And as mentioned previously in some of the other
36 cases, that allows for a land use character that considers low to moderate
37 density residential uses with some areas are intermixed with some areas of
38 commercial use.

39
40 The property at the present time is predominantly vacant. There has been
41 some development in context to some fencing that was placed on the
42 property. The property does show at present time some fencing that is
43 located along at least one side of the property line, the back, and then a
44 portion of the other side. And there's some fenced in storage that has taken
45 place there.
46

1 The applicant in preparation of this case, it was brought to staff's attention
2 that this had occurred, and we started receiving quite a bit of phone calls on
3 the matter. And I've been in contact with the applicant's representative to
4 discuss that. And certainly if they're utilizing some of the equipment and
5 the structures in there to store equipment for the construction of a home
6 that they have applied for, it is under review, it's gone through the review
7 process and it's pending the outcome of the zone change to bring about
8 compliance with zoning designations. So if they do that, then it's okay if it's
9 being used for some other purpose for property you know storage material
10 that is used for property beyond this subject parcel, then there's some
11 issues and other considerations that have to be made. So the applicant's
12 representative was aware of that.

13
14 The zoning for the area is identified as follows. You have the subject
15 property outlined in red, and adjacent to that you still have several
16 properties that are in the nonconforming UR designated zoning district. And
17 the reason that that could have occurred is first and foremost the City did
18 take upon itself the process of conversion of zoning districts for properties
19 throughout the City, but we also encourage property owners to come
20 forward and help us out and help identify the properties that no longer had
21 a designation that was subjected to the 2001 code. And in certain
22 instances, obviously, we had some gaps and we didn't cover the entire City.
23 But also as part of our process, staff process, whenever we engage property
24 owners to take on that conversion process, if they didn't want to participate,
25 they opted out. And so I'm not quite sure what the scenario is here with
26 several of the properties being UR, but basically all those UR properties will
27 at some point in time need to be brought into compliance.

28
29 The one in question this evening is this one outlined in red, identified as the
30 subject property. So you do have some REM zoning, which is what is being
31 proposed this evening, directly south, you certainly have a substantial
32 amount west of the subject property. But you have Carter Drive which
33 provides the immediate access to the subject property, and some of the
34 other roadways are somewhat improved and some are partially improved.
35 I know Cortez has some right-of-way issues and some improvement issues
36 that are still pending in terms of meeting current code. But nonetheless,
37 this is the zoning that you see in the immediate area. The EE zoning
38 designation as an equestrian estates zoning district, it too allows the
39 keeping the small and large animals. It has a one acre minimum lot size.
40 And the only difference between EE and the REM designation is that the
41 REM, and for that matter I should say the UR designation, the REM allows
42 for mobile homes. But in this case the building permit that are referenced
43 already is seeking to do a site built home not a mobile home.

44
45 So this is the aerial map for the subject property. You can see as of when
46 this was taken, the property was undeveloped. There were no fences,

1 fenced in storage identified. Surrounding it you do have several properties
2 that have site built construction and a few that still have mobile home
3 placement upon them. But clear majority of the properties are fairly large
4 lot. And some, although not all, some do have the keeping of small animals
5 and large animals to this day.
6

7 So once again the proposal is to change the zoning from UR to REM. And
8 this facilitates the construction of a site built home, not a mobile home, on
9 the subject property. And I want to clarify that because one of the citizens,
10 the property owners out in that area called and was rather concerned that it
11 would allow mobile homes. This is the site plan that was submitted for the
12 residential construction permit. I used it just to show you the expanse of the
13 property itself. It's fairly large. Carter Drive is along this edge of the site
14 plan. So they will be taking immediate access off of Carter Drive. The
15 building itself will sit behind the required 25 foot setback. And it's my
16 understanding that the fenced in storage area's back in this area.
17

18 This is just a couple of photos showing that, again the placement of the
19 fencing, fenced in storage area and some of the equipment trailers that are
20 placed back there. A little different angle. There will have to some
21 modification of the fencing, the first 25 feet is within the required front yard,
22 and unless they receive a variance for that it'll have to come down to four
23 feet in height, but that's really a separate issue as it pertains to the zone
24 change.
25

26 So in terms of our analysis from a staff perspective, there was no health,
27 safety, or welfare issues that were identified by reviewing staff. Staff did
28 find that the zoning district that was proposed is compatible with the
29 proposed use in the surrounding neighborhood, certainly based on what I
30 showed in terms of zoning and the aerial. The property is within the
31 suburban place type as per Elevate Las Cruces and is consistent with the
32 character that's defined therein. The UR/REM comparison in terms of
33 zoning development characteristics is similar. The REM allows for a smaller
34 lot size, half acre minimum, versus the one acre for the UR, the defunct UR.
35 The REM allows mobile home, but again they're looking to build site built
36 and the UR required site built and manufactured home only. All other
37 standards are the same. So the REM was selected and we feel that it's
38 compatible with those REM zones in the immediate area.
39

40 In terms of public notice and input, we carried that out pursuant to code. I
41 think early this month, on the fifth of this month, the letters went out. And
42 as indicated staff did not receive calls about the zoning per se, we received
43 calls about the fencing and the fenced in storage. The one letter or e-mail
44 that I did receive late, which was forwarded to you for your consideration,
45 talked about the mobile home placement or the possibility. I don't think
46 that's an issue given what permit has been submitted and gone through

1 review at this point in time, but certainly if you feel it necessary to apply a
2 condition you could do so, that would require manufactured home, site built
3 home only. So that's what we have in terms of input.
4

5 So staff recommendation regarding this this case is approval, and it's based
6 on the following findings. For one, the property's existing zoning is
7 nonconforming, it no longer exists in our 2001 code. And certainly prior to
8 any development, we have to bring the zoning district into compliance. Staff
9 has found the REM zoning district that was requested to be compatible with
10 the area. And it certainly fits the intentions of the property owner in terms
11 of future improvement. The property is also within the suburban
12 neighborhood place type, again characterized by low to moderate
13 residential density, this certainly fits that bill and several goals, policies, and
14 actions that are identified in Elevate Las Cruces. We find that the request
15 is compatible with that, there's certainly support in that document for the
16 request. And we also find that it meets the purpose and intent of the 2001
17 Zoning Code and the criteria for decisions found in the municipal code. So
18 the surrounding area is also developed as large lot, REM doesn't detract
19 from that. And so again yet another finding that supports the request.
20

21 So your options this evening is to vote "yes" and approve the request. You
22 can vote "no" and deny it. Please provide any findings that staff has not
23 identified and that we have provided those in support of the request. You
24 could vote "yes" with any conditions you feel are appropriate, or you can
25 vote to table. And that concludes staff's presentation. Mr. Chairman, I
26 believe we have the representative for the property owner in attendance.
27 And either he or I can answer any questions you may have.
28

29 Guerrero: Perfect. Thank you. Yes, if we could have the representative, the
30 representative is available. Perfect. Come forward. All right before we get
31 started, I believe I do need to swear you in. What's your name.
32

33 Magallanez: Aton Magallanez.
34

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

38 Magallanez: I do.
39

40 Guerrero: All right. Perfect. Go ahead.
41

42 Magallanez: Thank you. Yes, so my name is Anton Magallanez. I'm with Moy Surveying
43 and we are representing the owner of the property. Unfortunately, I did
44 recommend that they come today but they were out of town celebrating a
45 birthday. So he said if there's any questions of course, I needed to relay it
46 to him, he'd be happy to answer. We did meet with the, or during our

preapplication process prior to the zone change we discussed with staff the opportunity for Urban Ranch, excuse me, EE versus REM. After talking with staff and looking at surrounding properties, we did determine REM was the most applicable given what their intentions were, which is a site built home as mentioned with the permit, along with just alignment with what the lot looks like and what they're wanting to do relative to what also is happening in the surrounding area. I've been through this process before where we're taking a debunked zone designation and putting it into conformance and so I do appreciate the conversion, however, this property with the current owner would have never been able to be allowed to utilize that conversion given the conversion process ended prior to them purchasing the lot. So because now any zone change of course goes through this process, we're at the mercy of just having to get that zone designation change so that he can move forward and of course build his home. They plan to live there.

When I did survey the property prior to even submitting the zone change, I was actually going to just locate the property corners because there is an easement that runs there. And so they wanted to make sure and build and not obviously encroach in that easement. And it was at that point that they then applied for the building permit, were told, Hey, you can't actually build on it yet because of the zone designation. At that time there was a chain link fence already there along with the wire fence that is on the east boundary of the property. Since then, they have in fact erected via a permit after the fact, with the fence that is in place. And I did talk to the applicant after addressing concerns that the public had had as to what the items were that were on the lot. And they have mobilized some of their equipment to start to erect the house once we get the go ahead with the zone change. They are custom home builders. So their business personally, of course is custom home building. However, they've just mobilized their equipment to in fact be able to build their house once this designation, if this designation is approved. The storage containers are Conex boxes, because the owner currently is selling his house and so his personal belongings are within the storage Conex boxes that are there. So of course the intent would be that all the insides of that Conex box would be of course furnishing the home. And then there were also concerns regarding the RV units, but those are just personal fifth wheels that the owner has. They're not used for construction purposes or anything like that. They're just personal items that they've placed there for the time being. So, you know, given the process and what we have to go through, we're just seeking the REM designation so that we can move forward and let them have the ability to get their permit approved and build their home.

Guerrero: All right. Well, thank you very much. Do we have any questions from the Commission? No. Seeing none. We'll move to public comment. Do we have any members? And thank you, sorry, thank you so much. Do we have

any members from the public that would like to make a comment on this?
Doesn't look like we do, so in that case let's go ahead and make a vote.

Baum: I need a motion in a second. Please.

Guerrero: My apologies. Sorry,

Bennett: I make a motion to approve 9.1.

Vega: I second.

Guerrero: All right. Excellent.

Baum: Board Member Vega.

Vega: I vote to approve based on staff recommendation and it meets Elevate Las Cruces

Baum: Board Member Smith.

Smith: I vote to approve based on staff recommendation and consistency with purpose intent of the zoning ordinance.

Baum: Board Member Kaiser.

Kaiser: Yes, based on staff recommendation and consistency with Elevate Las Cruces

Baum: Board Member Bennett.

Bennett: I vote to approve based on staff recommendation, this meets neighborhood character and compatibility, as well as Elevate Las Cruces.

Baum: Board Member Acosta.

Acosta: I vote yes based off of staff recommendation.

Baum: Chair Guerrero.

Guerrero: As well vote yes based on staff recommendation and meeting Elevate Las Cruces. All right perfect. The motion passes. Thank you very much.

9.2 3400 Bataan Memorial East Zone Change: A zone change request from A-2 (Agricultural District) to C-3 (Commercial High Intensity) for ± 17.07 acres of property generally located between Rinconada Boulevard (east), Roadrunner Parkway (west), Northrise Drive (south), and Bataan Memorial

1 East (north) in Council District 6. Submitted by John Heck on behalf of Tuff
2 Co. LLC, property owner. (Case # 22ZO0500084)

3
4 Guerrero: Moving on to the next item in our agenda, we have 9.2 which is also a zoning
5 change. Could I get a motion in a second?

6
7 Vega: Make a motion to hear item 9.2.

8
9 Guerrero: Thank you,

10
11 Smith: I second.

12
13 Guerrero: All righty. Thank you.

14
15 Banegas: Mr. Chairman, Members of the Commission. Vincent Banegas again
16 presenting case 22ZO0500084. It is a zone change. Yet another
17 conversion type zone change from A-2 to C-3 involving property located at
18 3400 Bataan Memorial East. Current conditions are as follows, the property
19 is approximately 17.07 acres in size. As indicated it is A-2. A-2 is, or was
20 our agricultural district zoning designation as part of the '81 code. Again,
21 when the 2001 code came into effect A-2 was no longer part of it. So back
22 in the day A-2 was applied to properties that were either agricultural in
23 nature in terms of land use, but quite often it was used as a placeholder
24 when annexations occurred and the property owner did not know exactly
25 what designation they wished to proceed with. Oftentimes the A-2 zone
26 was utilized for kind of a reservation of future considerations for zoning
27 district. So the current zoning of A-2 is defunct. As indicated it is
28 nonconforming and we do need to seek out a conversion to an appropriate
29 designation pursuant to the 2001 code.

30
31 In this case, the property is located in a regional commercial place type that
32 is identified as part of the Elevate Las Cruces Comprehensive Plan. And
33 just to give you a little idea as to the character of that place type, it seeks to
34 allow large retail and professional office type service uses that require a
35 large draw or typically have a large draw in terms of customer base. The
36 property itself is predominantly vacant. There is a single-family dwelling on
37 site built back in 1949. I don't believe it's occupied at the present time. It
38 doesn't look like it is. It looks like there's some maintenance that is needed.
39 So I believe again, most of, clearly the majority of the acreage is vacant,
40 certainly an underutilized parcel.

41
42 So the Highway 70 annexation back in 1967 brought the parcel in. It is
43 outside the Northrise Business Park Development Plan. I believe in your
44 packet I may have misspoke. It is literally one parcel outside the boundary
45 of that business park development plan. I think I said it was within, but I
46 have confirmed it is outside. It is part of the MBSK subdivision and there

1 was a replant that sought to add a little bit of acreage at the apex of the
2 access point along Northrise Drive, and that apex was widened to
3 approximately 70 feet if memory serves. That apex location is right where
4 this cursor is pointing to, that's where the replat came into play. But the
5 subject property is outlined in red here. And you can see that there's a few
6 other A-2 properties immediately west of the subject property and there are
7 certainly several others located south of the property and south of Northrise
8 Drive. You do have other zoning designations in the immediate vicinity,
9 several of which are commercial in nature. You do have some C-3C zoning,
10 you do have some C-2C further north across Bataan Memorial and the
11 highway. And a lot of these PUD designated parcels or zoned parcels have
12 an underlining underlying zoning district for commercial uses. So quite a bit
13 of commercial that certainly ties in and supports the regional commercial
14 place type that's mentioned in Elevate.

15
16 So you do have this aerial showing the property. It is right underneath the
17 word subject where the single-family home currently sits, otherwise it is
18 vacant. You do have an access point off of Bataan Memorial and you will
19 have access point off of Northrise Drive. As it relates to any future
20 development, I'm sure from the perspective Bataan Memorial you will have
21 New Mexico Department of Transportation involved in the review of any
22 permit, as well as City staff of course. But beyond that, a lot of the area
23 surrounding the subject property at least immediately east and west is
24 predominantly vacant as well. You do have some I believe it's Domino's up
25 in this corner of Bataan Memorial and Roadrunner Parkway. You have a
26 large office complex. You do have on the south side of Northrise near the
27 intersection of Northrise and Roadrunner you have some, I believe it's the
28 residential care facility. And further south you do have some multifamily
29 apartments so again uses that are consistent with Elevate.

30
31 So the proposal before us is to rezone the property from A-2 to C-3. C-3
32 being the commercial high intensity zone within our 2001 code. It's certainly
33 a reasonable request given the Elevate Las Cruces place type, the parcel
34 size, and the physical location of the property. No development proposal
35 was identified as part of the application packet for this request, so staff is
36 unaware of what the ultimate intention is in terms of build out.

37
38 So from a reviewing perspective, staff didn't find any considerable issues to
39 be addressed at this point in time. I'm sure we will reserve that for an actual
40 application for development so that we can better review what is requested
41 with development code. So here's a couple of photos, this is looking north
42 from Northrise Drive, single-family home is shown here in the background
43 up on the hill. It is a very somewhat hilly property, change in elevation from
44 the Bataan Memorial side down to Northrise side fairly considerably. This
45 is looking south, again the single-family dwelling here. You can see the
46 access point almost on the far right of the photo. It's a little driveway that

comes from Bataan Memorial into the property, otherwise you have this wall along Bataan Memorial that restricts access. So there are no health, safety, or welfare issues identified by staff. We do find that the requested zoning of C-3 is compatible with the surrounding neighborhood. It's certainly compatible with the regional commercial place type as per Elevate Las Cruces. And we find that several goals, policies, and actions support the request. It speaks to developing vacant land, creating employment opportunities, job housing, balance, and growing businesses etc. Those are some of the key themes of policy that supports the request.

So in terms of public notice, notice was made pursuant to current code. Again early in the month letters were sent out. On this particular case, staff has not received any input to date. Here we are. Staff's recommendation is approval based on the following findings, the property has nonconforming zoning and said zoning needs to be brought into compliance in order to allow further development on site. The C-3 is considered to be the most appropriate zoning designation given the location, surrounding area, roadway access, and lot size. The area certainly seems to be geared towards drawing from a large population base. And so it's consistent with that place type, as mentioned I indicated that several goals and policies supported the request. It meets the purpose and intent of the 2001 Las Cruces Zoning Code as amended. And it meets the criteria for decisions found in the municipal code. So the surrounding area already has a variety of uses and zoning districts that are certainly consistent with that C-3 zoning district.

So your options this evening is the vote "yes" and approve the request, vote "no" and deny, you can vote "yes" with conditions, or vote to table. And I believe, Mr. Chairman, that the property owner and/or representative is in the audience. And so again, either the individual or myself can answer any questions you might have.

Guerrero: Yes, of course. Yes. Do we have the either owner or representative in the audience? Yes sure. Could you come up? Just watch your step there. All right perfect. First of all can we get your first and last name?

Heck: John Heck H-E-C-K.

Guerrero: All righty. Thank you. And do you swear and affirm that the testimony you're about to give is the truth and nothing but the truth until under penalty of law?

Heck: Absolutely. All right. Yes. Go ahead.

Guerrero: Any questions that you would have about the property, I'll be glad to answer.

- 1 Guerrero: Sure. All right. Well, does anybody have any questions for the property?
2 Go ahead, Commissioner.
3
- 4 Acosta: Do you have any idea what you're looking to put there commercially wise
5 or?
6
- 7 Heck: The existing house has been vacant for about seven years and been
8 ransacked by various and assorted different people in and out of the
9 property. It has broken windows, they tore out most of the copper pipe and
10 electrical. I recently replaced the roof on it which was incredibly antiquated
11 with Shake Shingles which are no longer allowed. I'm a general contractor.
12 This is basically what I do is find older properties and fix them up and turn
13 them somehow. I do have a client out of Washington State that's very
14 interested in purchasing this house if I remodel it and bring it up to code,
15 and they're going to use it as an Airbnb.
16
- 17 Acosta: Thank you.
18
- 19 Heck: The rest of the property, I don't know what will happen with it at this point in
20 time.
21
- 22 Guerrero: Thank you. Thank you so much. Does anybody else have any questions?
23 Yes, Commissioner Kaiser.
24
- 25 Kaiser: This is actually a question for staff. I noticed in the staff report, attachment
26 three, the department review comments, it still has under several
27 departments the status as listed as in process. I just haven't seen that
28 before so I'm not sure if there's a significance there.
29
- 30 Banegas: Mr. Chairman, Commissioner Kaiser. When I looked at that, that was
31 indeed the status by a few of the reviewing departments. They were having
32 difficulty locating the property. There was a legal description, or metes and
33 bounds description, and so I provided on the specific location, cleared it up,
34 and they didn't have any issues beyond that.
35
- 36 Guerrero: All righty. Thank you very much. Does anybody else have any questions
37 or comments for either staff or the owner? No. In that case we're going to
38 move on to comments from the public. Would anybody in the public like to
39 speak about this specific case? Does not look like it. So in that case, could
40 I get a motion to approve this case?
41
- 42 Kaiser: I'll make a motion to approve item 9.2.
43
- 44 Smith: I second.
45
- 46 Guerrero: All right.

1
2 Baum: Board Member Vega.
3
4 Vega: I vote to approve based on site visit and it meets the zoning code updates
5
6 Baum: Board Member Smith.
7
8 Smith: I vote yes based on site visit and staff recommendation
9
10 Baum: Board Member Kaiser.
11
12 Kaiser: Yes, based on staff recommendation and consistency with Elevate Las
13 Cruces.
14
15 Baum: Board Member Bennett.
16
17 Bennett: I vote to approve based on staff recommendation, this meets to Elevate Las
18 Cruces, and the municipal code.
19
20 Baum: Board Member Acosta.
21
22 Acosta: I vote yes based off staff recommendation and compliance with the Elevate
23 Las Cruces Comprehensive Plan.
24
25 Baum: Chair Guerrero.
26
27 Guerrero: Yes, I vote yes, also based on staff recommendations, site visit, and
28 compliance with Elevate Las Cruces. Perfect. We have a motion that
29 passed. Thank you very much.
30
31 **9.3 2505 Missouri Avenue Zone Change:** A zone change request from C-1
32 (Commercial Low Intensity) to C-2 (Commercial Medium Intensity) for ±
33 0.2673-acre property located at 2505 Missouri Avenue in Council District 3.
34 Submitted by Keifer Payne on behalf of Nathan and Raylen Wilcox, property
35 owner. (22ZO0500094)
36
37 Guerrero: We are going to move on to the next item in the agenda which is item 9.3,
38 which is also a zone change. Could I get a motion from the Commission?
39
40 Kaiser: I'll make a motion to hear item 9.3.
41
42 Vega: I second.
43
44 Guerrero: All right.
45
46 Baum: Board Member Vega.

1
2 Vega: Yes.

3
4 Baum: Board Member Smith.

5
6 Smith: Yes.

7
8 Baum: Board Member Kaiser.

9
10 Kaiser: Yes.

11
12 Baum: Board Member Bennett.

13
14 Bennett: Yes.

15
16 Baum: Board Member Acosta.

17
18 Acosta: Yes.

19
20 Baum: Chair Guerrero.

21
22 Guerrero: Yes.

23
24 Baum: Thank you.

25
26 Guerrero: All right. Perfect. Go ahead.

27
28 Castillo: Good evening Mr. Chair, Commission. My name is John Castillo. I'm with
29 the City of Las Cruces as a planner. Today we're going to be discussing
30 2505 Missouri Avenue. It is a zone change. Currently, the property is 0.264
31 acres and it's located at the corner of Missouri and Don Roser. The address
32 is 2505 Missouri. Through the MPO and Elevate Las Cruces future
33 thoroughfare plans, it's been labeled as a major arterial roadway. Currently
34 it is a built lot. It has an existing commercial building. The property is
35 currently zoned C-1. At this time the property is considered a
36 nonconforming use. This is because with the C-1 zoning the maximum
37 building gross floor area square footage is limited to 2,500 square feet. As
38 the building was built in 1977, it was built at 3,198 square feet. Back in the
39 1981 code, the maximum building gross floor area for the C-1 zoning was
40 3,000 square feet. So today we're just bringing the property into compliance
41 and removing the maximum gross floor.

42
43 Located here is the zoning that shows that it is C-1. Here's an aerial image
44 of the existing property. So today's proposal is going to be to rezone the
45 subject property from C-1 to C-2, which is a commercial medium intensity
46 zoning district. It realigns the existing uses to the current 2001 Las Cruces

1 Zoning Code as amended, and it is also compatible for subject property and
2 neighborhood. This would also eliminate the properties nonconforming
3 uses in regards to the maximum building square footage. It has received
4 approval from all reviewing staff. As you can see here are some images of
5 the building and then looking west and eastbound on Missouri. So there
6 are no health, safety, or welfare issues identified by staff. The C-2 zoning
7 district provides compatibility with existing uses and surrounding
8 neighborhood. The property is located within the Urban Place type as per
9 Elevate Las Cruces. In addition to that, the support would bring long
10 economic growth, and it also realigns the existing zoning districts.

11
12 At the time, notice was sent out to surrounding properties earlier in the
13 month. Staff did receive one phone call that was tied to the Special Use
14 Permit that was also a part of this property. There may have been some
15 confusion at that time because the notice letters tend to look a little bit
16 similar. So staff has recommended approval based on the following
17 findings, that it's located along a principal arterial roadway, we're meeting
18 the high intensity zoning such as the proposed C-2 is encouraged. It will
19 allow for an expansion of existing businesses, increase employment,
20 increase the value of the subject property. Based upon staff's analysis, the
21 proposal and the proposed zone change request meet the intent of Elevate
22 Las Cruces. It's also compatible with the adjacent zoning districts and uses,
23 it also meets the purpose and Intent outlined in Section 38-2 of the Zoning
24 Code and fulfills the Las Cruces Municipal Code Section 2-382. Today your
25 options are to vote "yes" for approval, vote "no" to deny, vote "yes" with
26 conditions, or vote to table.

27
28 Guerrero: All right. Thank you. Do we have anybody representing the property?

29
30 Castillo: We do have the representative here today as well.

31
32 Guerrero: Okay. And would the representative like to come up and speak? You don't
33 have to, but totally up to you. All right, perfect. Then let's move on. Do we
34 have any questions from the Commission? Yes, Commissioner Vega.

35
36 Vega: This is just more of like a clarifying question from staff. So we heard about
37 this I think it was the last meeting or one before. So just for my own
38 knowledge, why weren't we able to, why did we have to go through that first
39 process of getting the permitting for the store and then now adding the
40 space that already existed within it?

41
42 Castillo: So at the time that the applicant came in during one of our preapplication
43 meetings, we did not actually know the square footage of the building. So
44 we were just under the assumption that it was compliant. It wasn't until later
45 on through the Special Use Permit process that we realized the property
46 was nonconforming.

1
2 Vega: Thank you.

3
4 Castillo: And Vincent has more to add to that.

5
6 Banegas: If I may, Mr. Chair, Commissioner Vega. At the time we did have some
7 questions regarding the square footage. The square footage and use for
8 the proposed cannabis retail component was going to meet the C-1 zoning
9 designation. In talking with the property owner or the applicant, they wanted
10 to utilize the whole building. So that's when we started conversations with
11 them to seek a zone change from C-1 to C-2. But my understanding and in
12 communication with the business owner and the applicant is at no time did
13 it become illegal activity in terms of square footage.

14
15 Guerrero: All right. Thank you very much for that. Does anybody else have any
16 questions? Commissioner Kaiser, go ahead.

17
18 Kaiser: So along those lines, if I remember correctly, I believe that previous item
19 before us it was approved based on a condition that they would not exceed
20 I think it was 2,500 square feet. How would this application tonight affect
21 that condition, if I am indeed correct?

22
23 Castillo: Mr. Chair, Commissioner Kaiser. I believe that we would have to look into
24 it a little bit further but I believe it wouldn't make the condition a requirement
25 anymore.

26
27 Kaiser: So this would negate that condition is what you're saying?

28
29 Castillo: Correct.

30
31 Kaiser: Thank you.

32
33 Guerrero: All right. Does anybody else have any more questions? I believe this was
34 the one I missed a couple of months ago. So I don't have any questions
35 either. Do we have any comments from the public at the moment? Seeing
36 that there is no comments. Can I get a motion to approve this case?

37
38 Bennett: I make a motion to approve 9.3.

39
40 Vega: A second.

41
42 Guerrero: All right.

43
44 Baum: Board Member Vega.

- 1 Vega: I vote to approve based on site visit and the zoning change supports
2 economic growth.
3
- 4 Baum: Board Member Smith.
5
- 6 Smith: I vote to approve based on site visit and staff recommendation.
7
- 8 Baum: Board Member Kaiser.
9
- 10 Kaiser: Yes, based on staff recommendation and consistency with Elevate Las
11 Cruces
12
- 13 Baum: Board Member Bennett.
14
- 15 Bennett: I vote to approve based on site survey, staff recommendation, as well as
16 meeting the purpose and intent of the code.
17
- 18 Baum: Board Member Acosta.
19
- 20 Acosta: I vote yes to approve based on staff recommendation.
21
- 22 Baum: Chair Guerrero.
23
- 24 Guerrero: I vote yes as well based on staff recommendation and being compliant with
25 Elevate Las Cruces. We have a motion that passed.
26
- 27 **9.4 1534 Santa Thomas Street Special Use Permit:** A Special Use Permit
28 (SUP) for a group child care home not to exceed 12 children on property
29 zoned R-1a (Single-Family Medium Density). The property is 0.144 acres
30 in size and located in Council District 4. Submitted by Roxanna Sanchez,
31 owner of Loving Home Daycare. (Case # 22ZO1000071)
32
- 33 Guerrero: Moving on to the next agenda item. We have 9.4 which is a Special Use
34 Permit. Could I get a motion to hear this case from the Commission?
35
- 36 Vega: Make a motion to approve 9.4.
37
- 38 Smith: I second.
39
- 40 Guerrero: All right. Excellent. Let's take it to a vote.
41
- 42 Baum: Board Member Vega.
43
- 44 Vega: Yes.
45
- 46 Baum: Board Member Smith.

1
2 Smith: Yes.
3
4 Baum: Board Member Kaiser.
5
6 Kaiser: Yes.
7
8 Baum: Board Member Bennett.
9
10 Bennett: Yes.
11
12 Baum: Board Member Acosta.
13
14 Acosta: Yes.
15
16 Baum: Chair Guerrero.
17
18 Guerrero: Yes.
19
20 Baum: Thank you.
21
22 Guerrero: All right. Excellent. Go ahead.
23
24 Banegas: Mr. Chairman, Commissioners. Vincent Banegas, Interim Planner for the
25 record presenting this evening's case regarding 22ZO1000071. It is a
26 Special Use Permit request involving a group childcare home for property
27 located at 1534 Santa Thomas Street. So the current conditions are as
28 follows, the property and property immediately surrounding the subject
29 location is all zoned R-1a, that's our medium density single-family density
30 residential district in our 2001 Zoning Code. The property is located within
31 Legends West North 2 B subdivision. Again, all the property is R-1a within
32 that subdivision. The property is 0.144 acres in size. And it is currently
33 operating a family childcare home, not a group childcare home, on the site,
34 and they've been doing so for approximately two years. Elsewhere they've
35 been operating that as well for a little longer than that. But at present they
36 have five children, they're authorized to have six, and it's the husband and
37 wife who serve as the employees for the operation.
38
39 The property itself has direct access off the Santa Thomas Street. The
40 zoning map is shown here. Santa Thomas is located along this side. The
41 property is outlined in red. And R-1a makes up all of the lots within that
42 subdivision primarily, at least this phase of the subdivision as shown.
43 Across the street on the west side you have, across the property on the
44 west side you have Roadrunner Lane. The City limit boundary, I don't know
45 if you can tell, but there's a dashed line that delineates the City limit
46 boundary. And so anything further west of Roadrunner Lane is in the

1 county, it's outside the City but the zoning designation is identified as D-1
2 and D-2 and those are residential uses. The D-2 I believe allows mobile
3 home to be used as the dwelling. D-2 allows a broader variety of residential
4 uses, anything from site build, manufactured mobile, and in this small corner
5 you have a mobile home park type of zoning.
6

7 So rather antiquated aerial map. I apologize for that because there is quite
8 a bit of development that has taken place, but nonetheless showing the
9 property in question. Two parcels down you have a linkage if you will to a
10 linear park system. And so this property is only developed in accordance
11 with that linkage. Beyond that its residential uses. And again some of the
12 residential uses over here with mobile homes identified throughout. And
13 then in terms of history, the house where the proposed use is to be located
14 was built very recently, in 2019, it meets all the code requirements, both in
15 the Zoning Code and Building Code. It has received its certificate of
16 occupancy. And the applicants have operated as indicated previously a
17 family childcare home since 2017, two years at the present location, and
18 they are licensed by the state. State licensure is required for that use. And
19 just so that you're aware, a family childcare home has a minimum of five
20 children and a maximum of six. A group childcare has beyond six up to 12.
21 And that is exactly what they were proposing to do is convert that family
22 childcare to a group childcare home. They will require of course the
23 licensure not only with the City, but also the state. The state has several
24 requirements that need to be adhered to. And they will be conducting their
25 review much like we are this evening. Ultimately, the use will have to follow
26 all applicable regulations.
27

28 So a couple of photos, this is the front of the property from Santa Thomas
29 Street, it is looking west. And this is the property in question, you can see
30 the gates on either side of the house, at least on this side of the house. This
31 other one's kind of hidden from view. A site plan of the property which was
32 submitted at the time of building permanent consideration, shows that the
33 gates are located or at least they are located more or less in the vicinity
34 here, as well as there. The entire rear yard has a wall of varying heights
35 that's placed on the property line, and that is a good thing because for the
36 safety of the children that will be at this facility there will be outdoor
37 recreation from time to time and that wall and the gates will help with that
38 security.
39

40 The applicant has submitted this aerial photo, you can see this aerial photo
41 much more recent showing many homes in the surrounding properties. But
42 this is the property in question. This was that linkage to a linear park system
43 or path in the area. But they have identified the two car driveway here as a
44 primary drop off and pickup location for the children. They also have three
45 on street auto stalls for drop off and pickup, and then two across the street.
46 Staff, when we reviewed that, we're hoping that those two are used the

1 least, just from a safety perspective we don't want kids running across or
2 getting away from the parents if they're old enough. And so we feel that
3 those along this side of Santa Thomas would be most beneficial for the use
4 under consideration this evening.

5
6 Something further about those parking stalls and drop off/pickup. The
7 applicant has indicated that there will be a three hour window for drop off
8 and a three hour window for pickup. And they're looking to stagger those
9 instances in 30 minute intervals trying to reduce traffic in the surrounding
10 development and to increase safety at least from the context of vehicles and
11 children and parents etc. So staff looked at that as a very good idea to help
12 maintain compatibility with the neighborhood.

13
14 So public notice for this was sent to surrounding properties again early this
15 month. No specific input was received. I did receive a call but they just
16 indicated they would be in attendance. So I'm not quite sure what the issue
17 is regarding that call. But staff has a recommendation and findings of fact
18 for you to consider. We are recommending conditional approval, we'd like
19 for you to consider the condition that reads, the Special Use Permit or SUP
20 approval be contingent upon the group childcare home licensure by the
21 State of New Mexico at the subject location. And that's because both
22 entities have to approve this request in order for it to be a green light, a go,
23 and so it just kind of made sense to me to apply that condition. The findings
24 of fact are as follows the applicant, they have operated a family childcare
25 home since 2017 more or less, and approximately two years at the present
26 location, so they're familiar with the process. And they have been in good
27 standing to the best of staff's knowledge in terms of this use. They're
28 familiar with the state requirements and the operational plans that they've
29 submitted help ensure neighborhood compatibility. The operational plans
30 also help ensure child safety. The State of New Mexico Early Childhood
31 Education and Care Department requires the licensure, so that's another
32 step for consideration for this matter. So there's two sets of eyes, if you will,
33 that will look at this. And childcare has been determined to be a much
34 needed use in and around our neighborhoods. It's in rather short supply if
35 you talk to those who are in need of that type of care. So the subject
36 property is also located in suburban place type, again pursuant to Elevate
37 Las Cruces. So it's consistent with that. Elevate supports the request, it
38 encourages for instance, the creation of small local businesses. It provides
39 economic opportunities for underserved populations. It provides complete
40 neighborhoods by incorporating a wide range of uses in those
41 neighborhoods. It supports home employment opportunities, and increases
42 access, which is specifically identified in Elevate to childcare for single
43 parent households. So for sure, from the Elevate Las Cruces perspective,
44 there's quite a bit of support for the request. It also meets the purpose and
45 intent of the 2001 Las Cruces Zoning Code as amended, and the criteria for
46 decisions found within our municipal code.

1
2 Your options this evening to vote "yes" and approve that request as stated
3 by staff, you can vote "no" and deny it, come up with findings of fact to the
4 contrary of those provided this evening by staff. You can vote "yes" with
5 condition as stipulated, or vote to table. And that concludes staff's
6 presentation. I believe, Miss Roxanna Sanchez, the applicant, is in
7 attendance, or has a representative in attendance that can help answer any
8 questions you may have. And that concludes staff's presentation.
9

10 Guerrero: Thank you so much. Yes, do we have the either applicant or representative
11 that would like to speak? Yes, would you like to speak or do you? All right.
12 No problem. Do we have any questions from the Commission? Yes.
13 Commissioner Smith.
14

15 Smith: Yes, I just have one question. You are going with this floorplan, the current
16 footprint of the home, you're going from you know five or six children to 12.
17 So you're doubling the number of children that are going to be in this
18 residence. Are there any plans to somehow expand this space, whether it's
19 convert the garage, or you know to build anything addition in the future
20 because it seems like a huge increase in number of kids and the current
21 size of this home.
22

23 Banegas: Mr. Chairman, Commissioner Smith. At least from the perspective of data
24 that was submitted as part of the application, it does not appear as if there
25 was any intention to expand the envelope of the home. They are aware
26 that there are certain space requirements for each kid pursuant to state law
27 in terms of the process that will be examined, but there was nothing
28 indicative of the need to expand at this point in time.
29

30 Kaiser: Okay, that was more my question whether there's some type of state
31 requirement as far as space for each child. Thank you.
32

33 Guerrero: Thank you. Commissioner Kaiser you had a question or comment?
34

35 Kaiser: Yes. An observation followed by a question. So in both the staff report and
36 then in your presentation this evening you made the comment about some
37 safety concerns about children crossing Santa Thomas Street from one side
38 to the other. It seems to me that that is City's position that this road is
39 inherently unsafe for pedestrian crossings. And when looking at this image
40 right here it seems like there's a number of opportunities to address
41 pedestrian safety concerns, just simply adding some crosswalks, maybe
42 some curb extensions, or other traffic calming measures to really benefit
43 this type of business, which is sorely needed. And it seems that by making
44 just small improvements like that would go a long way in encouraging
45 people to perhaps walk their children around the corner down the street to
46 this business and eliminate the need to be driving an automobile to begin

1 with. So I guess my question is, is the City considering any of that to support
2 a business like this that's sorely needed in our neighborhoods to allow for
3 alternative modes of transportation?
4

5 Banegas: Mr. Chairman, Commissioner Kaiser. Staff is not aware of, in order to
6 accomplish some of those things first off, such as a crosswalk, etc., the
7 applicant would have to meet with staff and traffic engineering as an
8 example to see if it would be a prudent measure to apply crosswalk
9 markings in this vicinity. But staff did not imply or wasn't the intent of staff
10 to imply that Santa Thomas was a dangerous roadway; it's just a local
11 roadway much like any other local roadway elsewhere in the City in a
12 residential neighborhood. It's just that from the perspective of where those
13 two stalls are the parent and child would have to cross and it's a little
14 deceiving. I think that's a 50 foot roadway, at least right-of-way rather. And
15 so you do have 19 foot wide stalls that are marked out there. So the idea
16 was just to limit the use of those two stalls so that it increases safety. I think
17 with the interval for pickup and drop off that was being proposed by the
18 applicant and the use of stalls one through five, much of any safety concern
19 that staff had regarding the use of the two stalls, six and seven, would
20 greatly be reduced. And again, in terms of any other street treatments, that
21 kind of thing to help facilitate the use, no discussions have been made at
22 this point in time with the applicable departments.
23

24 Kaiser: Thank you for that. And I'll just say I, myself live on a street very similar to
25 this and people fly, absolutely fly through the neighborhood, because
26 there's no reason for them not to slow down. So I guess my ask would be
27 of staff, should the applicant and other neighbors raise this as a potential
28 safety concern. That you work with them and the appropriate departments
29 to find some reasonable accommodations to slow traffic. Thank you.
30

31 Guerrero: Thank you. Yes, does anybody else have any questions or comments? I
32 have just a question, and it's just a general question. It's not at all the
33 individual applicants. But so if we do it with the condition of them getting
34 the different licensure from the state, what is the follow up process that the
35 City does? Do you guys actually go and make sure that they got that before
36 they move on to their operation? Do they have to come back to the City, or
37 how does that usually work?
38

39 Banegas: So Mr. Chairman, Members of the Commission. The process is to come
40 here first for a Special Use Permit approval. If they get that they'll be
41 working with the state to get their approval. But there's an added step from
42 the City's perspective, they'll have to get a home occupation permit to
43 actually conduct the business as indicated in this packet. And so there's an
44 added measure that needs to take place, and it'll be at that time that staff
45 will do the necessary inspections to make sure the ingress/egress to the

1 home and all other measures are in place in accordance to City rules and
2 regulations, and the state I'm sure we'll do the same from their perspective.

3
4 Guerrero: All right. Thank you. Yes. ...

5
6 Nichols: Mr. Chairman. If I may.

7
8 Guerrero: Yes, go ahead.

9
10 Nichols: Just as Vince has mentioned about the home occupation, but this business
11 once it's converted from family to group will require a business registration.
12 When a business application is put in for that, then the building department
13 inspector and the fire department inspects these facilities to enable them to
14 issue that business registration. So there will be a review of the premises
15 and the facility at the time of business registration issuance.

16
17 Guerrero: Excellent. Thank you. Yes and I mean I'm sure the owners are going to
18 make sure that everything gets done appropriately. But yes, I was just you
19 know I've always been curious about that. Well, we will move on to
20 questions from the public or comments from the public. Do we have
21 anybody that would like to speak on this specific case? Seeing none. Could
22 I get a motion to approve this case?

23
24 Bennett: I make a motion to approve 9.4 with conditions stipulated in the report.

25
26 Vega: I second.

27
28 Guerrero: All right. Thank you.

29
30 Baum: Board Member Vega.

31
32 Vega: I vote to approve with conditions outlined by staff including obtaining the
33 state licensure, and also based on staff recommendation.

34
35 Baum: Board Member Smith.

36
37 Smith: I vote yes to approve with conditions based on staff recommendation

38
39 Baum: Board Member Kaiser.

40
41 Kaiser: Yes, with conditions based on staff's recommendation and consistency with
42 Elevate Las Cruces.

43
44 Baum: Board Member Bennett.

45

1 Bennett: I vote to approve based on staff recommendation, Elevate Las Cruces and
2 the need in the community.
3
4 Baum: Board Member Acosta
5
6 Acosta: I vote to approve based on staff recommendation.
7
8 Baum: Chair Guerrero.
9
10 Guerrero: I as well vote to approve with the conditions by staff based on staff
11 recommendation, and of course the need for more services like this in the
12 community. And the motion passes. Thank you very much.
13
14 **9.5 801 E. Farney Lane Variance:** A 7' height variance to the maximum 35'
15 height allowed and a 1 dwelling unit variance to the maximum 79 dwelling
16 units allowed for property currently zoned R-3/C-3C (Multi-Dwelling Medium
17 Density/Commercial High Intensity – Conditional) and proposed to be
18 rezoned through separate action to R-3 (MultiDwelling Medium Density). It
19 is the proposed zoning to which this variance pertains. The property is ±
20 3.98 acres in size and located in Council District 2. Submitted by Tierra
21 West LLC, on behalf of Thomas Development. (Case # 22VO0500089)
22
23 Guerrero: So we're moving on to the next one. We have case 9.5 which is a variance.
24 Could I get a motion to hear this case?
25
26 Vega: I make a motion to approve 9.5.
27
28 Smith: I second.
29
30 Guerrero: All right. Perfect.
31
32 Baum: She made a motion to approve this case. Are you just making a motion to
33 hear this case?
34
35 Guerrero: Sorry. Yes. Yes. It would be to hear this case.
36
37 Baum: Okay.
38
39 Guerrero: Does she need to repeat it or?
40
41 Vega: Sorry about that. I'll make a motion to hear case 9.5.
42
43 Baum: Thank you, just in case keep us safe and legal.
44
45 Baum: Board Member Vega.
46

1 Vega: Yes.
2
3 Baum: Board Member Smith
4
5 Smith: Yes.
6
7 Baum: Board Member Kaiser.
8
9 Kaiser: Yes.
10
11 Baum: Board Member Bennett.
12
13 Bennett: Yes.
14
15 Baum: Board Member Acosta.
16
17 Acosta: Yes.
18
19 Baum: Chair Guerrero.
20
21 Guerrero: Yes.
22
23 Baum: Thank you.
24
25 Guerrero: Thank you. Go ahead.
26
27 Banegas: Mr. Chairman, Members of the commission. My final case anyway, Vincent
28 Banegas, Interim Planner for the record. My final case involves a couple of
29 variances for property located at 801 East Farney Lane. It is case
30 22VO0500089. Current conditions regarding the property, the property is
31 3.98 acres. It is property you have seen. There was a rezoning request
32 that came forward, gosh, I want to say a couple of months ago, it all blurs
33 together. But at that time the property size was listed a little greater than
34 the 3.98. I did mention that there was some effort to clarify that and we
35 have and it is shown correctly on this slide at 3.98 acres. It is an
36 underutilized parcel that is presently pancake zone. It has R-3 and C-3
37 conditional zoning on it. R-3 being our multidwelling medium density
38 designation. And our C-3 is commercial high intensity zoning district. The
39 conditions that were attached to it at the time of zoning back in the day,
40 talked to residential caps, talked to restrictions on commercial uses and
41 hours of operation for those commercial uses, and liquor sales. So when
42 the applicant came forward those few months ago with a zoning change
43 request, they were seeking to rezone from the R-3/C-3C designation to
44 straight R-3. And it is the straight R-3 zoning designation to which these
45 variances will speak.
46

1 The conditions that I identified are found in ordinance 2767. And just
2 wanted to let you know that the case was originally intended to go before
3 City Council at an earlier day, but there was a provision I believe in the
4 purchase agreement that required the consideration by Council to be moved
5 back. And so it is anticipated that October 3rd, first meeting in October,
6 would be the designated date for hopefully approval of that zone change
7 request.

8
9 But this evening as part of the next step for development processes
10 regarding this property, the variances are under consideration. And the
11 property if you recall was identified as part of the urban neighborhood place
12 type, and urban neighborhood kind of elevates the residential component
13 from low to moderate, to moderate to high residential densities, again with
14 intermixed commercial uses within that place type. It's also subject to the
15 EL Paseo Corridor Community Blueprint, as was stated previously for the
16 earlier case. And the applicant's request facilitates development of a
17 proposed senior apartment complex. The again looking at it from the R-3
18 lens, the existing R-3 zoning allows the property to be developed with a
19 density of 20 dwelling units per acre. If you do the math using that 3.98
20 acreage, it comes to just under 80, and so 79 dwelling units would be
21 authorized. It also restricts the maximum height to 35 feet and it was the
22 developers applicant's intention to have 80 units total and up to 42 feet in
23 building height.

24
25 So this is the zoning map of the subject property, it's outlined in red, still
26 showing that pancake designation which again if Council approves the
27 request as recommended by this body to them, it will receive an R-3
28 designation. You do have R-3 immediately east and further north of the
29 subject property. C-3 is directly north of the subject property. That's where
30 a church is located. I believe they have daycare facilities as well. You have
31 commercial zoning C-2 designated further east of the R-3. The R-3 is a
32 park. And then you get into your R-1a. Your R-3 underlying PUD zoning
33 sits here, that is a residential development, it's south of Farney Lane. And
34 then further west along El Paseo you have a residential development
35 following the R-1a standards and Las Cruces High School above that.

36
37 Again, an aerial showing the property outlined. You do see a single-family
38 home more or less at the south, or I should say at the northeast corner of
39 the intersection of El Paseo Road and Farney Lane. That is proposed for
40 demolition when development ultimately begins for the subject property
41 pending approval, of course.

42
43 So the proposal this evening again, I mentioned involves two variances.
44 One is a seven foot variance to the maximum 35 foot height allowed
45 pursuant to the R-3 district, 42 feet as the ultimate build out that they're
46 looking at, and one dwelling unit variance to the maximum 79 dwelling units

1 allowed in the R-3 zoning district for this property. Again, they want to go
 2 to 80. So the variances, If approved, facilitate the development of a senior
 3 apartment complex. And it is stated in their proposal that the layout, the
 4 design of the facility etc, has taken into consideration the ability to go to 80
 5 units and 42 feet ultimate height. So, in terms of the height not all of the
 6 building that is been proposed, at least the main building being proposed,
 7 would take advantage of the full seven foot exceedance. There will be at
 8 least, I'll be showing you a site plan that shows a wing shaped building and
 9 it is the wings that will go beyond the 35 foot by three feet. Only 8.5% of
 10 the building in its entirety, which consists of the common area, will extend
 11 four feet further up to seven feet exceedance. So adding the height, it was
 12 identified by the applicant, will help conceal some of the rooftop building
 13 equipment which we always try to do, we've got that written into our urban
 14 design section of the current zoning code. So that's a good thing. The
 15 applicant also conducted some site, I called it height studies, but they're
 16 sightline studies, to consider minimizing the intrusive views that may be
 17 realized from one development onto another. And they've taken the time to
 18 look at that. And I think the applicant's representative can speak to that
 19 when appropriate. But they've taken the measure to try to mitigate any
 20 concerns regarding the height. And I think they found some substantial
 21 support for what they were originally requested. So there was some
 22 property right-of-way takes for adjacent roadway improvements, I think
 23 some of the sidewalks that were improved and the road widths that were
 24 widened on some of the roadways, Farney and the West Park Drive, for
 25 instance, there was a need for right-of-way and so right-of-way tacks did
 26 occur. And so from a physical hardship that decrease in acreage certainly
 27 had an impact on the 80 unit count that they would otherwise want to do.
 28 And so that was one of the considerations for the proposal, at least from the
 29 staff's perspective.

30
 31 The applicant also held an early notification meeting with the surrounding
 32 properties back in January of this year, actually. And they've been in
 33 contact with them since. And I believe the support is still unwavering.
 34 There's still a lot of support for the proposal. And part of the reason is that
 35 some of the other zoning considerations in terms of existing zoning were
 36 not considered very favorable by the neighborhood. So this is a site plan
 37 that staff has kind of worked with the applicant on. If you recall, the area
 38 along here was garage lined buildings, I'm sure the applicant's
 39 representative can speak to some of the options they've considered based
 40 on staff meeting and discussion. But they are now locating the duplex units
 41 closer to El Paseo Road and having them front at least that roadway and
 42 bringing the development closer to said roadway. The garage units or
 43 structures are being dispersed throughout the site. And this is that winged
 44 main building that I mentioned. And of course landscaping. This is still what
 45 I would consider conceptual, there's been no building permit submitted so

1 it's subject to some tweaks. So we'll have to wait and see what ultimately
2 comes forward for staff consideration.

3
4 So this is that winged building, three floor structure. Looking at the top floor
5 you have the three foot bust in terms of maximum height located along each
6 wing. And then this common area is where the seven foot bust would take
7 place. So again, a small percentage of the whole exceeding the 35 foot
8 mark by seven feet. Just a little elevation. So part of the applicant's
9 justification in their letter, they talked about economic financial hardship.
10 And the variances obviously they pointed out helped them achieve the
11 ultimate build out that they've been looking at. And they feel that it remains
12 sensitive to the surrounding neighborhood. It remains sensitive to the
13 blueprint in the Comprehensive Plan. The applicant has as indicated held
14 those early notification meetings with the surrounding property owners. And
15 when they did so, it was with the full intent of going 80 units and 42 feet in
16 height. So it's not been a recent change, this has been an issue that they've
17 carried forward all along. A couple of photos showing the property, house
18 is subject to demolition. This is kind of at the intersection of El Paseo and
19 Farney Lane. This shot is taken looking kind of west-northwest. This is the
20 West Park Drive and Farney Lane is right in there. And again a different
21 angle looking north-northwest, I believe that's Las Cruces High School
22 schools, at least part of it back in here.

23
24 So in our analysis, we found no health, safety, or welfare issues identified
25 within the proposal and the proposed variances we felt do indeed allow the
26 development as originally proposed. It is within the urban pace type and is
27 consistent with that place type and the EL Paseo Corridor from a use
28 perspective. And so we feel that the comp plan does encourage and
29 support the request. It does provide for mixed use medium to high density
30 residential densities along that corridor. It seeks to achieve attainable
31 housing. It certainly provides an added element of variety in terms of
32 housing styles. And in terms of the blueprint, again higher density is
33 encouraged along the corridor, etc. There is some streetscape design that
34 they tried to improve upon with the change out of some of the structures on
35 site. So generally speaking from a use perspective at minimum, we feel
36 that it's compliant with those planning documents.

37
38 The case was noticed as per code earlier in the month. And that early
39 notification took place in January. Staff has not received any recent input
40 from the neighborhood regarding this issue. So staff has the following
41 recommendation and findings, we're asking for conditional approval
42 consideration. And the condition would read that approval of the variances
43 shall be contingent upon the approval of pending zone change to R-3. And
44 that again is set before City Council on the coming months. So the issue
45 there is basically if that R-3 doesn't get approved then the variance is a
46 moot point. And so that's why we're asking for them to be tied together and

in context to a condition. So the findings are that the property is underutilized and is 3.98 acres in size. Currently has that pancake zoning but a rezoning request has been proposed. The variances do speak to the R-3 standards as indicated. All along the applicant has considered 80 units and the 42 foot height design. There has been no concerns cited during any discussions regarding height and density. The applicant's desire to proceed with their proposal requires the variances as identified in this presentation. Also property falls within the infill area in that it's underutilized. There is always policy to seek the conversion of property that is inactive to active status. And the subject parcel is subject to and staff feels compliant with the bulk of El Paseo Corridor Community Blueprint. The property is also within that urban neighborhood place type. And there's consistency with that characterization for that place type. So all three criteria of the variances in some form or fashion are met, staff feels they're met. The acreage reduction, for instance, speaks to a physical hardship. With that acreage in place they wouldn't have had to ask for the one dwelling unit variance. It also speaks to the project spurring considerable economic development both at the neighborhood and citywide level for the project. Certainly shorter term and longer term, it's a benefit to the neighborhood and some of the commercial uses within that area. And of course monetary considerations can't be specifically looked at, but if it drastically impacts the project we can consider those and I think the applicant has discussed that in their justification. They need these considerations to move forward with their project. Several goals, policies, and actions within the Comprehensive Plan support the request, as does the purpose and intent of the Zoning Code and the criteria for decisions of the municipal code.

So your options this evening is vote "yes" and approve the request, you can deny it and provide findings to the contrary of what staff's presented, you could vote "yes" with the condition staff has proposed or any additional that you may feel prudent to apply. And you can also vote to table the request. And this concludes staff's presentation. I know Mr. Ron Bohannon is in the audience from Tierra West, representative for this case. Between us we can answer any question you may have.

Guerrero: Perfect. Thank you very much. Would you like to come up and speak? All right before I have you speak I would need to swear you in. Could we have your first and last name please?

Bohannon: Ronald Bohannon. As in Boy-O-H-A-N-N-A-N

Guerrero: Thank you for the clarification. And do you swear and affirm that the testimony you're about to give is the truth and nothing but the truth under penalty of law?

Bohannon: I do.

1
2 Guerrero: All right. Perfect. Looks like you have a presentation. So looking forward
3 to it.

4
5 Bohannan: Thank you. I'm actually going to abbreviate this quite a bit. Vincent did a
6 fantastic job. We've been very pleased. First of all I want to say that Tom
7 Mantrac was going to be here. He appeared before you guys on the zoning
8 case. He had a family issue and so he could not get here from Boise, Idaho.
9 And just to remind you that this individual has been doing affordable housing
10 for decades, retains his ownership, and this is going to be a very good asset
11 for the City of Las Cruces. And just to give you some numbers a one
12 bedroom unit to qualify it will be as low as \$12,800 of income per year, and
13 a two bedroom will go to \$14,600, so very low thresholds. So it really
14 represents affordable housing for seniors, which is in dire need for the City.
15 I think the primary one, the one unit is a pretty easy one to do. I mean we
16 looked really hard to try to find two hundredths of a square foot so we
17 wouldn't have to come in and ask for the one unit variance but we just
18 couldn't get there. So we're asking for the one unit. And there was several
19 right-of-way takes as Vincent has pointed out.

20
21 The height variance, that's a little one for people to understand, is when you
22 go from floor to floor on a multistory building, what you have is you have a
23 lot of different mechanical equipment and other areas and you want to have
24 adequate heights inside your units. And so what that does is it builds up
25 that need and so what we've done is we've actually set that to the bare
26 minimum that we've gotten which is 42 feet for predominantly most of the of
27 the building. And then in the middle of the corridor is where our elevator
28 shafts are, and so what we need there is to bump it up for two reasons; one
29 is, nice to have a little bit of architectural articulation and relief on that area,
30 but also to hide those elevator shafts as well. So we worked with the Fire
31 Department, we're going to have two full service elevator shafts in there as
32 well through that.

33
34 I'll be happy to go through the site plan with the Commission. I know there
35 was a lot of questions at zoning. We've made quite a bit, and I think let me
36 just do one real quick. And I can. Oops, go back. How do I go back?
37 Thank you. So what we did along EL Paseo was in the site plan we
38 reoriented the site and we really worked at it really hard. We pulled a lot of
39 different elements on it. And so what we wanted to do was create that
40 streetscape that engaged El Paseo, and we actually looked at the school,
41 which is north of there and we looked at how their walkway was in front of
42 it. And so we really actually have mimicked that area. And so what we did
43 is we took the three units and we built those, we pulled those up against El
44 Paseo, and then what we did is we created an entrance off of El Paseo so
45 that the residents, once you have transit on El Paseo, can use utilize that
46 that area.

1
2 So what you're looking at is you have these three buildings here. And then
3 we've really articulated this entrance right through here. And we plan on
4 bringing that articulated entrance all the way to the front as well as
5 enhancing this as a tenant only entrance through this area. With that, we'll
6 be happy to go through if there's any questions from the Commission, on all
7 of the site variances, site orientations, but we tried to really look at how to
8 take this and engage the street and we think we've done that. If we looked
9 at other options, what that ended up doing was it put our units looking down
10 into the neighbor's backyards. And so we really felt this was the best use
11 and best orientation for that project. So with that, Mr. Chair, I'll be happy to
12 answer any questions that the Commission might have.
13

14 Guerrero: Absolutely. Thank you. Do we have any questions from the Commission?
15

16 Bennett: I don't have a question. But I just want to give my appreciation for this
17 project. I think it's great. And I'm glad that you tried to reduce the amount
18 of added height in the project. So thank you for that.
19

20 Guerrero: Thank you, anybody else? Commissioner Smith,
21

22 Smith: I just have a question for staff. That's more of a zoning change education
23 for me. Initially, back in April when we approved this project to move forward
24 it was zoned R-3 and then commercial. So they're still going forward as a
25 residential. So why was the need to eliminate the commercial aspect of it?
26

27 Banegas: So Mr. Chairman, Commissioner Smith. So the applicant, keep in mind that
28 with the existing zoning that's still in play, the packet that is seeking to
29 change it from R-3/C-3C, to R-3 only is still going to forward, it just looked
30 at the zoning aspect. There was no variance consideration as part of that.
31 So the primary reason the applicant requested that zoning designation was
32 a couple of things, with R-3 zoning they could accomplish what they wanted
33 to do. And another thing with those conditions that were in place with the
34 R-3/C-3C designation, there was substantial restrictions on the density.
35 Yes, 60 units if I recall correctly. That's correct.
36

37 Smith: So basically that allowed them to increase the number of units.
38

39 Banegas: Yes, if they go via the zone change and get rid of those conditions they can
40 go with what the R-3 allows and they're just shy one unit, so that's the
41 variance.
42

43 Smith: All right. Thanks for that clarification. Appreciate it.
44

45 Guerrero: Yes, absolutely. I don't have any questions. But you know just want to echo
46 you know it's very needed to have this kind of property and housing in Las

1 Cruces. So thank you very much. Do we have any questions or comments
2 from the public? It looks like none. I'm so sorry. Yes. Are you both coming
3 up at the same time or one? Okay, perfect. Yes. Come on up then. Just
4 watch your step there. Yes. All righty. Well, I need to swear you in. Could
5 I get your first and your last name, please?
6

7 J. Jaquess: Yes. My name is Joel Jaquess.
8

9 Guerrero: Okay. And do you swear and affirm that the testimony you're about to give
10 us the truth and nothing but the truth under penalty of law?
11

12 J. Jaquess: Yes.
13

14 Guerrero: All righty. Go ahead. You have three minutes I believe.
15

16 J. Jaquess: Okay. All right. My name is Joel Jaquess. And I'm a resident of the
17 subdivision directly south of the subject property, the Heritage Farm
18 subdivision. And my main concern is the added traffic. I know that I've
19 been to almost every meeting that we've been invited to. And the developer
20 assures us that the type of resident in this building, they're not big drivers.
21 You said there won't be a problem with traffic. But it's hard for me to believe
22 with the density that they're wanting, that's going to be a lot of people, but
23 we can't control the traffic.
24

25 Well anyways my main concern is sometimes we leave my house at about
26 nine o'clock in the morning and go down West Park because I work not too
27 far away, but anyways traffic is a mess. There's kids all over the place. Of
28 course, in the summer when there's not school it's not bad. But it's pretty
29 bad at nine o'clock, when they're going to and from class. And as far as the
30 building height, I used to be a framer, and we built a garage for a client and
31 it was, well we started building a garage, and it was one foot taller than the
32 35 foot maximum. We had to change the whole roof to get it to work. So I
33 understand that the codes are there for a reason, that variance, the heights,
34 protecting people's views, making the City consistent, uniform. And I just
35 have a problem with the density and blocking the view of the people that
36 live across the street.
37

38 Guerrero: All right.
39

40 J. Jaquess: Thank you.
41

42 Guerrero: Well thank you. Thank you so much. Well, before we, sorry, you also had
43 a comment. All right. Yes, I would need to swear you in first, if you wouldn't
44 mind. Your first and last name, please?
45

46 A. Jaquess: Ann Jaquess.

1
2 Guerrero: And do you swear and affirm that the testimony you're about to give is the
3 truth and nothing but the truth under penalty of law?
4

5 A. Jaquess: Yes.
6

7 Guerrero: All right. Go ahead. And you have three minutes.
8

9 A. Jaquess: I. you know, we come out at about 8:40-ish and so not just on West Park.
10 But ...
11

12 Baum: Could you please move closer to the microphone.
13

14 A. Jaquess: You bet.
15

16 Baum: Thank you.
17

18 A. Jaquess: You're welcome. But also on Farney itself a lot of the parents are coming
19 from El Paseo onto Farney or even from the other direction, then going
20 down West Park to drop off. So and you also get the same thing in the
21 afternoons. And then, so I know on the other side of El Paseo on Farney,
22 they have some speed bumps to help slow. They have two of them, and
23 they also have the little thing that flashes at you if you are driving faster than
24 25. And because that is a really, people get on there and they go much
25 more quickly than 25. So that is a big concern. And even four months ago
26 our neighbor George, who's right up there, his back part of his fence was
27 ran into buy a car from a high school student that came off of West Park,
28 had been stopped, lost control and broke down his block wall. So it's
29 something that I really am hoping the City will look into to make sure that
30 that's really going to be safe. And then during soccer season, West Park
31 you have all the parents and the kids parking there to watch the soccer and
32 all that stuff. So parking and just car traffic, it's something I'm hoping that
33 they look at seriously. Okay.
34

35 Guerrero: Yes. Thank you. Thank you so much. Really, really appreciate those
36 comments.
37

38 A. Jaquess: You bet.
39

40 Guerrero: Yes. Thank you. And be careful walking back up. Do we have any I guess
41 anybody else? Yes. Please come up front.
42

43 I don't know why I'm doing this but ...
44

45 Guerrero: No problem. If I could get your first and last name, please.
46

1 McNamee: My name is Elizabeth McNamee.

2
3 Guerrero: All right. And do you swear and affirm that the testimony you're about to
4 give is the truth and nothing but the truth under penalty of law?

5
6 McNamee: Yes.

7
8 Guerrero: All right, perfect. You have three minutes as well. Thank you.

9
10 McNamee: Okay. Hi, I live on Crescent drive right in the curve. So this whole thing is
11 going to block my whole vision of the mountains. And I'm concerned about
12 what that's going to do to my property. The mountain, you know my property
13 is worth and everything. And it just seems to have gotten bigger. And I'm
14 just scared. I don't know what this is going to do to my life you know. And
15 I just wanted everyone to know. I haven't been able to get to any of the
16 meetings because I have a hard time getting around sometimes. But I don't
17 know. It's right in my line of vision, right up to the mountains from my
18 backyard. And as the height of this thing, if it was two stories maybe it could
19 have gotten by but three stories, it's going to be crazy. And I'm not so
20 worried about the traffic as much, but I am worried about you know what it's
21 going to do to my property. Anyway, my two cents.

22
23 Guerrero: Thank you. Thank you very much. And we're glad you could make it. I
24 think we have one more person wanted to speak. Just please watch your
25 step.

26
27 H-Rogers: Mr. Chair. I do want to point out that there is a ramp for those people that
28 are more comfortable traveling down a ramp than stairs. Just for the future.

29
30 Guerrero: Thank you. Yes. Thank you. Yes, I'm just always concerned that nobody
31 falls and hurts themselves. All right thank you for coming up. Could we get
32 your first and last name, please?

33
34 I'm sorry.

35
36 Guerrero: Could we get your first and your last name?

37
38 Pintar: My first name is George and my last name is Pintar, spelled P-I-N-T-A-R.

39
40 Guerrero: Okay. And do you swear and affirm that the testimony you're about to give
41 is the truth and nothing but the truth under penalty of law?

42
43 Pintar: Yes, I do.

44
45 Guerrero: All right. Go ahead. You have three minutes as well.

46

1 Pintar: I'm not so concerned about the traffic. I'm not concerned about the heights
2 of the building. But I am concerned about the definition of the senior
3 complex. I would like to have a definition of what meant by the senior
4 complex.
5
6 Guerrero: Okay, thank you. Yes. Do we have maybe the applicant would like to
7 answer maybe what the age range or you know, definition of the residents
8 would be?
9
10 Pintar: Is there an age limit?
11
12 Guerrero: Yes. What would the age limit be?
13
14 Bohannan: So, Mr. Chair. There is an age limit. I believe it's over 55. So anybody
15 under 55 can't live at that. It's age restricted.
16
17 Guerrero: Okay perfect. So over 55 years old.
18
19 Pintar; I'm sorry.
20
21 Guerrero: Over 55.
22
23 Pintar: And will it be, would there be a sliding scale in regard to financial?
24
25 Bohannan: Mr. Chair. Yes, I believe there. I gave you the very lowest limits, but there
26 is a sliding scale based on income.
27
28 Guerrero: Okay.
29
30 Pintar; In early discussions with the people who live in Heritage Farms, it was our
31 understanding that the price was going to be about \$1,260 per unit.
32
33 Bohannan: Mr. Chair. Right now we're looking at a one bedroom unit of between \$343
34 to \$649 per unit, and a two bedroom unit from \$411 to \$823 per unit. That's
35 with all of the price increases that we've had because of the pandemic and
36 supply change. But that's where we're at right now.
37
38 Guerrero: Yes. Thank you.
39
40 Bohannan: Still very, very affordable.
41
42 Guerrero: Yes, no, absolutely. Thank you. Yes, thank you. Did you have any more
43 questions, sir?
44

- 1 Pintar Not yet. One of the real concerns though is in relationship to not allowing
2 the age limit, financial limit, but also, how long will that, all of these items be
3 in place? Is there going to be any kind of time limit?
4
- 5 Bohannan: Mr. Chair. Thomas Development has, and I don't know exactly how many
6 they have, but they keep these for over 15 years. It's part of the conditions
7 of approval for affordability that they have to commit. And I want to say it's
8 at least a 15 year timeframe. But I, would need to verify that, but I'm pretty
9 sure it's a 15 year timeframe.
10
- 11 Guerrero: All right. Thank you.
12
- 13 Pintar: May I have one more minute?
14
- 15 Guerrero: Yes, go ahead.
16
- 17 Pintar: Okay, we had some people come through our subdivision concerned about
18 our property value. And is there any kind of history research and so forth,
19 that shows that the property values surrounding one of these senior
20 complex is deteriorated or lessened?
21
- 22 Bohannan: Mr. Chair. I was going to dress this anyway. Property values are set by like
23 properties. I've been in doing development, engineering and development
24 and management for well over four decades. So what you don't have is,
25 you can't have a change in value because of a project. It can affect it, but
26 it doesn't usually affect it negatively. So when you have an appraisal done
27 on a property, they won't look at it and say, oh because you're living next to
28 this property it's decreased. They we'll look at like properties around that
29 area to value those areas. So they look at the areas through that area. And
30 that's a very common question. The Thomas Development, like I said, they
31 kept these properties well over 15 years. They're professionally managed.
32 Tom Mantrac comes with his wife many, many times through the year and
33 they really are engaged in their properties. And so this is going to be a very
34 good piece of property that I don't see that affecting land values. And I just
35 might as well finish.
36
- 37 Guerrero: Sure.
38
- 39 Bohannan: From a traffic standpoint, we offset this entrances to the subdivision to the
40 south. At the time Hector Terrazas was the Traffic Engineer with the City
41 of Las Cruces. We set this at this area, these are gated. There is a parking
42 problem along the park that's created by the high school. I don't know how
43 to get around that. It's nothing that we're going to be creating. The residents
44 over time really stopped driving, and so really they do not have a need for
45 doing a lot of trips through this area. So they're going to be off peak hours
46 as well. So the traffic on this area is diminished versus a regular for market

1 rent, or definitely for commercial area that the traffic is substantially
2 reduced. I'm a registered professional engineer and we do traffic studies.
3 We do that for a living and so that's my testimony as a professional engineer
4 as well.

5
6 From the view heights, we're also, we've got about a three to four foot drop
7 from El Paseo down. The height on this is 35 feet anyway, so even if we
8 weren't there, 35 feet up, going to be up there. It is what it is.
9

10 Guerrero: Yes. Thank you. Yes, and I mean I completely agree, there's little you can
11 do as far as like the high school, NMSU is right around the corner. I mean
12 it is a high trafficked area. You know we can just hope that this doesn't
13 make it too much more traffic.
14

15 Bohannan: It is gated as well.
16

17 Guerrero: Oh, that's good. Do we have any more comments of the Commission before
18 we go into a vote? Commissioner Smith, or whoever wants to go first?
19 Okay, Commissioner Kaiser go first.
20

21 Kaiser: Yes, a couple of questions. One, I think would address some of the traffic
22 concerns that were raised a little bit earlier. The City recently passed the
23 Complete Streets ordinance which is designed to improve traffic safety for
24 all roadway users, reduce speeds through traffic design. So my question to
25 staff is any street improvements, how would that ordinance affect this
26 project?
27

28 Banegas: Mr. Chairman, Commissioner Kaiser. In terms of specific street
29 improvements for this project regarding this variance, there is no anticipated
30 change that has been identified at this point in time. Again, they have not
31 submitted for any building permit for the project yet. They're getting not only
32 the zoning but the variance issue resolved. So staff does not anticipate any
33 change to the right-of-way as part of this development project. So that's
34 what I have for you.
35

36 Kaiser: Okay, I appreciate that. Because you mentioned earlier that there were
37 some right-of-way easements that were in your words "take" that would
38 accommodate you know, improvements that this development would
39 require. So would they not then be required to follow that Complete Streets
40 ordinance in this scenario?
41

42 Banegas: Mr. Chairman, Commissioner Kaiser. In reference to the right-of-way takes
43 that took place in the past, those were for some of the improvements along
44 Farney Lane that have been made. And any improvements primarily for
45 sidewalk, that kind of thing along Wes Park Drive as well. So you'll notice
46 in some of those photos the roadways look in pretty good shape. And that's

1 because there was an effort to improve those roadways, and they needed
2 some of that right-of-way or land for right-of-way acquisition in order to
3 accommodate those changes. But nothing is being set in motion in terms
4 of that specific ordinance.

5
6 Kaiser: Okay, I understand. So the improvements have already been installed.

7
8 Banegas: Correct.

9
10 Kaiser: Got you. My other question is about the streetscape, particularly along EL
11 Paseo Road. I'm not sure I agree with the notion that El Paseo Road has
12 been activated from a streetscape perspective, given the fact that you
13 basically would be walking right up against a compound wall. You have no
14 building facades on El Paseo. So, in my opinion that's not, you're not
15 activating anything. I do appreciate the location or the revised location of
16 the garages to more interior part and having the duplex there. But at the
17 end of the day this thing is an enclosed compound. So I'm not sure I agree
18 with that sentiment.

19
20 And then I also noticed or it appears that the landscaping along EL Paseo
21 would be almost entirely inside the compound wall. And so my question
22 would be, if that's true why wouldn't we want to accommodate some of that
23 landscaping either between the sidewalk and this wall or El Paseo the
24 sidewalk and the wall? I think if you were able to do that you could probably
25 make a slightly better argument that you're activating that streetscape. But
26 I think right now I just don't see how you can say that.

27
28 Bohannan: Mr. Chair, Commissioner Kaiser. We actually did two things, one is we
29 mimicked exactly what was happening at the Las Cruces High School.
30 There are no landscaping, it's all hardscape that's in front of their buildings.
31 It's all walled off. You can't gate it. There's no pedestrian connectivity at all
32 between the school and the sidewalk is just a conveyance. So what we are
33 doing is we're balancing that and we definitely can add more landscaping
34 outside of the compound to balance all those areas out. But we're actually
35 creating that engagement up into the street. You also have speeds upwards
36 of 45 posted, people are driving 55 and 60 miles an hour along that street.
37 So when you actually do get to a point where you engage EL Paseo, you
38 really need to look at slowing down traffic on El Paseo. This isn't one step
39 towards that. It does create that area. We do know that eventually maybe
40 you will have a trolley going down El Paseo. So we made as many
41 amenities and connections that we can to do that, but we're also trying to
42 keep our residents safe through that area. So we'd be happy to work with
43 staff when we're at building permit to do that, to do those type of elements.

44
45 Kaiser: Yes, I appreciate that. And I would encourage you to continue to work with
46 staff to make those improvements. And I would just say, using what you

1 just described at the high school, it would not be a great example to go by
2 in my opinion. We should be doing the complete opposite of that.

3
4 Guerrero: Thank you. Thank you very much Commissioner Kaiser. Commissioner
5 Smith, you had a comment?

6
7 Smith: Yes, I too share some concerns with traffic. That the Jaquess couple that
8 came up. I'm very familiar with this area. When I first moved here 24 years
9 ago, for a year I lived on Farney between El Paseo and North Main. And I
10 know that over the years they've put in some traffic mitigation and calming
11 measures. You know the applicant said that you know the drivers, well the
12 minimum age is going to be 55 you know for residents. I'm 61, I plan on
13 driving for a while. So I think that you know a 55-year-old and above can
14 continue to drive for quite a long time if they're you know in good health. So
15 the traffic that's going to, there will be an increase in traffic. And you know
16 I know this area, that park that they talk about where the soccer games.
17 We're coming into the fall season, soccer league is going to be in place.
18 There's another field, additional field, to the east of that where soccer is
19 played from NMSU students. There's a childcare center there that gets
20 heavy traffic in the morning. And not to mention the traffic from the high
21 school. I'm not sure what's changed over the generations, but it seems like
22 most high school kids either get taken to school by their parents or they
23 driving their own cars. I think school buses are not cool to ride on anymore.
24 So the number, the amount of traffic around Las Cruces High, because I
25 lived near there every day is just incredible. And also there are very few
26 drop off points for the students. So in the mornings throughout the school
27 year, there will always be you know a high level of traffic. And having this
28 facility here, this complex here, the traffic will not be reduced, it will continue
29 to be high, and it actually will increase. So I noticed this is more of an issue
30 for the City as far as what they can do at Las Cruces High to help you know
31 manage the traffic there. But just looking at this area, and just my
32 experience and familiarity with it, the traffic will actually continue to increase.
33 And I'm not sure as you said, you're not sure how that could be addressed.
34 But I just wanted to just put on a record I think this is concern that's going
35 to factor in as this project goes forward. Thank you.

36
37 Bohannan: Thank you Mr. Chair.

38
39 Guerrero: Yes, thank you so much. Do we have any more comments from any other
40 members of the Commission? No, in that case, can we get a motion to vote
41 on this?

42
43 Bennett: I make a motion to approve 9.5 with the conditions outlined in the staff
44 report.

45
46 Vega: I second.

1
2 Guerrero: All right.
3
4 Baum: Board Member Vega.
5
6 Vega: I vote yes to approve with the conditions pending the R-3 approval. Also
7 look forward to seeing more affordable housing in our City.
8
9 Baum: Board Member Smith.
10
11 Smith: I vote yes for Approval with conditions based on staff recommendation. And
12 I just hope that the traffic issue will be addressed at some point in the future.
13
14 Baum: Board Member Kaiser.
15
16 Kaiser: Yes with conditions based on staff recommendation, consistency with
17 Elevate Las Cruces, and this definitely fills a need in our community.
18
19 Baum: Board Member Bennett.
20
21 Bennett: I vote to approve based on staff recommendation, site survey. This also
22 meets the thoroughfare plan along with the EL Paseo Corridor Blueprint
23
24 Baum: Board Member Acosta.
25
26 Acosta: I vote yes to approve based on staff recommendation. And with just mild
27 concern over security because I know we didn't really hear that word too
28 much tonight, but I think everything looks good as well. Thank you.
29
30 Baum: Chair Guerrero.
31
32 Guerrero: I vote yes as well based on staff recommendation, fitting with the Elevate
33 Las Cruces and the El Paseo Corridor plans. And as well the conditions
34 proposed by staff.
35
36 Nichols: Mr. Chairman. If I may. I would like to have the conditions, that the motion
37 was made with conditions, but I would like to have the conditions specifically
38 read for the record so we know what that condition was.
39
40 Guerrero: Absolutely yes.
41
42 Banegas: Mr. Chairman, Members of the commission, Mr. Nichols. The condition that
43 staff put forward is as follows; that approval of the variances shall be
44 contingent upon the approval of the pending zoning change to R-3
45 multidwelling medium density.
46

1 Guerrero: Thank you.

2
3 Nichols: Thank you Mr. Chairman. That condition will be as the vote was, as a
4 motion was made and the seconds. Thank you.

5
6 Guerrero: Perfect. So we don't we don't need to vote for it again right. I think we're
7 good. All right. Perfect. Well, thank you very much. Appreciate you being
8 here. We still have three cases to go. So hope everybody's ready.

9
10 **9.6 Melody Lane Subdivision Road Improvement Waiver:** A proposal to
11 waive the required road improvements to Melody Lane associated with the
12 subdivision of one (1) lot into two (2) single family residential lots. The 1.81
13 ± acre property is zoned REM (Residential Estate-Mobile) and located at
14 5332 Melody Lane in Council District 5. Submitted by Donohue Land
15 Surveys, representative. (21CS0500084)

16
17 Guerrero: Up next we have case number 9.6. Could I get a motion to hear this case?

18
19 Bennett: I make a motion to hear 9.6

20
21 Smith: I second.

22
23 Baum: Board Member Vega.

24
25 Vega: Yes.

26
27 Baum: Board Member Smith.

28
29 Smith: Yes.

30
31 Baum: Board Member Kaiser.

32
33 Kaiser: Yes.

34
35 Baum: Board Member Bennett.

36
37 Bennett: Yes.

38
39 Baum: Board Member Acosta:

40
41 Acosta: Yes.

42
43 Baum: Chair Guerrero.

44
45 Guerrero: Yes.

46

1 Baum: Thank you.

2
3 Guerrero: All right. Perfect. Go ahead.

4
5 Castillo: Good evening once again, Mr. Chair, Members of the Commission. Today
6 we're going to be talking about 5332 Melody Lane. It is going to be a
7 subdivision road waiver request. Current conditions of the property, the
8 property is located at 5332 Melody Lane. It is a single-family residence on
9 approximately 1.81 acres. It's currently zoned REM which is our single-
10 family residential estate mobile zoning district. As I said before, it's located
11 on Melody Lane, which has been classified as a local roadway. Right now
12 Melody Lane currently consists of a 50 foot roadway easement 25 feet
13 between different properties. And it also currently has a 20 foot wide paved
14 roadway. It's located in a low density single-family residential area.

15
16 As you can see here from the zoning map, this is the subject property.
17 Here's an aerial image of the property. On this aerial image the part that
18 we're going to be talking about is going to be this section right here, just a
19 little bit north of the property line. So the proposal today is to waive the road
20 improvement requirements associated with the subdivision. The associated
21 subdivision is a two lot single-family subdivision. As part of this, they're
22 required to construct a full cross section including pavement, sidewalk, curb
23 and gutter, and lighting. They've also dedicated a 25 foot roadway
24 easement as part of the subdivision. As you can see here this is the
25 proposed subdivision. This is the 25 foot roadway easement that was on
26 the property before that's going to be dedicated to the City. As we can see
27 here from the images this is a westbound view of Melody Lane as it currently
28 sits. This is an eastbound view of Melody Lane as we can see it today. The
29 required cross sections are both a minor local one or minor local two. They
30 require like I said sidewalk, driving aisles, curb and gutter.

31
32 Public notice was sent to all relevant, or input and public notices were sent
33 out. All relevant agencies and departments were reviewed. All of them
34 provided a recommendation of denial under the first review. All except for
35 utilities, utilities didn't provide any recommendation for denial as it didn't
36 currently impacted them. Notice was also sent out to the surrounding
37 properties. There was minor feedback, although I put on here there was no
38 feedback. There was minor feedback in regards to what exactly the notice
39 was regarding for the property.

40
41 Staff recommended denial based on the following findings, construction
42 involves subdivision within the corporate limits of the City shall conform to
43 the applicable sections of the City Design Standards. Access to lots within
44 a residential subdivision shall be from a dedicated and accepted improved
45 public right-of-way. The subdivider is responsible for providing road
46 improvements for a full section of local roadway which includes sidewalk,

1 curb and gutter as per the Design Standards in Section 32-36. The
2 applicant has not demonstrated the need for the waiver due to substantial
3 hardship, such as exceptional topographic, soil, or other surface or
4 subsurface conditions. The DRC has recommended approval of the
5 roadway improvements along Melody Lane, as the project is going to be
6 part of a Capital Improvement Project, which at this moment has not been
7 determined when the roadway would be improved through City funding, but
8 they are slated to be a part of the projects. So today's options are going to
9 be to vote "yes" for approval, vote "no" to deny, and vote "yes" with
10 conditions, or vote to table.

11
12 Guerrero: Thank you. Thank you very much. Do we have any comments from the
13 Commission?

14
15 Bennett: So I just wanted clarification. So earlier you said they recommended denial,
16 and then it says in here that it's, they recommended approval, the DRC. I
17 guess I'm just confused.

18
19 Castillo: Yes, so staff provides a recommendation to DRC, which is our Development
20 Review Committee. From there, so the way the road waiver request works
21 is that it has to go before our Development Review Committee for a
22 recommendation to the Planning and Zoning Commission, where the
23 Planning and Zoning Commission will provide a recommendation to City
24 Council. Once it goes to City Council it will get adopted as a resolution
25 based on their determination.

26
27 Bennett: So just for clarification, they recommended approval of the waiver or?

28
29 Castillo: Correct. The Development Review Committee recommended approval of
30 the waiver based on comments made by an associate or deputy director
31 from Public Works saying that it was going to be a part of a capital
32 improvement project.

33
34 Kaiser: So just to clarify that point, so staff's recommendation to us tonight is to
35 approve the waiver.

36
37 Castillo: Correct.

38
39 Kaiser: Okay.

40
41 Smith: I have a question. So the capital improvement project is going through. I
42 mean that's going to happen.

43
44 Castillo: So from my understanding the capital improvement project is slated to
45 happen. I just don't know exactly when.

1 H-Rogers: Mr. Chair. If I might.

2
3 Guerrero: Yes.

4
5 H-Rogers: This particular area in the City has been part of some extensive studies in
6 terms of improvement, both from a drainage standpoint and which
7 roadways might be ripe for full improvements. Melody Lane is the first one
8 in line on that list of roads to be improved in this particular area. So it will
9 be sooner than later. I'm not quite certain, as John had indicated, if it's
10 going to be next year, but it is on the list and it's the first one in this particular.

11
12 Guerrero: Okay. Commissioner Kaiser do you have another comment or question?

13
14 Kaiser: Yes, yes, I think our confusion is the staff report has two things, it has denial
15 and then also approval. So we're approving the waiver per staff's
16 recommendation tonight

17
18 Castillo: Yes. So yes staff recommended denial, however, the Development Review
19 Committee recommended approval.

20
21 Kaiser: Okay. Thank you. No further questions. I think my other questions are
22 irrelevant,

23
24 Guerrero: Yes, this one's a little confusing as well. But thank you very much for
25 clarifying that. Do we have any members from the public that would like to
26 make a comment? Seeing none. Could I get a motion for, whatever we're
27 doing? I'm so sorry. I did not see you. Please come up forth. All righty.
28 I'll need to swear you in. If I could get your first and last name, please.

29
30 Gutierrez: Aaron Gutierrez.

31
32 Guerrero: All right Mr. Gutierrez. And do you swear and affirm that the testimony
33 you're about to give is the truth and nothing but the truth under penalty of
34 law?

35
36 Gutierrez: Yes.

37
38 Guerrero: All right, go ahead. You have three minutes.

39
40 Gutierrez: I am a property owner on that Melody Lane. And I know there is a lot of
41 running water that goes through and destroys the end of the property point
42 where he was mentioning, because I'm right on the corner of Mesa Grande
43 and Melody Lane. Is this going to be all the way? The whole street
44 completely with curb and gutter and new asphalt and stuff like that on that?
45 Is that including sewer and electric, or I mean sewer and gas, or just an
46 upgrade on the road?

1
2 Guerrero: And do we have staff answering. I believe it was just a portion of that right?
3 Not the full street.
4
5 Castillo: Mr. Chair, Commission. So the property owner would be required to do a
6 full cross section for his property and then asphalt for the remainder up to
7 the nearest improved roadway. It does not include any type of utilities.
8
9 Guerrero: Okay. I hope that answers your question.
10
11 Gutierrez: Yes. Thank you.
12
13 Guerrero: All right. Thank you so much. Do we have any other member from the
14 public that would like to make a comment or ask a question? Seeing none.
15 Could I get a motion from the Commission?
16
17 Kaiser: So I think I'm going to do this right. So I will motion to approve agenda item
18 9.6, which is waiving the road improvements associated with a subdivision.
19 Is that correct?
20
21 Vega: I second. And if we need to clarify that please let us know.
22
23 Guerrero: Yes. Do we do we have the correct motion made?
24
25 H-Rogers: So Mr. Chair, Members of the Commission. The motion should always be
26 made in the affirmative.
27
28 Guerrero: Okay.
29
30 H-Rogers: Always.
31
32 Guerrero: Okay. Then I believe we're good to go.
33
34 Baum: Board Member Vega.
35
36 Vega: I vote to approve the waiver based on staff recommendation.
37
38 Baum: Board Member Smith.
39
40 Smith: I've vote no to deny based on this request not meeting three of the four
41 zoning decision criteria and policies
42
43 H-Rogers: So point of order. Commissioner Smith, your vote is it to approve the waiver
44 or is it to deny the waiver
45
46 Smith: To deny the waiver.

1
2 Baum: Board Member Kaiser
3
4 Kaiser: Yes to approve the waiver based on staff's recommendation and the fact
5 that there's a capital improvement planning project ongoing that will address
6 these concerns.
7
8 Baum: Board Member Bennett.
9
10 Bennett: I vote to approve based on DRC recommendations, discussion tonight,
11 neighborhood character, and the CIP that will be happening.
12
13 Baum: Board Member Acosta.
14
15 Acosta: I vote to approve based off of the recommendation of approval and Elevate
16 Las Cruces.
17
18 Baum: Chair Guerrero.
19
20 Guerrero: I as well vote yes to approve based on the DRC recommendation. And yes,
21 just vote yes.
22
23 Baum: Approval five to one. Thank you.
24
25 Guerrero: All right. Thank you very much. This one passes.
26
27 **9.7 EBL&T Subdivision "A" Replat No. 37 Road Improvement Waiver:** A
28 proposal to waive the required road improvements to Kennedy Road
29 associated with the subdivision of one (1) lot into two (2) single family
30 residential lots. The 2.276 ± acre property is zoned REM (Residential
31 Estate-Mobile) and located at 1086 Kennedy Road in Council District 5.
32 Submitted by Moy Surveying, representative. (22CS0500044)
33
34 Guerrero: We're moving on to the next one, which is item number 9.7. Could I get a
35 motion to hear the case?
36
37 Vega: I make a motion to hear item 9.7.
38
39 Kaiser: I'll second.
40
41 Guerrero: All right.
42
43 Baum: Board Member Vega.
44
45 Vega: Yes.
46

1 Baum: Board Member Smith.

2
3 Smith: Yes.

4
5 Baum: Board Member Kaiser.

6
7 Kaiser: Yes.

8
9 Baum: Board Member Bennett.

10
11 Bennett: Yes.

12
13 Baum: Board Member Acosta.

14
15 Acosta: Yes.

16
17 Baum: Chair Guerrero.

18
19 Guerrero: Yes.

20
21 Baum: Thank you.

22
23 Castillo: Good evening once again. Today we are bringing forth another subdivision
24 road waiver request. This one is going to be located at 1086 Kennedy Road.
25 The current conditions for the property, it's a single-family residence on 2.27
26 acres. It's currently zoned REM, once again, it's our single-family residential
27 estate mobile. Kennedy Road is a proposed principal arterial. Currently it
28 has a 20 foot wide paved road and it is a low density single-family residential
29 area.

30
31 Here's a zoning map showing the area. Here's an aerial of the area. So
32 the proposal is to waive the roadway improvement requirements associated
33 once again with the subdivision process. They are going through the
34 alternate summary subdivision process where it takes one lot and they're
35 going to turn it into two single-family subdivision lots. Currently right now
36 Kennedy Road sits as a 40 foot right-of-way. They are also going to
37 dedicate an additional 40 feet, and they are required to construct half a road
38 cross section which includes pavement, sidewalk, curb and gutter, and
39 lighting. As we can see here from the proposed subdivision, this portion
40 right here is going to be what they dedicate to the City of Las Cruces for the
41 roadway improvements. As we can see here looking eastbound on
42 Kennedy Road, we can see the asphalt that currently sits there. And this is
43 what it looks like going westbound. The required cross sections, whichever
44 they choose, are here. And as we can see being a major arterial it is going
45 to require 120 foot right-of-way. And as it currently sits they are not going

1 to meet the entire cross section so they would only provide half of their cross
2 section.

3
4 Public notice and input. Reviewers were sent to all relevant agencies and
5 departments, all except for utilities recommended the denial of the review.
6 Notice was also sent out to surrounding properties. Once again, we did
7 receive phone calls on this regarding how it would impact surrounding
8 properties. On July 13, 2022, this did go before our Development Review
9 Committee. Staff did have a discussion, they recognized the existing
10 improvements were needed, however, they did recommend a fee in lieu of
11 the required improvements for the preferred construction. Based on that
12 the Development Review Committee recommended denial based on strict
13 interpretation of the code. The denial based on findings from staff as well,
14 as stated before were based on construction of all subdivisions. Access to
15 lots within a residential subdivision shall be from a dedicated and accepted
16 right-of-way. The subdivider is responsible for providing road
17 improvements for one half of an adjacent minor arterial roadway. And the
18 applicant has not demonstrated the need for the waiver due to substantial
19 hardship, due to exceptional topographic soil or other surface or subsurface
20 conditions, or that such conditions would result in inhibiting the objectives
21 of the code. Today, your options are to vote "yes" for approval, vote "no" to
22 deny, vote "yes" with conditions, or vote to table.

23
24 Guerrero: All right. Thank you very much for that presentation. Do we still have a
25 representative for Moy Surveying? Did you want to come up and say a few
26 things? And I won't need to swear you in because you've already been
27 sworn in. So go ahead.

28
29 Magallanez: Sounds good. Thank you very much. I have a question that maybe staff
30 can help answer for me first. It's kind of related to a dedication take, but
31 would a building permit without any replat require a dedication or trigger a
32 dedication as well? So the confirmation or the answer I'm getting is that a
33 replat or a building permit by itself wouldn't trigger a dedication, which I think
34 is really interesting always because as we've heard other presentations
35 tonight that are multimillion dollar presentations I'm almost certain that El
36 Paseo has to grow in its right-of-way width because I'm doing a replat there
37 which is requiring it, but it's only because we are vacating property lines that
38 the City now has the opportunity to take a dedication and then potentially
39 require improvements on it because we're removing lot lines. Versus a
40 multimillion dollar building project may not require additional right-of-way
41 dedication, which then wouldn't trigger improvements potential on that. We
42 also just saw with our last case that I also don't believe this is cited for a
43 CIP, and I don't know if staff can answer that question very quickly, but I
44 don't believe this portion of Kennedy is within the capital improvement plan
45 or project. So therefore, we have a case where we're required to give a
46 right-of-way dedication, to provide a payment in lieu of in addition to that,

1 for a portion of roadway that more than likely won't get built out, I don't even
2 think in my lifetime to be quite frank, only because this property, although it
3 does connect from Engler would have to have really large City dedication
4 and City takes through private property to connect down to Armstrong. So
5 that's what the major thoroughfare plan is. I don't know if I could possibly
6 bring that up in that amount of time. But the bigger picture of this is that
7 there is connectivity from where Engler and this road would be all the way
8 down to where Armstrong is according to the MPO. I agree with all of that.
9 However, I feel like at some point, I totally recognize the importance of
10 complete streets, but I also feel like it's a challenge to burden the property
11 owners to provide dedication on a portion of a road, well to provide right-of-
12 way improvement on a portion of a road that more than likely will not get
13 built again anytime soon. With that said, my other question to staff is, are
14 the funds for a payment in lieu earmarked for this road? Do we know that
15 answer? Would anyone be able to?

16
17 H-Rogers: So at this point in time we have not earmarked fees in lieu for particular
18 roadways. However, in conversations with our finance director, it is possible
19 to do that. But historically, the answer is no.
20

21 Magallanez: Yes. And again, I recognize the importance of that. But I think when we
22 look at that whole picture in its entirety, it's a really interesting story.
23 Because we have property owners who are, quote, I mean, actually
24 developing if we will because they are increasing the number of lots, but are
25 now required to give a payment in lieu for a road that may not even be the
26 road that they are in fact living in front of. So yes, this road does need some
27 improvement, we have seen that. It is a City maintained road that has not
28 been very well maintained from the City in its previous years. But my
29 concern is also that the payment in lieu won't even help to satisfy what is
30 required of this road that the denials from DRC stated. And I think that's a
31 very interesting thing to consider as we continue to think about this, because
32 again I think if this was in the CIP then we might be looking at a different
33 recommendation. However, because it's not, the homeowners then
34 required to provide payments in lieu of for a road that won't get built but the
35 payment won't even be applied towards this portion of a road more than
36 likely as it's probably not high on the list, because that road dead ends about
37 1,000 feet down the road before it'll ever become the minor arterial that it
38 has to be to connect to it. So I think it's again, just important to think of that
39 whole narrative. But I just wanted to make sure that the Commission was
40 aware of
41

42 Guerrero: Yes. Thank you. Thank you very much for that.
43

44 Magallanez: Thank you.
45

1 Guerrero: Do we have any comments from the Commission? Yes, go ahead.
2 Commissioner Kaiser.

3
4 Kaiser: This one is also a little bit of a head scratcher for me. So I think the first
5 place that I immediately went to when reading through this application is
6 really the existing conditions as it compares to what supposedly the future
7 conditions should be at some undetermined time in the future. And I'm
8 having trouble sort of making the connection there, I intellectually
9 understand the need to plan and to identify minor arterial road, but when
10 you look at the existing conditions of the site and the neighborhood, and I
11 think it's even stated in the DRC comments that more than likely the City is
12 going to need to execute eminent domain to be able to fully build out the
13 road as it's being planned for in the thoroughfare plan. So the fact that it's
14 this, an in lieu fee is not earmarked is a little bit worrisome in that regard, in
15 that we have no idea if and when the City can even fully build out this road,
16 and here we are asking somebody to pay a significant amount of money for
17 just subdividing a single residential lot to go into the general fund that may
18 not even ultimately end up contributing to the funding of the road if and when
19 it does in fact get built. So that's kind of what I'm struggling with I guess is
20 how to kind of reconcile that. I could certainly see a need for something
21 smaller, you know that would match more appropriately the existing
22 conditions in the site, maybe some modified improvements, but if you go
23 back to that road section, the road cross sections that you showed, that's a
24 heck of a lot of money that they're going to have to put up and then if you
25 compare that with the existing conditions, it just it doesn't, it's not adding up
26 to me. And then I guess, well my ultimate question for clarification is we're
27 talking a total of 80 foot right-of-way designation on both those parcels,
28 right.

29
30 Castillo: So for this one it would be each, well the parcel as a whole would give, it's
31 dedicating right now another 40 feet. Through a prior subdivision it had
32 already dedicated five feet, and then through this one, so in total it'll dedicate
33 a total of 45 feet towards the development of Kennedy Road.

34
35 Kaiser: Okay, so the current right-of-way as it stands now is how large?

36
37 Castillo: It's the 20 foot wide paved roadway.

38
39 Kaiser: Okay, and then what, in order to accommodate this future road condition,
40 how much right-of-way total would the City you need to acquire?

41
42 Castillo: So the City would need to acquire right-of-way from each of the adjoining
43 properties that run along Kennedy.

44
45 Kaiser: I understand that. So I guess looking at the cross section it would be 120
46 feet total, the City currently only has you said 25 feet.

1
2 Castillo: It's a 20 foot asphalt as we can see from the image.

3
4 Kaiser: And that's the current right-of-way 25 feet?

5
6 Castillo: Yes, because from, so from this portion we can see that some properties
7 have dedicated right-of-way, but they haven't, as they're past subdivisions I
8 can't speak to how they provided their improvements, if they were waived
9 or if they were having to be built upon. And other properties haven't created
10 those improvements. So at the time we don't have the full right-of-way that
11 we would need to acquire.

12
13 Kaiser: Understood. And then looking across the street, directly across the street,
14 that house would almost entirely have to be razed in order to acquire, or to
15 even build the road, right? I mean.

16
17 Castillo: Correct. There are some properties that would have to be adjusted in order
18 to build the roadway to its full potential. But as this occurs, it may not reach
19 that full potential. The applicant is also allowed to propose an alternate
20 cross section, reducing the amount of right of way that they would have to
21 build out.

22
23 Kaiser: Okay, thank you.

24
25 Guerrero: Thank you. Does anybody else have any other comments? I had a similar
26 concern as Commissioner Kaiser and as the representative have made, and
27 I think that's just something to consider as we move forward with code
28 changes and comprehensive plans. You know because if we are asking
29 people to pay a significant fee and then they don't actually see you know
30 the improvement of the area they're applying for it, I think that's a little
31 concerning. So you know just wanted to share that. With that, could I make
32 a motion, or sorry, did somebody want to make a motion for I guess denial.

33
34 Vega: I make a motion to vote on item 9.7.

35
36 Bennett: I second.

37
38 Guerrero: All right, perfect.

39
40 Baum: Board Member Vega.

41
42 Vega: Correct me if I'm wrong. If we vote to table so that we can get more answers
43 to some of the questions that we've proposed today, is that an option? Like
44 specifically, would this be included in the CIP? Or what does happen to the
45 funding if the property owner has to set aside funds for the street?
46

1 H-Rogers: So there's a motion on the table to move forward with a vote to approve, if
2 that's in the affirmative. And so that motion, there was a second correct?
3 Was there a second on that? Yes. So that motion is on the table and so a
4 vote will have to be taken. So if you had wanted to table it that would have
5 been the motion that would have been required at the time.

6
7 Vega: Okay, so my vote then is to deny based on staff approval or staff
8 recommendation

9
10 Baum: Board Member Smith.

11
12 Smith: I vote to deny based on DRC and staff recommendation,

13
14 Baum: Board Member Kaiser

15
16 Kaiser: I'm voting to approve the waiver based on existing conditions and the
17 uncertainty around if and when and how the full road cross section would
18 be developed in the future as well as the lack of earmarks for the in lieu fee.

19
20 Baum: Board Member Bennett.

21
22 Bennett: I vote to deny based on staff recommendation.

23
24 Baum: Board Member Acosta.

25
26 Acosta: I vote to approve based off of Commissioner Kaiser's response as well. And
27 also just kind of with noticing a precedence that was kind of noted down
28 here earlier as well, and just finding it a little bit difficult to pass on fees that
29 no one knows where they're going to get spent yet so. All right.

30
31 Baum: Chair Guerrero.

32
33 Guerrero: I will vote to deny this. But I definitely want it to you know just be known
34 that we need more transparency as far as like fees and where it's going. I
35 think I think we owe that to the public.

36
37 Baum: The vote was four to deny and two approve. Thank you.

38
39 Guerrero: Thank you. Thank you very much.

40
41 **9.8 Zoning Code Amendments for Cannabis Uses:** Various amendments to
42 Chapter 38, Zoning Code, of the Las Cruces Municipal Code for the purpose
43 of eliminating the 300' buffer requirement between individual cannabis
44 retailers/microbusinesses and eliminating the 300' buffer between cannabis
45 retailers/microbusinesses and single-family zoning districts. The following
46 sections are subject to amendments:

- Sec. 38-32 Office, Commercial, and Industrial Zoning District
- Sec. 38-53 Conditional Uses; and
- Sec. 38-54 Special Use Permits

Guerrero: And we're moving into the final item of the night or the final case of the night which is 9.8. Can I get a motion to hear this from the Commission?

Nichols: Mr. Chair. If I may.

Guerrero: Yes.

Nichols: We've been going at this nearly three hours. I was wondering if we might consider a five minute recess, then come back to consider the last item

Guerrero: I'm okay with that. How does everybody feel? Is everybody else *(inaudible)*? All right let's take a quick five minute break. It is 8:51. Come back at 8:56-ish.

Guerrero: All right well it is 8:56. That's five minutes. I believe we have the full Commission back. And we only have one last the case, which is 9.8. Can I get a motion from the Commission please?

Kaiser: I make a motion to hear item 9.8.

Smith: I second.

Guerrero: All right.

Baum: Board Member Vega.

Vega: Yes.

Baum: Board Member Smith.

Smith: Yes.

Baum: Board Member Kaiser.

Kaiser: Yes.

Baum: Board Member Bennett.

Bennett: Yes.

Baum: Board Member Acosta.

1
2 Acosta: Yes.

3
4 Baum: Chair Guerrero.

5
6 Guerrero: Yes. Okay. Go ahead.

7
8 H-Rogers: Good evening. Katherine Harrison-Rogers for the record. Tonight we're
9 bringing to you a couple of recommended code modifications related to
10 recreational cannabis. So just a little history on this for those of you that
11 may or may not have been here. April of last, well actually April of 2021,
12 New Mexico adopted the Cannabis Regulation Act. That was the House bill
13 that put into motion recreational cannabis as an allowed use all over the
14 State of New Mexico. By September 2021 the cannabis uses were added
15 to the zoning code. Many of you were here when those were recommended
16 for approval to City Council. And then ultimately in April of 2022,
17 recreational sales were initiated in the City of Las Cruces and across the
18 state.

19
20 The Regulation Act allows jurisdictions to control the time, place, and
21 manner including density. So we can't restrict transportation or operation
22 or signage things of that nature. So again, just to sort of recap what was
23 approved and what's allowed in our code, cannabis retail and commercial
24 micro businesses are allowed in all of the commercial zones, C-1, C-2, C-
25 3. Cannabis industry, of course is allowed in our industrial zones. The
26 research labs are also allowed in our industrial zones, including the
27 industrial technology. And then the residential micro businesses are
28 allowed in EE and REM with a Special Use Permit. There are several
29 conditions that do apply to these. All of these cannabis uses have to be
30 300 feet from schools and daycares. There are some exceptions to that,
31 those would be those types of schools that teach adults such as the
32 university or commercial trade schools. Those cannabis retailers and
33 commercial micro businesses also need to be 300 feet from single-family
34 residential zones, and also 300 feet between one another. At this point in
35 time the code allows that they can be closer if a Special Use Permit is
36 obtained. And there is no consumption allowed in C-1.

37
38 Cannabis industries also have some conditions that do allow some
39 accessory retail uses. And then those residential micro businesses that
40 require a Special Use Permit have some additional conditions that they
41 have to be accessory to a primary residence, they have to be limited to no
42 more than 200 mature plants, products for sale have to be grown on site,
43 and they have to be located in a fully enclosed accessory building and 100
44 feet from other residences.
45

1 There are some issues that we've encountered over the past year related
2 to some of the buffers. One such issue is that like uses such as pharmacies
3 or bars or taverns do not have buffers that have been applied to cannabis.
4 A couple of other things to note is that staff has not identified any unique or
5 additional impacts that would otherwise be found with other retailers. So
6 for example, during my research I did contact code enforcement to see if
7 there had been any code enforcement issues related specific to cannabis
8 retail. And the answer was no, they really haven't encountered any of that.
9

10 One of the most common complaints from the industry, we have a regular
11 weekly meeting, and of course, we as staff are here to answer questions
12 via email and phone as well, is that those that are trying to enter the industry
13 specific to retail or micro businesses have had a really hard time finding a
14 location that is outside of this 300 foot buffer. It's a real challenge for people.
15

16 You all thus far this year have five Special Use Permits to reduce that 300
17 foot buffer from those types of uses to single-family residences specifically.
18 There are also several in the queue. One non-cannabis issue that was
19 discovered after the adoption of the repeal and replace having to do with
20 these sections of code is there was one table that was inadvertently omitted
21 from the code that actually has to do with some of the design standards
22 related to commercial uses, such as setbacks and height, we would like to
23 add that back to the code for obvious reasons.
24

25 I had GIS do an analysis of commercial properties that are within the 300
26 foot buffer to single-family residential zones. There are over 1,000
27 commercial properties in the City of Las Cruces that fall within that 300 foot
28 buffer. It's a little hard to see with this blue line, but you can see that a lot
29 of the big commercial corridors in town, so this one would be Telshor, we
30 have EL Paseo over here, and a number of others, there's Valley, you can
31 see that there are significant areas that are really impacted by this buffer.
32 And it's all over the City.
33

34 So what staff is recommending based on some of these issues that have
35 come up is that we restore the design standards table to Section 38-32.
36 That we eliminate the 300 foot buffer from these cannabis retailers and
37 commercial micro businesses to the single-family residential zone. And
38 also eliminate the 300 foot buffer between cannabis retailers and micro
39 businesses to other like cannabis retailers and micro businesses. Those
40 are outlined in conditional uses, which is section 38-53 of the code. And
41 then also to eliminate that Special Use Permit requirement because it would
42 no longer be needed in this case, from 38-54.
43

44 Staff has outlined the findings of course here, as well is in the staff report.
45 And with that I am open to questions. Your options tonight, of course are
46 to approve, to deny, to vote "yes" with conditions if you see fit that there be

1 any changes, or vote to table. And I do believe we have some members of
2 the public here in support of some of these amendments.

3
4 Guerrero: Yes, absolutely. Thank you very much for that presentation. Before we
5 move on to the public, do we have any comments or questions from the
6 Commission? We can always do it afterwards, too. Because I know they've
7 been waiting for a while. So yes, we were going to have members from the
8 public come up.

9
10 Nichols: Mr. Chairman. If I may.

11
12 Guerrero: Yes.

13
14 Nichols: Not a member of the commission, but a member of staff. I do have a couple
15 of comments that impact this proposal that's before you or this item this
16 evening. Right now we have about 37 applications that have been filled out
17 for cannabis businesses of various types, retail, storage, growth, some of
18 those of those. Of those 37, 17 have been issued. What we're finding and
19 I don't know that it was anticipated necessarily, but what we're finding is that
20 most of the businesses are not building new facilities. They're trying to find
21 an existing building or a structure to locate in. And that's what brings a
22 problem of this distancing and buffering, because those available as Ms.
23 Harrison-Rogers mentioned, they don't always have that distancing. What's
24 available to them doesn't have that distancing. So that is really kind of
25 what's impacting a lot of this proposal. But I thought maybe it would be
26 informational to you to realize how many are already in business. How
27 many are pending approval from the state or other recommendations, then
28 to what is being considered here today.

29
30 Guerrero: Yes. Thank you very much for sharing that. Let's come up. Can I get your
31 first and last name, sir?

32
33 Krahling: Scott Krahling.

34
35 Guerrero: All right. And do you swear and affirm that the testimony you're about to
36 give is the truth and nothing but the truth under penalty of law?

37
38 Krahling: I do.

39
40 Guerrero: All right. Go ahead, you have three minutes.

41
42 Krahling: Thank you very much, Mr. Chair and Commissioners. We appreciate the
43 opportunity to talk. My name is Scott Krahling. I'm the director of public
44 outreach, public engagement for High Horse Cannabis Company. We
45 actually don't have stores here in Las Cruces right now, because of some
46 of these buffers. I can tell you that we would have stores open and running.

1 And we're not necessarily in the list yet because we're kind of waiting to see
2 what happens to make good business decisions. I think that the one thing
3 that I want to say is that it's important as we move forward in this new
4 industry, that we treat cannabis the same way that we treat other
5 businesses. I don't think that any of us are going to pretend like it wasn't
6 illegal in the recent past, but it's no longer illegal. And so with prohibition
7 over it's important for us to move into a new world where we're talking about
8 cannabis not in terms of being bad but in terms of being good, because
9 there's a lot of value that it offers to a lot of people, including myself. And
10 so we wanted to be here to thank the staff for their approach to cannabis,
11 to cannabis zoning and all the ways that the City staff has approached this
12 industry I think is a model for other communities to follow. And so thank
13 you for that. And please know that there are people in the industry who will
14 positively benefit from this, obviously, right, you're opening up a lot more
15 opportunities. And one thing that I noticed when I considered what that map
16 looked like and what types of areas that the current restrictions are
17 eliminating. And they're you know, Solano, North Main, communities or
18 neighborhoods, not neighborhoods, commercial districts that could use
19 some revitalization. And so I think opening it up is going to contribute to
20 social equity. And I think that it's going to be a good thing for the City of Las
21 Cruces. And so thanks for bringing this forward. I certainly hope that we
22 can count on your support. Thanks.

23
24 Guerrero: Thank you very much. Is there any other member of the public that would
25 like to speak? Come ahead. If I could get your first and last name, please.

26
27 Pacheco: I am Derrick Pacheco for the record.

28
29 Guerrero: All right. And do you swear and affirm that the testimony you're about to
30 give us the truth and nothing but the truth under penalty of law?

31
32 Pacheco: I do.

33
34 Guerrero: All right. Go ahead, you have three minutes as well.

35
36 Pacheco: All right. Thank you Mr. Chair and Commissioners. Excellent job tonight. I
37 know you've had a long night. I'll make a brief.

38
39 Guerrero: I think just real quick if you could speak a little closer to the mic so that she
40 can hear you.

41
42 Pacheco: My apologies. I'll make it brief. I have a commercial building within the
43 zoning buffers that are allowed for cannabis retail and other verticals. And
44 to give a brief viewpoint of a similar business and a similar setup that is
45 being proposed, I fully support neighboring businesses within the buffers
46 and to disable the buffer zones I think will be a good thing for the City, a

1 good thing for free enterprise. And I think the market will dictate who stays
2 and who goes. And I think that this is a good move. Free Enterprise. Thank
3 you.
4

5 Guerrero: Thank you. Thank you very much. Do we have any other member from the
6 public that would like to speak? I think seeing none. Let's move on to our
7 committee. Does anybody in the committee have any comments or
8 questions for staff? Let's see. Okay, go ahead, Commissioner Acosta.
9

10 Acosta: So just to be clear here. Any other additional recommendations and
11 conditions are still being accepted right now, Is that correct, or?
12

13 H-Rogers: So members of the Commission, Commissioner Acosta. The other
14 conditions would still apply. The one buffer that would remain of course, is
15 the distancing between the schools and the daycares. That's not one that
16 we've explored removing and it's pretty standard across the state.
17

18 Acosta: Sure, I guess my clarification on that specific one would just be the definition
19 of school. I do see higher learning serving those 18 and older and so I
20 guess the definition of higher learning and stuff like that, and kind of how
21 those may be interpreted, and 18 years and older as that is a big exception
22 to particular schools in this town as well.
23

24 H-Rogers: So we have had early in the process actually the legal department did
25 provide us some guidance in terms of how schools were defined. There still
26 were several state statutes that actually outline the definition of a school.
27 And we would be happy to provide you some of that documentation if need
28 be. I don't have that with me currently. I apologize.
29

30 Acosta: That, no I mean just clarification on that in terms of you know before being
31 completely I guess, satisfied on that on my end. That's all. Thanks.
32

33 H-Rogers: Sure.
34

35 Guerrero: Thank you very much. Commissioner Vega. Did you have a comment?
36

37 Vega: Yes, just a quick comment. I think if this is approved it'll save a lot of time
38 for the Commission and for staff as well. Just to put on the record I think
39 the growth opportunities for Las Cruces are great. I'd like to see more
40 actually homegrown. You know we have a lot of businesses coming in from
41 out of state and it'd be really wonderful to see some startups here in Las
42 Cruces. So that's all.
43

44 Guerrero: Thank you Commissioner.
45

- 1 Smith: And I have one quick comment. I just want to commend staff for just
2 reviewing the various categories as far as bars and pharmacies and
3 (*inaudible*) that comparison and the impact they will have. You know as
4 Commissioner Vega stated you know the industry is growing, and to be able
5 to have you know local, homegrown businesses established here and
6 having an opportunity to use existing buildings I think it's very important.
7 You know we've had you know companies outside of New Mexico express
8 very extreme interest in establishing businesses here. So I think having the
9 opportunity for local business people to kind of have first crack at some of
10 these buildings that are available, it's good for just I think our local economy.
11
- 12 Guerrero: Yes, thank you.
- 13
- 14 Nichols: Mr. Chairman. If I may.
- 15
- 16 Guerrero: Of course.
- 17
- 18 Nichols: I just want, for a point of clarification, the code amendment that is before the
19 Commission this evening is specific to 300 foot buffer between retailers and
20 single-family residential zone, and not to do with schools. So those are the
21 two items that you're considering this evening. Just those two.
22
- 23 Guerrero: Thank you very much.
- 24
- 25 H-Rogers: Just a point of order. In addition to that of course, then there's also the land
26 use, the design standards table that was omitted inadvertently.
27
- 28 Guerrero: Thank you very much for clarifying. Commissioner Kaiser.
- 29
- 30 Kaiser: Yes, I just want to echo my fellow Commissioners comments towards staff,
31 I definitely appreciate you guys seeing an opportunity to improve the
32 process. You know obviously it will save time on your end as well as ours.
33 But I think this is a good example of recognizing something that might not
34 be working out well and being nimble enough to accommodate it and adjust
35 and it's appreciated.
36
- 37 Guerrero: Absolutely, thank you. I also have a comment as well, just expressing
38 things to the staff too. We have heard so many cases in the last I mean,
39 year really, you know for various requests and I know this is not going to fix
40 all of it. But it's definitely going to make a big difference. I was actually kind
41 of surprised when I saw the map of the like eligible business areas.
42 Because you know as it stands right now it seems very limited as one of the
43 speakers said as well I mean this opens up Solano, North Main, you know
44 areas where there is higher amount of population that can have access to
45 these businesses. So just want to thank you all. Well, in that case, can we

1 get a motion from the Commission or is there any other questions? No,
2 then perfect. Could we get a motion from the Commission?
3
4 Vega: I make a motion to vote on item 9.8.
5
6 Bennett: Ill second.
7
8 Guerrero: All right.
9
10 Baum: Board Member Vega.
11
12 Vega: Yes, based on ...
13
14 Nichols: Sorry. Point of order again. We need to clearly state what the vote is to be
15 about, which is the amendment to the buffering 300 foot buffer between
16 retailers and from single-family dwelling residential zones.
17
18 H-Rogers: I would recommend ...
19
20 Guerrero: To redo the motion then.
21
22 H-Rogers: I would recommend that specifically you would refer to this slide.
23
24 Vega: So I'll start over.
25
26 Guerrero: Okay.
27
28 Vega: I make a motion to vote on item 9.8 with the recommended amendments,
29 which include sections 38-32 to restore the design standards, sections 38-
30 53 on conditional uses which eliminate the 300 foot buffer from cannabis
31 retailers, micro businesses to the SFR zone and eliminate the 300 foot
32 buffer between cannabis retailers, micro businesses, as well as eliminate
33 the SCP requirements to reduce cannabis buffer. Please let me know if I
34 missed anything.
35
36 Bennett: I'll second.
37
38 Nichols: And Mr. Chairman. If I may again please. It's been brought to my attention
39 that there may be Commissioners that want to vote on one and not the
40 other. So rather than to combine them under one, then we probably should
41 say first consider the separation, eliminating the separation 300 foot buffer
42 between retailers. And then have a separate motion to consider for
43 separation from single-family residential zones. That will enable you to vote
44 one way or the other on each of these specifics.
45

1 Vega: Okay. So we'll start with the motion to approve, vote on 9.8 to restore the
2 design standards table.
3
4 Bennett: I'll second.
5
6 Guerrero: All right.
7
8 Baum: Board Member Vega.
9
10 Vega: Yes based on staff recommendation.
11
12 Baum: Board Member Smith.
13
14 Smith: Yes based on staff recommendation and it meets character and
15 compatibility.
16
17 Baum: Board Member Kaiser.
18
19 Kaiser: Yes. Based on staff recommendation.
20
21 Baum: Board Member Bennett.
22
23 Bennett: Yes based on staff recommendation.
24
25 Baum: Board Member Acosta.
26
27 Acosta: Yours based on staff recommendation.
28
29 Baum: Board Member, sorry Chairman Guerrero.
30
31 Guerrero: Yes based on staff recommendation as well. Perfect. So this motion
32 passes. So now can I get a motion for the next item?
33
34 Vega: I make a motion to vote on item 9.8. on eliminating the 300 foot buffer from
35 cannabis retailers and micro businesses to the SFR zone.
36
37 Kaiser: I second.
38
39 Baum: Board Member Vega.
40
41 Vega: Yes based on staff recommendation.
42
43 Baum: Board Member Smith.
44
45 Smith: Yes. Based on staff recommendation and meeting character and
46 compatibility.

1
2 Baum: Board Member Kaiser.
3
4 Kaiser: Yes based on staff recommendation.
5
6 Baum: Board Member Bennett.
7
8 Bennett: Yes based on staff recommendation.
9
10 Baum: Board Member Acosta.
11
12 Acosta: Yes based on staff recommendation and compliance with Elevate Las
13 Cruces Comprehensive Plan.
14
15 Baum: Chair Guerrero.
16
17 Guerrero: Yes, based on staff recommendation and as well wanting to see more
18 businesses flower in New Mexico. This motion passes. We have one more
19 left. Commissioner Vega do you want to do this one also? Right we still
20 have one more right.
21
22 Vega: The Special Use Permit and then.
23
24 Guerrero: Yes.
25
26 Vega: So we'll go next with I'll make a motion to vote on item 9.8 on eliminating
27 the 300 foot buffer between the retailers and micro businesses.
28
29 Kaiser: Second.
30
31 Baum: Board Member Vega.
32
33 Vega: Yes based on staff recommendation
34
35 Baum: Board Member Smith.
36
37 Smith: Yes based on staff recommendation.
38
39 Baum: Board Member Kaiser.
40
41 Kaiser: Yes based on staff recommendation.
42
43 Bam Board Member Bennett.
44
45 Bennett: Yes based on staff recommendation
46

1 Baum: Board Member Acosta.
2
3 Acosta: Yes based on staff recommendation.
4
5 Baum: Chair Guerrero.
6
7 Guerrero: Yes based on staff recommendation as well. So this motion passes. Now
8 we have one left.
9
10 Vega: All right.
11
12 Guerrero: Go ahead
13
14 Vega: I make a motion to vote on item 9.8 to eliminate the Special Use Permits
15 required to reduce the cannabis buffer.
16
17 Kaiser: Second.
18
19 Baum: Board Member Vega.
20
21 Vega: Yes based on staff recommendation and comments shared today.
22
23 Baum: Board Member Smith.
24
25 Smith: Yes based on staff recommendation and meeting character and
26 compatibility.
27
28 Baum: Board Member Kaiser.
29
30 Kaiser: Yes based on the staff recommendation.
31
32 Baum: Board Member Bennett.
33
34 Bennett: Yes based on staff recommendation.
35
36 Baum: Board Member Acosta.
37
38 Acosta: Yes based on staff recommendation.
39
40 Baum: Chair Guerrero.
41
42 Guerrero: Yes, based on staff recommendation.
43
44 Baum: All four votes passed six to zero. Thank you.
45
46 Guerrero: Perfect. Thank you very much. That concludes the cases in the agenda

1
2 **10. DISCUSSION**

3
4 Guerrero: Next item is, is there any further discussion on anything tonight? Looking
5 like there's not. Then we have we moved the realized Las Cruces update
6 to the front, which I'm really glad we did.
7

8 **10.1 Realize Las Cruces Development Code Update**
9

10 **11. STAFF ANNOUNCEMENTS**
11

12 Guerrero: Next up is do we have any announcements from staff?
13

14 H-Rogers: I will try to take a stab at it and Larry can correct me if I'm wrong. We have
15 a couple of announcements in terms of maybe some staff changes you may
16 see at these meetings, David Weir and I will still be very much involved, but
17 we're really shifting our focus to trying to finalize the Realize Las Cruces
18 project. So you will be seeing some people who've been here for a long
19 time, but many of you may not know, Adam Ochoa, who was a planner with
20 the department for a long, long time and is now plans examiner and now
21 he's acting senior planner. So he will be showing up from time to time. And
22 then Dr. Tim Pitts, who is one of our deputy directors, who is now assisting
23 sort of with those duties as well. Larry, is there anything else you wanted
24 to add?
25

26 Nichols: Mr. Chairman and Members Commission. Thank you Katherine. No, you
27 covered it very well. I just would briefly say that this was brought on by the,
28 there was a restructuring from the City Manager office for the long range
29 planning that was in the Community Development Department. They've
30 established, it's called Long Range Planning and Implementation to the
31 Elevate Comprehensive Plan. That brought a restructuring and we made
32 appointments to several acting positions. And then we'll be recruiting for
33 those vacancies that were created by that restructuring. So, yes you'll be
34 seeing some new faces, but there'll be those that have had past experience
35 in planning and zoning activities. I have no further announcements for the
36 Commission. Thank you.
37

38 Guerrero: Excellent. Thank you. Change is good. Somebody had ...
39

40 Bennett: Can I jump in there?
41

42 Guerrero: Yes. I just wanted to, I don't think Harvey Gordon's here, but I just wanted
43 to thank him for his years of public service and he will be sorely missed.
44

45 Guerrero: Absolutely. Great guy.
46

12. ADJOURNMENT (9:17)

Guerrero: Well, with that being said, can I get a motion to adjourn the meeting?

Vega: I make a motion to adjourn.

Bennett: I'll second.

Guerrero: All righty. Perfect.

Baum: Board Member Vega.

Vega: Yes.

Bam Board Member Smith.

Smith: Yes.

Baum: Board Member Kaiser.

Kaiser: Yes.

Baum: Board Member Bennett.

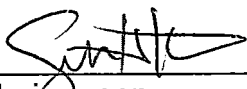
Bennett: Yes.

Baum: Board Member Acosta.

Acosta: Yes.

Baum: Chair Guerrero.

Guerrero: Yes. Perfect. Well, this meeting is adjourned. Thank you everybody.


Chairperson



City of Las Cruces

City Council Action and Executive Summary

23-101

Type of Action:

☒ Resolution

☐ Ordinance

☐ TIDD Resolution

District: ☐ 1 ☐ 2 ☒ 3 ☐ 4 ☐ 5 ☐ 6 ☐ N/A

1st Reading: Adopted: March 6, 2023

Drafter: Valerie Uribe Department: Legal

Program: Line of Business:

Title: **A RESOLUTION APPROVING THE REQUEST FOR A TRANSFER OF OWNERSHIP AND CHANGE OF LOCATION OF INTER-LOCAL LIQUOR LICENSE NO. 2628 WITH ON-PREMISES CONSUMPTION AND PATIO SERVICE TO BIG TOASTED MON 4, LLC., D/B/A CHEBA HUT TOASTED SUBS, LOCATED AT 556 S. TELSHOR BLVD., LAS CRUCES, NEW MEXICO 88011.**

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

PURPOSE(S) OF ACTION:

Transfer of Ownership and Change of Location of Inter-Local Liquor License.

BACKGROUND / KEY ISSUES / CONTRIBUTING FACTORS:

Pursuant to New Mexico Statutes, an application for a Transfer of Ownership and Change of Location of Inter-Local Liquor License No. 2628 With On-Premises Consumption and Patio Service must be accompanied by a resolution of the City Council approving of and consenting to the transfer after a public hearing.

Big Toasted Mon 4, LLC., d/b/a Cheba Hut Toasted Subs, applied to the Alcoholic Beverage Control Division of the Regulation and Licensing Department of the State of New Mexico ("ABC") for a Transfer of Ownership and Change of Location of Inter-Local Liquor License No. 2628 With On-Premises Consumption and Patio Service. The location for the license is 556 S. Telshor Blvd., Las Cruces, New Mexico 88011. ABC granted preliminary approval on January 12, 2023.

The City Council is required to hold a public hearing within 45 days after the date of receipt of the preliminary approval letter from ABC. The City of Las Cruces, requested a waiver/extension of hearing date on January 20, 2023. ABC approved the request for waiver/extension on January 23, 2023.

A public hearing to review this issue is scheduled during the regular City Council meeting to be held on Monday, March 6, 2023, beginning at 1:00 p.m., in the City Council Chambers, City Hall, 700 North Main Street, Las Cruces, New Mexico. Notice of this public hearing was published in the Las Cruces Sun-News on February 3, 2023, and February 17, 2023

City Council may approve or disapprove the transfer of the license. However, Council's disapproval must be based on substantial evidence that the transfer of the license would adversely affect the health, safety, or welfare of the citizens of the City of Las Cruces.

City Council may also fail to either approve or disapprove the license. If Council fails to approve or disapprove the license within 30 days after the public hearing, the Director of Alcoholic Beverage Control may give final approval of the license.

SUPPORT INFORMATION:

[Exhibit "A". Alcohol and Gaming's letter and the Application.](#)

[Attachment "A". Notice of Intent to Approve in the Las Cruces Sun. News.](#)

[Attachment "B". Traffic Impact Report from the Traffic Engineering Section.](#)

[Attachment "C". Fire and Safety Compliance Report from the Las Cruces Fire Department.](#)

[Attachment "D". Liquor License Impact Report \(zoning\) from Development Services.](#)

[Attachment "E". Criminal Activity Report for the Las Cruces Police Department.](#)

[Attachment "F". Business Registration Report from Community Development Services.](#)

[Attachment "G". New Mexico Regulation and Licensing Department Waiver Extension Request Approval.](#)

PLAN(S):

None

COMMITTEE/BOARD REVIEW:

None

DOES THIS AMEND THE BUDGET?:

☐ Yes

☒ No

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

☐ Yes

☒ No

Does this action align with Elevate Las Cruces?

☐ Yes

☒ No

OPTIONS / ALTERNATIVES:

1. Vote "Yes"; this will approve of and consent to the approval of a Transfer of Ownership and Change of Location of Inter-Local Liquor License No. 2628 With On-Premises Consumption and Patio Service and the Alcohol Beverage Control will continue with the application process.

2. Vote "No"; this must be based on substantial evidence that the transfer of Ownership and Change of Location of Inter-Local Liquor License would adversely affect the health, safety, or welfare of the citizens of the City of Las Cruces.

3. Vote to "Amend"; this is not permitted by the Liquor Control Act, NMSA 1978, Section 60-6B-4.

4. Vote to "Table"; this is not permitted by the Liquor Control Act, NMSA 1978, Section 60-6B-4.

RESOLUTION 23-101

A RESOLUTION APPROVING THE REQUEST FOR A TRANSFER OF OWNERSHIP AND CHANGE OF LOCATION OF INTER-LOCAL LIQUOR LICENSE NO. 2628 WITH ON-PREMISES CONSUMPTION AND PATIO SERVICE TO BIG TOASTED MON 4, LLC., D/B/A CHEBA HUT TOASTED SUBS, LOCATED AT 556 S. TELSHOR BLVD., LAS CRUCES, NEW MEXICO 88011.

The City Council is informed that:

WHEREAS, Big Toasted Mon 4, LLC., d/b/a Cheba Hut Toasted Subs, located at 6131 Aldea Ave NW Albuquerque, New Mexico 87114, applied to the Alcoholic Beverage Control Division of the Regulation and Licensing Department of the State of New Mexico ("ABC") for a Transfer of Ownership and Change of Location of Inter-Local Liquor License No. 2628 with On-Premises Consumption and Patio Service; and

WHEREAS, ABC granted preliminary approval for a Transfer of Ownership and Change of Location of Inter-Local Liquor License No. 2628 with On-Premises Consumption and Patio Service by letter dated January 12, 2023; and

WHEREAS, pursuant to law, the application for a Transfer of Ownership and Change of Location of Inter-Local Liquor License No. 2628 with On-Premises Consumption and Patio Service must be accompanied by a resolution of the Las Cruces City Council approving of and consenting to the license after a public hearing upon reasonable notice of such hearing; and

WHEREAS, the City Council did on this date hold a public hearing after reasonable notice setting forth the required information concerning the public hearing. The City Council has considered the liquor license and it has determined that the approval of the same is not detrimental to the public health, safety, or welfare of the City of Las Cruces.

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

(I)

THAT a Transfer of Ownership and Change of Location of Inter-Local Liquor License No. 2628 with On-Premises Consumption and Patio Service to Big Toasted Mon 4, LLC., d/b/a Cheba Hut Toasted Subs, located at 6131 Aldea Ave NW Albuquerque, New Mexico 87114, as evidenced by the ABC's letter and the application attached hereto as Exhibit "A", is hereby approved.

(II)

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

DONE AND APPROVED this day of

Agenda Item #7.1.

APPROVED

ATTEST:

Moved by:

Seconded by:

AYES

NAYS



NMRLD
NEW MEXICO
REGULATION &
LICENSING DEPARTMENT

STATE OF NEW MEXICO
MICHELLE LUJAN GRISHAM, GOVERNOR
Linda M. Trujillo, Superintendent
Andrew Vallejos, Director

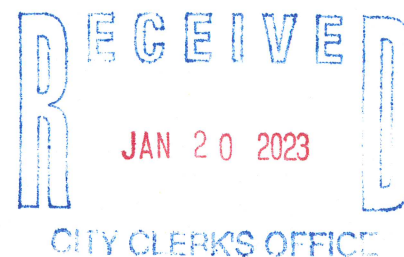
January 12, 2023

Certified Mail No.: 7022 1670 0002 1180 6157

City of Las Cruces

Christine Rivera, CMC
PO Box 20000
Las Cruces, NM 88004

Lic. No. /Appl. No.: License No. 2628
Name of Applicant: Big Toasted Mon 4, LLC
Doing Business As: Cheba Hut Toasted Subs
Proposed Location: 556 S. Telshor Blvd., Las Cruces, New Mexico 88011



The Director of the Alcoholic Beverage Control Division (ABC) has reviewed the referenced Application and granted **Preliminary Approval**. It is being forwarded to you for Local Option District approval or disapproval of the Liquor License Application.

Notice of the Public Hearing required by the Liquor Control Act **shall be given by the governing body by publishing a notice** of the date, time, and place of the hearing **twice during the 30 days prior to the hearing** in a newspaper of general circulation within the territorial limits of the governing body. **The first notice must be published at least thirty (30) days before the hearing. Both publications must occur before a hearing can be conducted.** The notice shall include:

- (A) Name and address of the Applicant/Licensee;
- (B) The action proposed to be taken;
- (C) The location of the licensed premises.

In addition, if the Local Option District has a website, **the Notice shall also be published on the website.**

While the law states that “within forty-five (45) days after receipt of a Notice from the Alcoholic Beverage Control, the governing body shall hold a Public Hearing in the question of whether the department should approve the proposed issuance or transfer”, we recognize the potential for conflict between the requirement for publication of 30 day notice and the 45 day hearing requirement.

With that in mind, when a local governing body receives a liquor license application from ABC, that governing body has a couple of options:

- 1) Hold a hearing on the license application within the statutory time frame of forty-five (45) days, as required by the Liquor Control Act, and comply with all other statutory and regulatory procedures and notify ABC of your decision within thirty (30) days of the hearing;
- 2) Request from ABC an extension of time, past the forty-five (45) days, designating how much additional time will be needed to conduct the hearing in compliance with all statutory and regulatory procedures. After the extension is granted and the hearing is held, notify ABC of your decision within thirty (30) days of the hearing;

Agenda Item #7.1.

ABC has no preference in the option you choose.

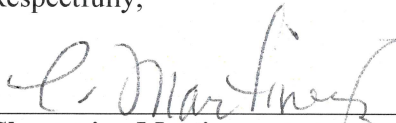
The governing body is required to send notice by certified mail to the Applicant of the date, time, and place of the Public Hearing. The governing body may designate a Hearing Officer to conduct the hearing. **A record shall be made** of the hearing.

THE APPLICANT IS SEEKING A TRANSFER OF OWNERSHIP AND CHANGE OF LOCATION OF INTER-LOCAL LIQUOR LICENSE NO. 2628 WITH ON-PREMISE CONSUMPTION AND PATIO SERVICE.

Within thirty (30) days after the Public Hearing, the governing body shall notify ABC of their decision to approve or disapprove the issuance or transfer of the license by signing the enclosed original Page 1 of the Application. The original Page 1 of the Application must be returned together with the notices of publication. **If the Governing Body fails to either approve or disapprove the issuance or transfer of the license within thirty days after the Public Hearing, the Director may issue the license.**

If the Governing Body disapproves the issuance or transfer of the license, it shall notify ABC within thirty (30) days setting forth the reasons for the disapproval. A copy of the Minutes of the Public Hearing shall be submitted to ABC with the Notice of Disapproval (*Page 1 of the Application, noting disapproval*).

Respectfully,



Charmaine Martinez

Admin Law Judge | Hearing Officer
NM Regulation & Licensing Department
Alcoholic Beverage Control Division
Phone: (505) 476-4804 Fax: (505) 476-4595
Email: Charmaine.Martinez2@rld.nm.gov

Enclosures:

1. Original Page 1 of the Application (*must be signed and returned w/notices of publication*)
2. Copy of Page 2 of the Application
3. Copy of the Zoning Statement
4. Copy of the Floor Plan



NMRLD
NEW MEXICO
REGULATION &
LICENSING DEPARTMENT

RECEIVED

DEC 18 2022

ALCOHOL & GAMING DIVISION

STATE OF NEW MEXICO
MICHELLE LUJAN GRISHAM, GOVERNOR
Linda M. Trujillo, Superintendent
Andrew Vallejos, Director

Transfer of Dispenser Type Liquor Application | \$200.00 Application Fee, non-refundable

ABC USE ONLY: Application Fee \$ _____ Received on: _____ Receipt No. _____
License Fee \$ _____ Received on: _____ Receipt No. _____
Application Number: _____ Local Option District: _____

License Number: 2628 License Type Inter-Local Dispenser

Record Owner of Existing License: Dos Greeks, LLC

Current D/B/A Name: Brixens

Current Premises Address: 400 Central Ave. SW, Albuquerque, NM 87102

Current LOD: City of Albuquerque Is License moving out of Local Option District? ☐ Yes ☐ No

Check appropriate boxes:

Application is for: ☐ Transfer of Ownership ☒ Transfer of Ownership and Location ☐ Transfer of Location Only

Applicant is ☐ Individual ☒ Limited Liability Company ☐ Corporation ☐ Partnership (General/Limited)

NAME OF APPLICANT: Big Toasted Mon 4, LLC

D/B/A Name to be used: Cheba Hut Toasted Subs Business Phone No: TBD

Mailing Address: 6131 Aldea Ave NW, Alb, NM 87114 Copy: New Mexico Liquor Licenses, LLC 2539 Wyoming Blvd NE Ste A, Alb, NM 87112

Email (required) IsaacMontoya@chebahut.com

Physical location where license is to be used: 556 S. Telshor Blvd., Las Cruces NM 88011

County: Dona Ana County (Include street number / highway number / state road, city, state, and zip code)

Are alcoholic beverages currently being dispensed at the proposed location ☐ Yes ☒ No If Yes, License # / Type: _____

Contact Person: Kyla Stoker Phone #: (505) 980-5614 Email: Kyla@NewMexicoLiquorLicense.com

I, (print name) Isaac Montoya, as (title) Member being first duly sworn upon oath deposes and says: that he/she is the applicant or is authorized by the applicant to make this application; that he/she has read the same; knows the contents therein contained are true. Applicant(s) agree(s) that if any statements or representations herein are found to be false, the Director may refuse to issue or renew the license or may cause the license to be revoked at any time.

You must sign and date this form before a Notary Public.

Signature of Applicant: _____ Date: 12/15/22

STATE OF NEW MEXICO
Notary Public Use Only: (State of New Mexico, County of Bernalillo) NOTARY PUBLIC
SUBSCRIBED AND SWORN TO before me this 15 day of December, 2022
By: Isaac Montoya Notary Public: _____ Kyla N. Rhodes Stoker
Date my Commission Expires: 7/31/24 Commission No. 1056502
July 31, 2024

Local Option District Use Only: Local Governing Body of _____ City, County, Village

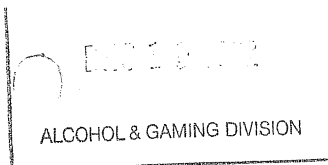
Public Hearing held on _____ 20____ Please check one: ☐ Approved ☐ Disapproved

Signature of City/County Official: _____ Title: _____

Alcoholic Beverage Control Division Use Only: ☐ Approved ☐ Disapproved, _____

Signed by Director: _____ Date: _____





Premises Location, Ownership, and Description | NMSA §60-6B-10 | Page 2

1. The land and building which is proposed to be the licensed premises is: **(check one)**

☐ Owned by Applicant, copy of deed/document attached

☒ Leased by Applicant, copy of lease/document attached

☐ Other (provide details): _____

2. If the land and building are not owned by Applicant, indicate the following:

A. Owner(s): PDG PRESTIGE, INC.

B. Date and Term of Lease: 9/25/2020 10 years from Rent Commencement

3. Premises location is Zoned (example C-1, see Zoning Statement): C-3C

Zoning Statement attached, ☒ Yes ☐ No Must be obtained from the Local Government, listing the proposed location by address, Type of Zone, state whether alcoholic beverages are allowed at proposed location, and if applicable, whether packaged sales, patio service and/or manufacturing is allowable. If there is no zoning in the proposed location, attach Statement from the local government, indicating there is no zoning.

4. **Distance* from nearest Church:** (Property line of church to closest point of licensed premises—shortest distance)

Name of Church: Sierra Vista Community Church Miles/feet: CA: 3522 ft +-

Address/location of Church: 514 N Telshor Blvd., Las Cruces, NM 88011

5. **Distance* from nearest School:** (Property line of school to closest point of licensed premises—shortest distance)

Name of School: Hillrise Elementary School Miles/feet: CA: 5249 ft +-

Address/location of School: 1400 Curnutt St., Las Cruces, NM 88011

6. **Attach Detailed Floor Plan**, must include the Total Square Footage of premises; List nearest cross street; Show which direction is North; Show each level (floor) where alcoholic beverages will be sold or consumed, exterior walls, doors, and interior walls; Patio Area with type of barrier used; Highlight Bonded Areas. The floor plan should be no larger than 8½ x 11 inches and must be labeled with designated areas highlighted, which will reflect the proposed Licensed Premises.

7. Type of Operation: ☐ Hotel ☐ Lounge ☐ Package Grocery ☐ Racetrack

☒ Restaurant ☐ Craft Distiller ☐ Small Brewer ☐ Winery ☐ Wholesaler

☐ Other (specify): _____

***NOTE:** If the distance is beyond 300 feet, but less than 400 feet, and the Applicant does not admit that the location is within 300 feet and requests a waiver from the LOD, a Registered Engineer or Licensed Surveyor must complete a Survey Certificate showing the exact distance.





STATEMENT OF ZONING

The property located at 556 S. Telshor Blvd., and having an Account ID Number of R1902287, in Las Cruces, New Mexico, is zoned as follows:

C-3C (Commercial High Intensity Conditional) and LOA (Lohman Avenue overlay district)

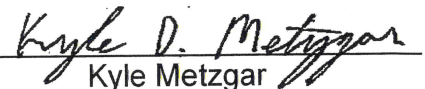
Comments: The C-3 district facilitates and encourages development of those uses which provide retail, service and wholesale activities within the City and a regional market and whose use generally serves a population of over 15,000. The conditions placed on this zoning designation as well as design standards are outlined in Ordinance 2036 (see attached), which was approved by City Council on August 18, 2003.

The purpose of the Lohman Avenue overlay district is to implement land use and urban design policies as established in the Lohman Avenue plan. Specifically the purpose of this overlay district is to specify architectural and urban design provisions to improve this important entrance into our community and promote an attractive image for the city as a whole.

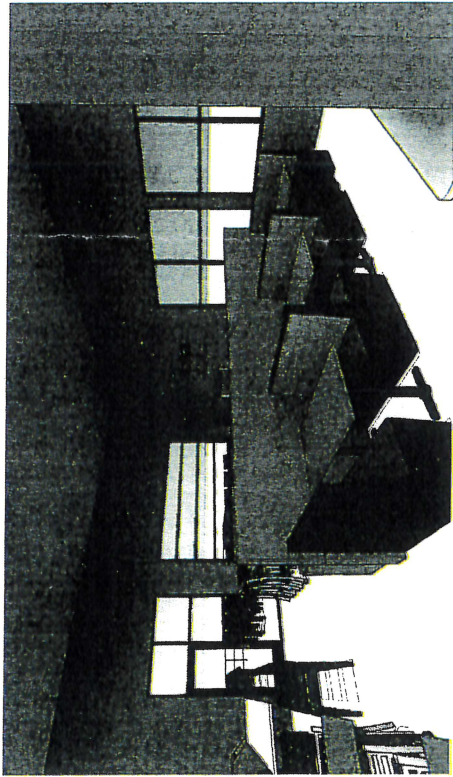
An eating and drinking establishment for an on-premises consumption only liquor license is a permitted use provided all requirements as prescribed for liquor establishments by the State of New Mexico are met.

The above described property located in the City of Las Cruces, New Mexico, has been reviewed and found to be zoned as indicated above in accordance with the Las Cruces Zoning Atlas. Accordingly, I do hereby approve and issue this Statement of Zoning.

July 26, 2022
Date


Kyle Metzgar
Planning Technician Sr.

Please be advised that the information presented on this document is taken from the City of Las Cruces Zoning Atlas. Nothing shall prevent the City of Las Cruces from amending this information if review of the Zoning Ordinance shows the Atlas to be in error.



CHEBA HUT TOASTED SUBS
554 S. Telshor Blvd.
LAS CRUCES, NM 88011

PATIO = 400 sq ft
total area =

← MALL RD →

ITEM#	QTY	DESCRIPTION
100.00	2	Refrigerated Sandwich Prep Tables
101	2	OVEN, CONVEYOR
102	2	HOT FOOD TABLE, ELECTRIC
103	1	Skirt, Automatic
104	1	COUPE-LEGUMES
105.30	3	Water/Water, Vertical
106.48	4	Worktable
107	2	Hand Sink
108	1	Microwave Oven
109.30	1	Worktable
110	5	WASTE RECEPTACLE
111	1	WASTE UNIT, SPLASH MOUNT
202	1	3-COMP. 18" R.T. DRAINBO. BOWL 18" X 18" X 14"
203.R	1	SINK, 1-COMP. 18" R.T. DRAINBO. BOWL 18" X 18" X 14"
204	1	Faucet with 8" Centers and 12" Swing Spout
205	1	Soda Rack
206A	2	NO Tank
206B	2	CO2 Tank
208	1	Walk in Cooler, 30" Door
210R	1	Low Profile Evaporator for FREEZER
211.F	1	Low Profile Evaporator for COOLER
212.F	1	Capacite Pail Condenser for COOLER
213.R	1	Capacite Pail Condenser for COOLER
301	1	450 L. Beverage Dispenser
302	1	TEA BREWERS
303	1	Dispenser, Beverage/Non-Carbonated
304	1	Condiment Organizer
400	1	4-COMPARTMENT, 72"W X 18"D X 36"H
401	1	Upright Bar Glass Washer

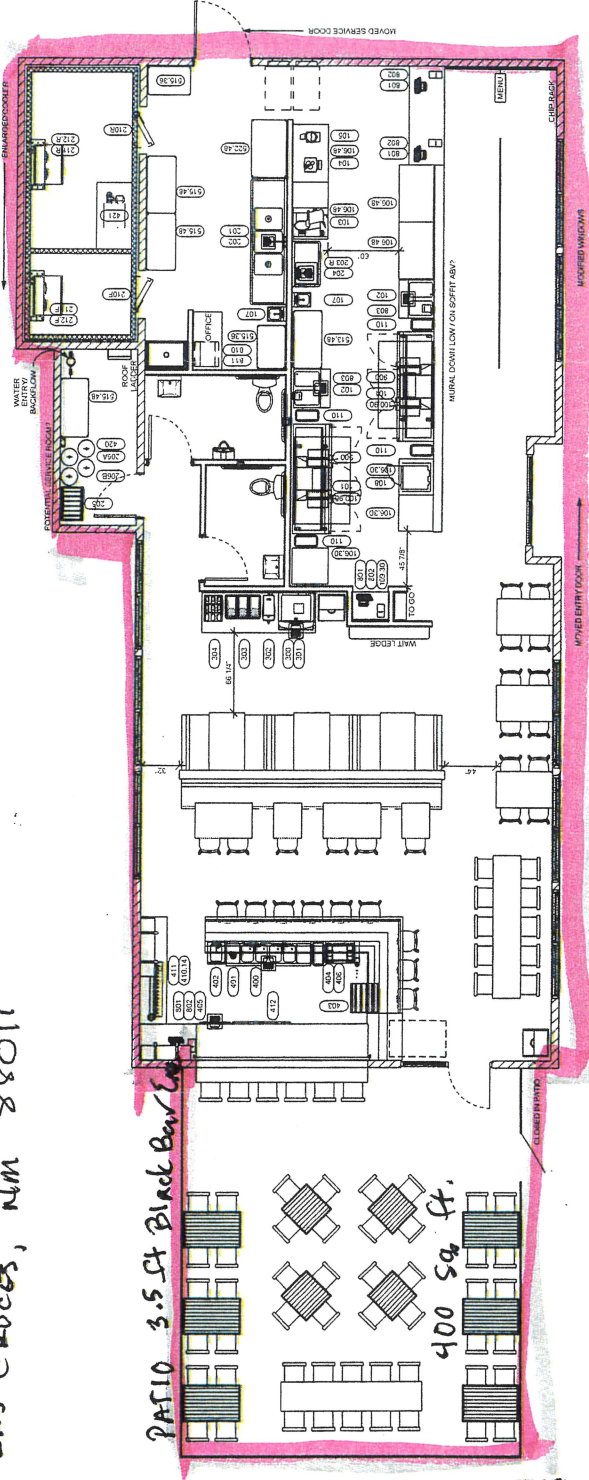
ITEM#	QTY	DESCRIPTION
402	1	HAND SINK, UNDERBAR, 10" X 14" H BACKSPASH
403	1	PRESTIGE LIQUOR BOTTLE DISPLAY UNIT
404	1	100% COLD, 1/2" WIDE, W/ COLD PLATE
405	1	Ice Maker, 24" x 24" x 24" with Drain
406	1	Soda Gun Filter Section
410.14	1	Tower H-Metro
411	1	Drip Tray with Glass Rinser
412	1	Underbar Rinsing Glass Slide Door 24" Back Bar Cooler
421	1	Gas Burner
422	1	24x48 4-Tier Shelving - 74in Peak
513.48	2	24x48 5-Tier Shelving - 96in Peak
515.36	2	24x48 5-Tier Shelving - 96in Peak
515.48	3	24x48 5-Tier Shelving - 96in Peak
522.48	1	30x48 5-Tier Epoxy Dish Shelving - 96in Peak
601	4	POS TERMINAL
602	1	POS PRINTER
803	2	KITCHEN PRINTER
810	1	SAFE
811	1	SAFE
900	2	48x72 TYPE II HOOD, RE. MECHANICAL

TENANT FINISH FOR
CHEBA HUT - LAS
CRUCES
MESILLA VALLEY MALL
LAS CRUCES, NM

PROJECT NO. CBH2008
START DATE 11.02.2020
DRAWN BY CEB
CHECKED BY JKB
NO. DESCRIPTION D

11/18/2020
11:20:14
AM

PRELIMINARY PLAN
PFP-1
copyright 2020



① PRELIMINARY PLAN
1/4" = 1'-0"

Total sq. Ft. 2600

← LAMHAN AVE →

Text of Ad: 01/24/2023

**NOTICE OF INTENT
TO APPROVE**

Notice is hereby given that the Las Cruces City Council will hold a Public Hearing to discuss approval or disapproval of A Transfer of Ownership and Change of Location of Inter-Local Liquor License No. 2628 With On-Premises Consumption and Patio Service to Big Toasted Mon 4, LLC., d/b/a Cheba Hut Toasted Subs located at 556 S. Telshor Blvd., Las Cruces, New Mexico, 88011.

The Public Hearing will be held as part of the regularly scheduled meeting of the City Council on Monday, March 6, 2023, beginning at 1:00 p.m., in the City Council Chambers, 700 North Main Street, City Hall. If passed, the Director of Alcoholic Beverage Control of the State of New Mexico Regulation & Licensing Department may approve the issuance of the license.

Witness my hand and seal this the 24TH day of January 2023.

Christine Rivera, MS, CMC
City Clerk
#5571664, Sun News
February 3 & 17, 2023

Agenda Item #7.1.

Valerie Uribe

From: Gary Skelton
Sent: Friday, February 17, 2023 9:36 AM
To: Valerie Uribe
Subject: RE: FW: Big Toasted Mon 4, LLC d/b/a Cheba Hut Toasted Subs
Attachments: Liquor License - 556 S Telshor Boulevard.pdf

Valerie:

I have attached the traffic investigation report for the site. Approval of the application does not appear to adversely affect traffic in the area.

Gary Skelton, P.E.

Engineer/Public Works/Traffic Management
 Direct: 575-541-2561 Main: 575-541-2505, gskelton@lascruces.gov



From: Valerie Uribe <vuribe@las-cruces.org>
Sent: Thursday, February 16, 2023 1:33 PM
To: Kyla Stoker <kyla@newmexicoliquorlicense.com>; Isaac Montoya <isaac.montoya@chebahut.com>
Cc: Gary Skelton <gskelton@las-cruces.org>
Subject: RE: FW: Big Toasted Mon 4, LLC d/b/a Cheba Hut Toasted Subs

Will do, thank you for letting me know. I will also ask Public works and see if this would be sufficient enough. If they are requesting additional information, I will let you know.

Thank you,

From: Kyla Stoker <kyla@newmexicoliquorlicense.com>
Sent: Thursday, February 16, 2023 12:48 PM
To: Valerie Uribe <vuribe@las-cruces.org>; Isaac Montoya <isaac.montoya@chebahut.com>
Cc: isaacmontoya@chebahut.com; Gary Skelton <gskelton@las-cruces.org>
Subject: Re: FW: Big Toasted Mon 4, LLC d/b/a Cheba Hut Toasted Subs

Valerie, I believe you are missing the period . in Isaac's email. I just got a return from my reply all. Please update to make sure he is receiving your emails.

Thank you!

On Thu, Feb 16, 2023 at 12:44 PM Kyla Stoker <kyla@newmexicoliquorlicense.com> wrote:

Valerie,

The only site plan that I have available are the attached. This should give you what you need?

If not, let us know. [@Isaac Montoya](#) do you have anything else to provide her?

On Fri, Jan 27, 2023 at 9:55 AM Valerie Uribe <vuribe@las-cruces.org> wrote:

Agenda Item #7.1.

Good morning,

Please see below, public works is requesting the following information:

- Verifiable documents that clearly indicates the location of the property as well as the site plan that would also indicate all driveway access.

Please provide these documents as soon as possible, so that we may proceed with the permit application process. If you have any questions, please feel free to contact our office.

Thank you,

From: Gary Skelton <gskelton@las-cruces.org>
Sent: Thursday, January 26, 2023 2:35 PM
To: Valerie Uribe <vuribe@las-cruces.org>
Subject: RE: Big Toasted Mon 4, LLC d/b/a Cheba Hut Toasted Subs

Valerie:

For this application, I cannot provide a report because there is no physical location identified other than the address 556 S. Telshor . I assume this property is in the development stages with the new development along the north side of the mall property. However when I try to pull up that address on a map, it points to some location along Telshor in front of the mall. I need some kind of verifiable document that clearly indicates the location of the property as well as the site plan that would also indicate all driveway access.

Gary Skelton, P.E.

Engineer/Public Works/Traffic Management

Direct: 575-541-2561 Main: 575-541-2505, gskelton@las-cruces.org



Agenda Item #7.1.

From: Valerie Uribe <vuribe@las-cruces.org>

Sent: Monday, January 23, 2023 12:18 PM

To: Adam Ochoa <aocchoa@las-cruces.org>; Adrian Arias <aarias@las-cruces.org>; Bobbie Munoz <romunoz@las-cruces.org>; Christina Abeyta Corella <cabeyta@las-cruces.org>; Cody Haver <chaver@las-cruces.org>; Daniel Balderrama <dbalderrama@las-cruces.org>; Elena Sanchez <ESanchez@las-cruces.org>; Gary Skelton <gskelton@las-cruces.org>; Jackie Baylon <jdelmuro@las-cruces.org>; Jason Smith <jasmith@las-cruces.org>; Jose Leos <jleos@las-cruces.org>; Katherine Harrison Rogers <kr Rogers@las-cruces.org>; Kendle Arellano <kmclurg@las-cruces.org>; Sean Mullen <smullen@las-cruces.org>; Kyle Metzgar <kmetzgar@las-cruces.org>; Mark Dubbin <MDubbin@las-cruces.org>; Miguel Dominguez <midominguez@las-cruces.org>; Soogyu Lee <sglee@las-cruces.org>; Hector Terrazas <hterrazas@las-cruces.org>; Jeremy Story <jstory@las-cruces.org>; Jennifer Lucero <jenlucero@las-cruces.org>

Cc: Vanessa King <vking@las-cruces.org>

Subject: Big Toasted Mon 4, LLC d/b/a Cheba Hut Toasted Subs

Good morning,

Attached please find a request from Big Toasted Mon 4, LLC, d/b/a Cheba Hut Toasted Subs seeking a Transfer of Ownership and Change of location on Inter-local Liquor License NO. 2628 With On- Premises Consumption and Patio Service at 556 S. Telshor Blvd., Las Cruces, New Mexico 88011.

Please provide reports no later than February 3, 2023.

Thank you,

Valerie Uribe

Senior Legal Assistant/Legal Department/City Attorney's Office

Direct (575) 541-2020, Main (575) 541-2128, Email vuribe@las-cruces.org

700 N. Main Street, Suite 3200, Las Cruces, NM 88001



This message is from a legal office and is confidential and/or attorney-client privileged. If you receive a copy of this email in error, please delete it, retain no copies, and call our office immediately (575-541-2128).

Agenda Item #7.1.

NOTE: Over the coming months, The City of Las Cruces is transitioning our email domain to [lascruces.gov](mailto:las@lascruces.gov). Please make sure you update your email systems to accommodate my new email address which will end in [@lascruces.gov](mailto:las@lascruces.gov). My current email address will continue to work for a limited time.

--

Kyla Stoker
New Mexico Liquor Licenses, LLC
2539 Wyoming Blvd. NE
Albuquerque, NM 87112
cell: (505) 980-5614
fax: (505) 212-0227
www.newmexicoliquorlicense.com

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--

Kyla Stoker
New Mexico Liquor Licenses, LLC
2539 Wyoming Blvd. NE
Albuquerque, NM 87112
cell: (505) 980-5614
fax: (505) 212-0227
www.newmexicoliquorlicense.com

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MEMORANDUM

To: Jennifer Vega-Brown, City Attorney

From: Gary Skelton, P.E., Engineer **Initials:** GS

Date: February 17, 2023

Subject: Traffic Investigation Report – Transfer of Dispenser Type Liquor Application - 300 N. Main Street, Las Cruces, New Mexico – Cheba Hut Toasted Subs

As requested, Traffic Management has completed a traffic investigation for Cheba Hut Toasted Subs that will be located at 556 S. Telshor Boulevard, Las Cruces, New Mexico. The following information is submitted for review:

- The location of the proposed license will be located at 556 S. Telshor Boulevard. According to the Mesilla Valley MPO Traffic Flow Map, the most current traffic volume on Telshor Boulevard near this location is approximately 20,681 vehicles per day.
- The Mesilla Valley MPO classifies Telshor Boulevard as an arterial roadway near the subject location. Telshor Boulevard primarily serves commercial, retail, and dining use near the subject property.
- The subject property does not have dedicated driveway access to public roadway, rather they have shared access with the property at 700 S. Telshor Boulevard. At 700 S. Telshor Boulevard, there are two full access driveways as well as a third right-in, right-out driveway on Telshor Boulevard. There is also a full access driveway on Mall Drive and a full access driveway on Don Roser Drive. The business will have shared parking facilities at the subject location. No sight distance or operational problems are currently known at the access points.
- The speed limit along Telshor Boulevard is 35 mph near the subject property.

The approval of a Liquor License Application at this location does not appear to adversely impact traffic operations along this roadway segment. Feel free to contact me at 575-541-2508 if additional information is needed.

Valerie Uribe

From: Jose Leos
Sent: Wednesday, January 25, 2023 1:52 PM
To: Valerie Uribe
Subject: RE: Big Toasted Mon 4, LLC d/b/a Cheba Hut Toasted Subs

Good afternoon,

Valerie, the Las Cruces Fire Department approves this request pending a site fire inspection prior to the event.

Respectfully,

Jose A. Leos Jr.

Lieutenant/Prevention Bureau/Las Cruces Fire Department

Direct: (575) 528-4055 Main: (575) 528-3473, jleos@las-cruces.org



From: Valerie Uribe <[vuribe@las-cruces.org](mailto: vuribe@las-cruces.org)>

Sent: Monday, January 23, 2023 12:18 PM

To: Adam Ochoa <[aochoa@las-cruces.org](mailto: aochoa@las-cruces.org)>; Adrian Arias <[aarias@las-cruces.org](mailto: aarias@las-cruces.org)>; Bobbie Munoz <[romunoz@las-cruces.org](mailto: romunoz@las-cruces.org)>; Christina Abeyta Corella <[cabeyta@las-cruces.org](mailto: cabeyta@las-cruces.org)>; Cody Haver <[chaver@las-cruces.org](mailto: chaver@las-cruces.org)>; Daniel Balderrama <[dbalderrama@las-cruces.org](mailto: dbalderrama@las-cruces.org)>; Elena Sanchez <[ESanchez@las-cruces.org](mailto: ESanchez@las-cruces.org)>; Gary Skelton <[gskelton@las-cruces.org](mailto: gskelton@las-cruces.org)>; Jackie Baylon <[jdelmuro@las-cruces.org](mailto: jdelmuro@las-cruces.org)>; Jason Smith <[jasmith@las-cruces.org](mailto: jasmith@las-cruces.org)>; Jose Leos <[jleos@las-cruces.org](mailto: jleos@las-cruces.org)>; Katherine Harrison Rogers <[krogers@las-cruces.org](mailto: krogers@las-cruces.org)>; Kendle Arellano <[kmcclurg@las-cruces.org](mailto: kmcclurg@las-cruces.org)>; Sean Mullen <[smullen@las-cruces.org](mailto: smullen@las-cruces.org)>; Kyle Metzgar <[kmetzgar@las-cruces.org](mailto: kmetzgar@las-cruces.org)>; Mark Dubbin <[MDubbin@las-cruces.org](mailto: MDubbin@las-cruces.org)>; Miguel Dominguez <[midominguez@las-cruces.org](mailto: midominguez@las-cruces.org)>; Soogyu Lee <[sglee@las-cruces.org](mailto: sglee@las-cruces.org)>; Hector Terrazas <[hterrazas@las-cruces.org](mailto: hterrazas@las-cruces.org)>; Jeremy Story <[jstory@las-cruces.org](mailto: jstory@las-cruces.org)>; Jennifer Lucero <[jenlucero@las-cruces.org](mailto: jenlucero@las-cruces.org)>

Cc: Vanessa King <[vking@las-cruces.org](mailto: vking@las-cruces.org)>

Subject: Big Toasted Mon 4, LLC d/b/a Cheba Hut Toasted Subs

Good morning,

Attached please find a request from Big Toasted Mon 4, LLC, d/b/a Cheba Hut Toasted Subs seeking a Transfer of Ownership and Change of location on Inter-local Liquor License NO. 2628 With On- Premises Consumption and Patio Service at 556 S. Telshor Blvd., Las Cruces, New Mexico 88011.

Please provide reports no later than February 3, 2023.

Thank you,

Valerie Uribe

Senior Legal Assistant/Legal Department/City Attorney's Office

Direct (575) 541-2020, Main (575) 541-2128, Email [vuribe@las-cruces.org](mailto: vuribe@las-cruces.org)

700 N. Main Street, Suite 3200, Las Cruces, NM 88001

Agenda Item #7.1.



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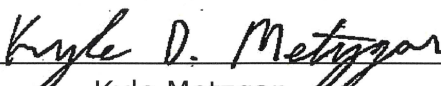


MEMORANDUM

To: Jocelyn Garrison, City Attorney
From: Kyle Metzgar, Planning Technician Sr
Date: February 2, 2023
Subject: Liquor License Impact Report, Cheba Hut Toasted Sub

Initials:
File #: M-23-011

Attached, please find the Liquor License Impact Report for a Transfer of Ownership & Change of Location on Inter-Local Liquor License No. 2628 with On-Premise Consumption and Patio Service for 556 S. Telshor Blvd. from the Community Development Department. If you have any questions, please contact me at (575) 528-3064.



Kyle Metzgar,
Planning Technician Sr.

2-1-2023
Date

cc: David Weir, AICP, Chief Planning Administrator
Katherine Harrison-Rogers, AICP, Senior Planner

Initials:
Initials:

**City of Las Cruces
Community Development Department**

LIQUOR LICENSE IMPACT REPORT

**License No. 2628
Transfer of Ownership and Change of Location of an Inter-Local Liquor License
with On-Premise Consumption and Patio Service**

**Cheba Hut Toasted Subs
556 S. Telshor Blvd.**

February 2, 2023

LIQUOR LICENSE IMPACT REPORT
Transfer of Ownership and Change of Location of an Inter-Local Liquor License
with On-Premise Consumption and Patio Service

Cheba Hut Toasted Subs
556 S. Telshor Blvd.

The purpose of this report is to review, analyze and determine any possible impacts of a liquor license relating to land use and other planning related issues.

PROPERTY INFORMATION:

Location: 556 S. Telshor Blvd.
Applicant: Big Toasted Mon 4, LLC
Business Name: Cheba Hut Toasted Subs

LAND USE AND ZONING INFORMATION:

Subject Property Zoning: C-3C/LAO (Commercial High Intensity-Conditional/Lohman Avenue Overlay District)

Subject Property Current Land Use: Commercial business center.

<u>Adjacent Land Uses</u>	<u>Zoning</u>	<u>Land Use</u>
North	C-3	Commercial
South	C-3C	Commercial
East	C-3	Commercial
West	C-3	Commercial

DISTANCE REQUIREMENTS:

Greater than 300 feet to a school: YES
Greater than 300 feet to a church: YES
Greater than 300 feet to a military installation: YES

TRAFFIC COUNT AND ACCESS INFORMATION:

Roadway: S. Telshor Blvd.
Classification: Major Arterial Roadway
Number of Lanes: 4
Site Access: 2 (Shared)
Nearest Intersection: S. Telshor Blvd. and E. Lohman Ave.

PARKING REQUIREMENTS:

The 2001 Las Cruces Zoning Code, as amended, requires one (1) automobile space for every five (5) seats and one (1) bicycle parking space for every one thousand (1000) sq. ft. of Gross Floor Area (GFA) for a restaurant in this zoning district. A restaurant with an Inter-Local Liquor License with On-Premise Consumption and Patio Service is a permitted use provided all requirements as prescribed for liquor establishments by the State of New Mexico are met.

IMPACT ANALYSIS:

The site of the Cheba Hut Toasted Subs is located on a major arterial roadway. This roadway is designed to accommodate heavy traffic and land uses such as a restaurant with a liquor license. The subject property is zoned C-3C, which allows the proposed use as well, provided all requirements as prescribed for liquor establishments by the State of New Mexico are met. In terms of a transportation and land use perspective, this seems an appropriate location and request.



STATEMENT OF ZONING

The property located at 556 S. Telshor Blvd., and having an Account ID Number of R1902287, in Las Cruces, New Mexico, is zoned as follows:

C-3C/LAO (Commercial High Intensity-Conditional/Lohman Avenue Overlay)

Comments: The purpose of the Lohman Avenue Overlay district is to implement land use and urban design policies as established in the Lohman Avenue plan. Specifically, the purpose of this overlay district is to specify architectural and urban design provisions to improve this important entrance into our community and promote an attractive image for the city as a whole.

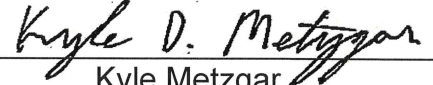
The C-3 district facilitates and encourages development of those uses which provide retail, service, and wholesale activities within the City and a regional market and whose use generally serves a population of over 15,000.

Conditions and information unique to this location are outlined in Ordinance 2036 (attached) approved by the City of Las Cruces City Council on August 18, 2003.

A restaurant with an Inter-Local Liquor License with On-Premise Consumption and Patio Service is a permitted use provided all requirements as prescribed for liquor establishments by the State of New Mexico are met.

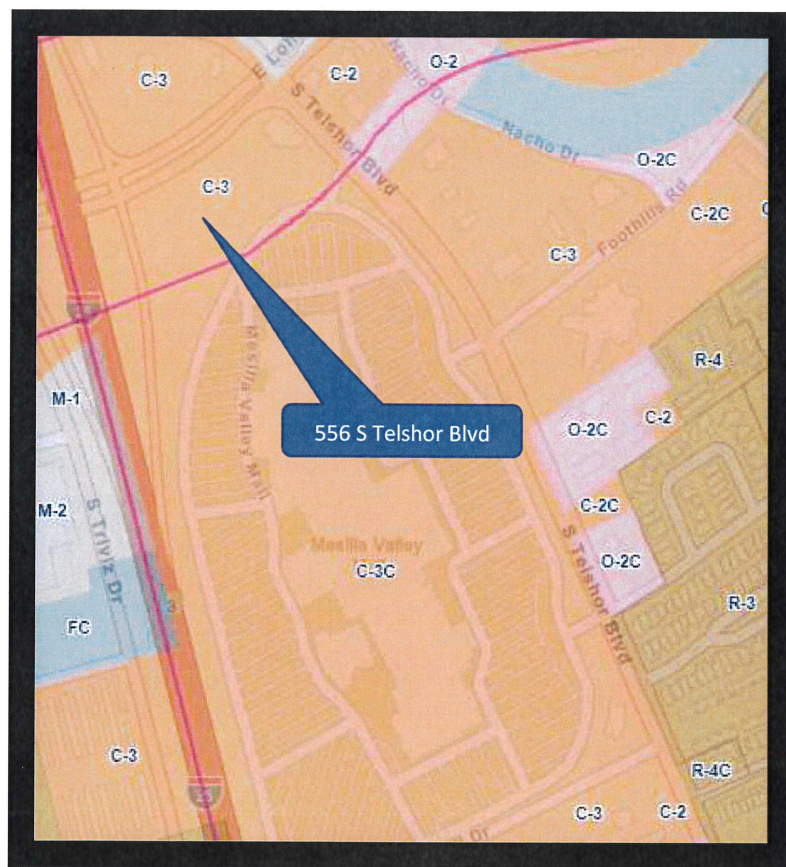
The above described property located in the City of Las Cruces, New Mexico, has been reviewed and found to be zoned as indicated above in accordance with the Las Cruces Zoning Atlas. Accordingly, I do hereby approve and issue this Statement of Zoning.

February 2, 2023
Date


Kyle Metzgar
Planning Technician Sr.

Please be advised that the information presented on this document is taken from the City of Las Cruces Zoning Atlas. Nothing shall prevent the City of Las Cruces from amending this information if review of the Zoning Ordinance shows the Atlas to be in error.

ZONING MAP



C-2 - Commercial Medium Intensity

C-2C - Commercial Medium Intensity-Conditional

C-3 - Commercial High Intensity

C-3C - Commercial High Intensity-Conditional

O-2 – Office, Professional

O-2C – Office, Professional-Conditional

M-1 – Industrial Standard

M-2 – Industrial Standard

R-3 – Multi-Dwelling Low Density

R-4 – Multi-Dwelling High Density & Limited Retail and Office

R-4C – Multi-Dwelling High Density & Limited Retail and Office-Conditional

FC – Flood Control

Notification Map



Agenda Item #7.1.

FID	ACCOUNTNUM	PARELNUM	MAPCODE	NBRHD	SCHOOLDIST
84293	R1902287	4.00914E+12	4-009-135-190-057	T11	2
81042	R0214045	4.00914E+12	4-009-135-249-200	T11	2
84292	R1905155	4.00914E+12	4-009-135-206-042	T11	2
84291	R0228229	4.00914E+12	4-009-135-217-051	T11	2
62362	R0220427	4.00914E+12	4-009-135-183-014	B04	2
58263	R0220450	4.00914E+12	4-009-135-197-014	B04	2
62361	R0222510	4.00914E+12	4-009-135-163-016	B04	2
22807	R0214008	4.00914E+12	4-009-135-190-152	T11	2
58262	R0220442	4.00914E+12	4-009-135-143-007	B04	2

Agenda Item #7.1.

TAXAREA	OWNERNAME
2IN_NR	PDG PRESTIGE INC
2IN_NR	MESILLA REALTY LLC
2IN_NR	FSLRO 510 SOUTH TELSHOR LAS CRUCES LLC
2IN_NR	SPRINGER MANAGEMENT OF LAS CRUCES
2IN_NR	NIZHONI PROPERTIES REV TR
2IN_NR	CITY OF LAS CRUCES
2IN_NR	FCPT HOLDINGS LLC
2IN_NR	STORE MASTER FUNDING III LLC
2IN_NR	HALLE PROPERTIES LLC

Agenda Item #7.1.

CAREOFNAME

NAMDAR REALY GROUP

LINCOLN PROPERTY CO RETAIL DIVISION ATTN: MATTHEW GALLO

STORE CAPITAL ACQUISITIONS LLC

Agenda Item #7.1.

MAILADDR1

300 NORTH MAIN SUITE 1000
150 GREAT NECK ROAD SUITE 304
2000 MCKINNEY AVE SUITE 1000
500 S TELSHOR BLVD
PO BOX 2766
PO BOX 20000
591 REDWOOD HIGHWAY SUITE 1150
4055 TECHNOLOGY FOREST BLVD #210
20225 N SCOTTSDALE RD

MAILADDR2

ATTN: GENERAL COUNSEL

Agenda Item #7.1.

CITY	STATE	ZIP	DEEDHOLDER	SITUSADDRS
EL PASO	TX	79901		550 S TELSHORE BLVD
GREAT NECK	NY	11021		700 S TELSHOR
DALLAS	TX	75201		510 S TELSHOR BLVD
LAS CRUCES	NM	88011		500 S TELSHOR BLVD
FARMINGTON	NM	87499		430 TELSHOR BLVD
LAS CRUCES	NM	88004		
MILL VALLEY	CA	94941		426 TELSHOR BLVD
THE WOODLANDS	TX	77381		5000 MESILLA VALLEY MALL
SCOTTSDALE	AZ	85255		420 TELSHOR BLVD

Agenda Item #7.1.

SUBNAME	LOT	
MESILLA VALLEY MALL REPLAT NO 5 (BK 24 PG 581-582 - 2020257)	3A	
MESILLA VALLEY MALL SUBDIVISION REPLAT NO 3 (BK 16 PG 42 - 894096)	6A	
MESILLA VALLEY MALL REPLAT NO 5 (BK 24 PG 581-582 - 2020257)	1A	
MESILLA VALLEY MALL SUBDIVISION REPLAT NO 4 (BK 19 PG 608-609 - 016603)	2A	
FOOTHILLS CENTER (BK 15 PG 92-93 - 8723767)		
FOOTHILLS CENTER (BK 15 PG 92-93 - 8723767)		
FOOTHILLS CENTER REPLAT NO 3 (BK 17 PG 50 - 9112618)	F-2A	
MESILLA VALLEY MALL SUBDIVISION REPLAT NO 3 (BK 16 PG 42 - 894096)		4
FOOTHILLS CENTER REPLAT NO 3 (BK 17 PG 50 - 9112618)	TR F-1A	

Agenda Item #7.1.

BLOCK	UNIT	TOWNSHIP	RNGE	SECTION	TRS
	23S		2E		16 23S 2E 16
	23S		2E		16 23S 2E 16
	23S		2E		16 23S 2E 16
	23S		2E		16 23S 2E 16
	23S		2E		16 23S 2E 16
	23S		2E		16 23S 2E 16
	23S		2E		16 23S 2E 16
	23S		2E		16 23S 2E 16
	23S		2E		16 23S 2E 16
	23S		2E		16 23S 2E 16

Agenda Item #7.1.

TOTALACRES	TOTALSQFT	BLDGVALUE	LANDVALUE	TOTALVALUE
1.24	54014	0	1240	1240
0	1587015	6120908	3967538	10088446
2.04	89298	0	266500	266500
0	57935	742349	782123	1524472
0	41818	171984	459998	631982
0	1742	0	0	1000
0	69260	98409	831120	929529
0	128066	2018557	896500	2915057
0	45895	517218	550740	1067958

Agenda Item #7.1.

Shape__Area	Shape__Length	DISTANCE
7037.121094	432.6755307	NaN Feet (approximate)
206188.1289	4145.542631	NaN Feet (approximate)
11753.79297	434.9217379	NaN Feet (approximate)
7534.976563	357.4800928	NaN Feet (approximate)
5420.644531	288.9502159	NaN Feet (approximate)
243.9882813	72.19705206	NaN Feet (approximate)
8983.941406	687.3375516	NaN Feet (approximate)
16670.20703	561.9445519	NaN Feet (approximate)
5978.5625	356.8527062	NaN Feet (approximate)

Agenda Item #7.1.

OWNERNAME	CAREOFNAME	MAILADDR1	MAILADDR2	CITY	STATE	ZIP
FCPT HOLDINGS LLC		591 REDWOOD HIGHWAY SUITE 1150	ATTN: GENERAL COUNSEL	MILL VALLEY	CA	94941
FSLRO 510 SOUTH TELSHOR LAS CRUCES LLC	LINCOLN PROPERTY C	2000 MCKINNEY AVE SUITE 1000		DALLAS	TX	75201
HALLE PROPERTIES LLC		20225 N SCOTTSDALE RD		SCOTTSDALE	AZ	85255
MESILLA REALTY LLC	NAMDAR REALY GRO	150 GREAT NECK ROAD SUITE 304		GREAT NECK	NY	11021
NIZHONI PROPERTIES REV TR		PO BOX 2766		FARMINGTON	NM	87499
PDG PRESTIGE INC		300 NORTH MAIN SUITE 1000		EL PASO	TX	79901
SPRINGER MANAGEMENT OF LAS CRUCES		500 S TELSHOR BLVD		LAS CRUCES	NM	88011
STORE MASTER FUNDING III LLC	STORE CAPITAL ACQU	4055 TECHNOLOGY FOREST BLVD #210		THE WOODLANDS	TX	77381

Valerie Uribe

From: Sean Mullen
Sent: Tuesday, January 24, 2023 10:43 AM
To: Valerie Uribe
Subject: RE: Big Toasted Mon 4, LLC d/b/a Cheba Hut Toasted Subs

Approved.

Sean Mullen

Deputy Chief of Administration/Las Cruces Police Department
Direct: 575-528-4101 Main: 575-528-4200, smullen@las-cruces.org



From: Valerie Uribe <vrube@las-cruces.org>
Sent: Monday, January 23, 2023 12:18 PM
To: Adam Ochoa <aochoa@las-cruces.org>; Adrian Arias <aarias@las-cruces.org>; Bobbie Munoz <romunoz@las-cruces.org>; Christina Abeyta Corella <cabeyta@las-cruces.org>; Cody Haver <chaver@las-cruces.org>; Daniel Balderrama <dbalderrama@las-cruces.org>; Elena Sanchez <ESanchez@las-cruces.org>; Gary Skelton <gskelton@las-cruces.org>; Jackie Baylon <jdelmuro@las-cruces.org>; Jason Smith <jasmith@las-cruces.org>; Jose Leos <jleos@las-cruces.org>; Katherine Harrison Rogers <kr Rogers@las-cruces.org>; Kendle Arellano <kmclurg@las-cruces.org>; Sean Mullen <smullen@las-cruces.org>; Kyle Metzgar <kmetzgar@las-cruces.org>; Mark Dubbin <MDubbin@las-cruces.org>; Miguel Dominguez <midominguez@las-cruces.org>; Soogyu Lee <sglee@las-cruces.org>; Hector Terrazas <hterrzas@las-cruces.org>; Jeremy Story <jstory@las-cruces.org>; Jennifer Lucero <jenlucero@las-cruces.org>
Cc: Vanessa King <vking@las-cruces.org>
Subject: Big Toasted Mon 4, LLC d/b/a Cheba Hut Toasted Subs

Good morning,

Attached please find a request from Big Toasted Mon 4, LLC, d/b/a Cheba Hut Toasted Subs seeking a Transfer of Ownership and Change of location on Inter-local Liquor License NO. 2628 With On- Premises Consumption and Patio Service at 556 S. Telshor Blvd., Las Cruces, New Mexico 88011.

Please provide reports no later than February 3, 2023.

Thank you,

Valerie Uribe

Senior Legal Assistant/Legal Department/City Attorney's Office
Direct (575) 541-2020, Main (575) 541-2128, Email vrube@las-cruces.org
700 N. Main Street, Suite 3200, Las Cruces, NM 88001



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Valerie Uribe

From: Jennifer Lucero
Sent: Wednesday, January 25, 2023 10:03 AM
To: Valerie Uribe
Subject: RE: Big Toasted Mon 4, LLC d/b/a Cheba Hut Toasted Subs
Attachments: UPDATED New Online Process for Business Registrations.pdf; Commerical Liquid Waste Questionnaire.pdf; CRS example.pdf

Good morning Valerie,

Big Toasted Mon 4, LLC d/b/a Cheba Hut Toasted Subs does not have a business license nor a liquor license yet. The property, 556 S Telshor is still under development. Once they are close to completion, they can apply for both the liquor license and their business license.

Below is the portal they would need to access and apply:

Customer Online Accela Portal:
<https://aca-prod.accela.com/LASCRUCES/Default.aspx>

Liquor License fees would be a, \$300.00 administrative fee + \$250 annual fee.
 Business License fee would be \$35.00.

I have attached some information and documents they would need to apply.

Please feel free to call me with any questions.

With regards,

Jennifer Lucero

Permit Technician/Community Development/Permits and Inspections

Direct: 575-528-3095 Office Main: 575-528-3059

Email: jenlucero@lascruces.gov

Customer Online Accela Portal:

<https://aca-prod.accela.com/LASCRUCES/Default.aspx>



City of Las Cruces
 P.O. BOX 20000 • LAS CRUCES, NM 88004

From: Valerie Uribe <vuribe@las-cruces.org>

Sent: Monday, January 23, 2023 12:18 PM

To: Adam Ochoa <aochoa@las-cruces.org>; Adrian Arias <aarias@las-cruces.org>; Bobbie Munoz <romunoz@las-cruces.org>; Christina Abeyta Corella <cabeyta@las-cruces.org>; Cody Haver <chaver@las-cruces.org>; Daniel Balderrama <dbalderrama@las-cruces.org>; Elena Sanchez <ESanchez@las-cruces.org>; Gary Skelton <gskelton@las-cruces.org>; Jackie Baylon <jdelmuro@las-cruces.org>; Jason Smith <jasmith@las-cruces.org>; Jose Leos <jleos@las-cruces.org>; Katherine Harrison Rogers <kgrogers@las-cruces.org>; Kendle Arellano <kmcllurg@las-cruces.org>; Sean Mullen <smullen@las-cruces.org>; Kyle Metzgar <kmetzgar@las-cruces.org>; Mark Dubbin <MDubbin@las-cruces.org>; Miguel Dominguez <midominguez@las-cruces.org>; Soogyu Lee <sglee@las-cruces.org>; Hector Terrazas <hterrzas@las-cruces.org>; Jeremy Story <jstory@las-cruces.org>; Jennifer Lucero <jenlucero@las-cruces.org>

Cc: Vanessa King <vking@las-cruces.org>

Subject: Big Toasted Mon 4, LLC d/b/a Cheba Hut Toasted Subs

Agenda Item #7.1.

Good morning,

Attached please find a request from Big Toasted Mon 4, LLC, d/b/a Cheba Hut Toasted Subs seeking a Transfer of Ownership and Change of location on Inter-local Liquor License NO. 2628 With On- Premises Consumption and Patio Service at 556 S. Telshor Blvd., Las Cruces, New Mexico 88011.

Please provide reports no later than February 3, 2023.

Thank you,

Valerie Uribe

Senior Legal Assistant/Legal Department/City Attorney's Office

Direct (575) 541-2020, Main (575) 541-2128, Email vuribe@las-cruces.org

700 N. Main Street, Suite 3200, Las Cruces, NM 88001



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Valerie Uribe

From: Lopez, Debra, RLD <Debra.Lopez@rld.nm.gov>
Sent: Monday, January 23, 2023 9:00 AM
To: Koroneos-Martinez, Charmaine, RLD; Valerie Uribe
Subject: RE: [EXTERNAL] Application No/License No. 2628 Big Toasted Mon 4, LLC

Good morning,

The request for extension, as outlined below, is hereby granted. Thank you for all that you do.



Debra Lopez | Deputy Director
New Mexico Regulation and Licensing Department
2550 Cerrillos Road | Santa Fe, NM 87505
PO Box 25101, Santa Fe, NM 87504-5101
Debra.lopez@rld.nm.gov | www.rld.state.nm.us/abc
(505) 476-4551

SERVICE | DEDICATION | INTEGRITY

From: Koroneos-Martinez, Charmaine, RLD <Charmaine.Martinez2@rld.nm.gov>
Sent: Friday, January 20, 2023 4:40 PM
To: Lopez, Debra, RLD <Debra.Lopez@rld.nm.gov>
Subject: FW: [EXTERNAL] Application No/License No. 2628 Big Toasted Mon 4, LLC

Please see the request below:



Please see updated email address below.

Charmaine Martinez | Hearing Officer
Alcoholic Beverage Control Division
2550 Cerrillos Road | Santa Fe, NM 87505
P.O. Box 25101 | Santa Fe, NM 87504-5101
charmaine.martinez2@rld.nm.gov | <https://www.rld.nm.gov/abc/>
(505) 476-4804

SERVICE | DEDICATION | INTEGRITY

From: Valerie Uribe <vuribe@las-cruces.org>
Sent: Friday, January 20, 2023 4:38 PM
To: Koroneos-Martinez, Charmaine, RLD <Charmaine.Martinez2@rld.nm.gov>
Cc: Kyla@Newmexicoliquorlicense.com; isaacmontoya@chebahut.com; Vanessa King <vking@las-cruces.org>
Subject: [EXTERNAL] Application No/License No. 2628 Big Toasted Mon 4, LLC

Agenda Item #7.1.

CAUTION: This email originated outside of our organization. Exercise caution prior to clicking on links or opening attachments.

Good afternoon,

This email is to inform you that the City of Las Cruces (City) is requesting a waiver/extension from the New Mexico Regulation and Licensing Department, Alcohol Beverage Control (ABC) on the forty-five (45) day requirement to hold a public hearing regarding an Application for a transfer of ownership and change of location of inter-local liquor license no. 2628 with on-premise consumption and patio service. For Big Toasted Mon 4, LLC D/B/A Cheba Hut Toasted Subs located at 556 S. Telshore Blvd., Las Cruces, New Mexico 88011.

The City Attorney's Office received the Preliminary Approval from ABC along with the request January 20, 2023. The forty-five (45) day requirement would mean that the hearing would be held by February 21, 2023. Due to the statutory and regulatory procedures that require the City to publish a Notice of Public Hearing for the liquor license twice before the public hearing with the first notice needing to be published at least thirty (30) days before the public hearing, that date is calculated on January 20, 2023. However, due to publishing deadlines, we are unable to make the deadline.

Therefore, we are requesting an extension to hold a hearing on March 6, 2023, instead of February 21, 2023, so that we may meet the statutory and regulatory procedures. If you have any questions or concerns, please contact me.

Thank you,

Valerie Uribe

Senior Legal Assistant/Legal Department/City Attorney's Office

Direct (575) 541-2020, Main (575) 541-2128, Email vuribe@las-cruces.org

700 N. Main Street, Suite 3200, Las Cruces, NM 88001



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City of Las Cruces

City Council Action and Executive Summary

23-102

Type of Action:
☒ Resolution
☐ Ordinance
☐ TIDD Resolution

District:	☐ 1 ☐ 2 ☐ 3 ☐ 4 ☒ 5 ☐ 6 ☐ N/A	Adopted:	March 6, 2023
1st Reading:		Department:	City Manager's Office
Drafter:	Natalie Green	Line of Business:	Housing and Neighborhood Services
Program:	Housing and Neighborhood Services		

Title: A RESOLUTION APPROVING A PILOT PROGRAM FOR AN AFFORDABLE HOMEOWNERSHIP REVOLVING LOAN FUND TO FACILITATE THE DEVELOPMENT OF AFFORDABLE SINGLE-FAMILY HOUSING.

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

PURPOSE(S) OF ACTION:
Approve pilot program

BACKGROUND / KEY ISSUES / CONTRIBUTING FACTORS:

In an effort to offer solutions to the current affordable housing crisis, which disproportionately impacts low- and moderate-income households, the City of Las Cruces is proposing an Affordable Homeownership Revolving Loan Fund (“Revolving Fund”) to facilitate the development of affordable single-family housing. The Revolving Fund will be initially supported at \$500,000 from the Affordable Housing Trust Fund (“AHTF”) in accordance with the Las Cruces Municipal Code 1997, as amended, Chapter 13 Division II: Affordable Housing General Oversight Ordinance.

The funds disbursed under the Revolving Fund are a small portion of the overall financing of a single-family housing development. The Revolving Fund is intended to incent developers to create modestly sized and priced homes that will appeal to first-time homebuyers or other homebuyers who earn up to 120% of Area Median Income (“AMI”) and would be attracted to homes more appropriately sized and priced than many available today. If federal funding is used in conjunction with these funds, the income limits of homebuyers will be restricted to 80% AMI.

The goal of the City’s funding is to help lower the costs for *eligible* developers constructing homes in a single-family housing development by providing low-interest construction loans to reimburse developers for land acquisition costs, on-site infrastructure costs, and construction costs. Funds would be secured through a Promissory Note, Deed of Trust, and Loan Agreement and repaid at closing for permanent financing.

City Staff is recommending an initial partnership with Tierra Del Sol Housing Corporation (TdS), a nonprofit affordable housing developer and qualified grantee constructing affordable housing in the Metro Verde PUD. After the initial pilot program, the Revolving fund can be expanded to other qualified grantees and projects. Continuous availability of funds will be made available through future repayment of loans and interest. State and Federal funds may be used to support qualifying Projects under the Revolving Funds when applicable and available.

Agenda Item #7.2.

The City recognizes the need to provide a diverse range of affordable, clean, and safe housing options through private/public partnerships. Such action is supported by various adopted plans including the City's Affordable Housing Plan, 2021-2025 Consolidated Plan, Elevate Las Cruces, Council Strategic Plan, and Department Strategic Plan. The pilot program was presented to the Housing Policy Review committee on November 29, 2022.

PLAN(S):

City Council Strategic Plan, Department Strategic Business Plan, 2021-2025 Consolidated Plan, Elevate Las Cruces

COMMITTEE/BOARD REVIEW:

Housing PRC

DOES THIS AMEND THE BUDGET?:

☐ Yes

☒ No

BUDGET / FISCAL IMPACT:

BUDGETED AMOUNT: \$732,257 **AVAILABLE AMOUNT:** \$622,187 **EXPENDITURE AMOUNT:**
\$500,000

Funding Source(s):

Affordable Housing (FUND 2013) 20453015-721080

Overall Budget Impact:

Continuous availability of funds will be made available through future repayment of loans and interest.

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 action will approve the Affordable Homeownership Revolving Loan Fund pilot program and funding to facilitate the development of affordable single-family housing.
2. Vote "No"; this action will not approve the pilot or funding for the development of affordable single-family housing.
3. Vote to "Amend" this will direct staff to modify the Resolution.
4. Vote to "Table" this would postpone the Resolution and the City Council would need to provide direction to staff.

REFERENCE INFORMATION:

Applicable *Elevate Las Cruces* goals:

- CP-7.1.1 - Work with applicable agencies to monitor housing trends and market demands to ensure the housing stock remains at levels suitable to support overall housing demand.
- CP-7.2.2 - Locate future affordable housing units in a dispersed manner throughout the city to avoid the creation of concentrated low-income districts.

Agenda Item #7.2.

- CP-7.2.3 - Prioritize the disbursement of housing grants to support projects that promote city locational priorities.
- CP-7.2.4 - Review inclusionary housing policies to promote the construction or re-purposing of low-to-moderate income housing units in new neighborhoods through impact fee waivers, or other incentives.
- CP-7.4.1 - Identify public-private partnerships to incentivize the inclusion of attainable units in new housing development projects or in redevelopment areas.

RESOLUTION 23-102

A RESOLUTION APPROVING A PILOT PROGRAM FOR AN AFFORDABLE HOMEOWNERSHIP REVOLVING LOAN FUND TO FACILITATE THE DEVELOPMENT OF AFFORDABLE SINGLE-FAMILY HOUSING.

The City Council is informed that:

WHEREAS, in an effort to offer solutions to the current affordable housing crisis, which disproportionately impacts low- and moderate-income households, the City of Las Cruces is proposing an Affordable Homeownership Revolving Loan Fund (“Revolving Fund”) to facilitate the development of affordable single-family housing; and

WHEREAS, the Revolving Fund will be initially supported at \$500,000 from the Affordable Housing Trust Fund (“AHTF”) in accordance with the Las Cruces Municipal Code 1997, as amended, Chapter 13 Division II: Affordable Housing General Oversight Ordinance; and

WHEREAS, the goal of the City’s funding is to help lower the costs for eligible developers constructing homes in a single-family housing development by providing a low-interest construction loans to reimburse developers for land acquisition costs, on-site infrastructure costs, and construction costs; and

WHEREAS, funds would be secured through a Promissory Note, Deed of Trust, and Loan Agreement and repaid at closing for permanent financing; and

WHEREAS, city staff is recommending an initial partnership with Tierra Del Sol Housing Corporation (TdS), a nonprofit affordable housing developer and qualified grantee constructing affordable housing in the Metro Verde PUD; and

WHEREAS, after the initial pilot program, the Revolving fund can be expanded to other qualified grantees and projects; and

WHEREAS, the pilot program was presented to the Housing Policy Review committee on November 29, 2022; and

WHEREAS, such action is supported by various adopted plans including the City's Affordable Housing Plan, 2021-2025 Consolidated Plan, Elevate Las Cruces, Council Strategic Plan, and Department Strategic Plan.

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

(I)

THAT the Affordable Homeownership Revolving Loan Fund pilot program to facilitate the development of affordable single-family housing is hereby approved.

(II)

THAT the Revolving Fund will be initially supported at \$500,000 from the Affordable Housing Trust Fund.

(III)

Agenda Item #7.2.

THAT the City Manager is authorized to sign and execute any necessary promissory notes, deed of trusts, and/or loan agreements on the City's behalf, without further consideration by City Council.

(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



City of Las Cruces

City Council Action and Executive Summary

23-103

Type of Action:

☒ Resolution

☐ Ordinance

☐ TIDD Resolution

District: ☒ 1 ☒ 2 ☒ 3 ☒ 4 ☒ 5 ☒ 6 ☐ N/A

1st Reading: Adopted: March 6, 2023

Drafter: David Weir Department: Community Development

Program: Administration Line of Business: Administration

Title: **A RESOLUTION UPDATING THE GUIDELINES FOR STREET NAMING, STREET RENAMING, AND PROPERTY ADDRESSING.**

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

PURPOSE(S) OF ACTION:

Adopt Address and Roadway Naming Guidelines.

BACKGROUND / KEY ISSUES / CONTRIBUTING FACTORS:

The Community Development Department assigns property addresses, facilitates the naming of streets through land subdivision approvals, and processes street renaming petitions. The policy and guidelines utilized by the City were adopted with Resolutions 80-337 and 80-338.

The Community Development Department has reviewed the guidelines and proposes they be updated. The update entails the adoption of a new policy document titled, *Address and Roadway Name Guidelines*. This policy document adds 1. a purpose statement; 2. updated graphics; 3. clarification of addressing, general roadway, new roadway, and roadway renaming criteria and conventions; and 4. updated processes for assigning property addresses and naming roadways. Additionally, the new guidelines add processes and criteria to prohibit and eliminate derogatory, discriminatory, racist, or vulgar roadway names.

Adoption of the new guidelines will update the policies and guidelines first adopted in 1980, improve the processes and criteria for assigning addresses and roadway names including the potential for inappropriate street names, and continue to address the safety, efficiency, convenience, and ease of locating places and facilities throughout the City.

SUPPORT INFORMATION:

[EXHIBIT "A" Address and Roadway Guidelines](#)

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 action will APPROVE the resolution and the Address and Roadway Name Guidelines will be used to assign addresses and name streets.
2. Vote "No"; this action will DENY the resolution and Resolutions 80-337 and 80-338 will continue to guide the assignment of addresses and the approval of street names.
3. Vote to "Amend"; this action will AMEND the resolution or guidelines as directed by the City Council.
4. Vote to "Table"; this action will TABLE the resolution as directed by the City Council.

REFERENCE INFORMATION:

Resolution 80-337
Resolution 80-338

RESOLUTION 23-103

A RESOLUTION UPDATING THE GUIDELINES FOR STREET NAMING, STREET RENAMING, AND PROPERTY ADDRESSING.

The City Council is informed that:

WHEREAS, the City of Las Cruces (City) has adopted guidelines and policies for the naming and renaming of public streets and assigning property addresses with Resolutions 80-337 and 80-338; and

WHEREAS, the City recognizes the need to update these guidelines and policies; and

WHEREAS, the adopted guidelines and policies have served to provide rationality and order to street naming and addressing and have improved the efficiency, convenience, and ease in locating places and facilities within the city; and

WHEREAS, the City desires to restrain and eliminate street names that are derogatory, discriminatory, racist, or vulgar in nature and manner.

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

(I)

THAT Resolutions 80-337 and 80-338 are repealed and replaced by this Resolution.

(II)

THAT new Address and Roadway Name Guidelines are hereby enacted as shown in Exhibit "A".

(III)

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

DONE AND APPROVED this day of

APPROVED

ATTEST:

Moved by:

Seconded by:

AYES

NAYS



City of Las Cruces®

Address and Roadway Name GUIDELINES



PURPOSE

The purpose of these guidelines and procedures are to provide the City a rational and orderly practice for the naming of streets and roadways and the assignment of property addresses within the corporate boundaries of the City of Las Cruces. They are also intended to improve the safety, efficiency, convenience, and ease of locating places and facilities within the city.

ADDRESS QUADRANTS AND GRID

A quadrant addressing and roadway naming system has been established within the city limits. The designated quadrants are identified as the Northeast, Southeast, Southwest, and Northwest (Graphic 1 and Graphic 2). The intersection of Main Street and Griggs Avenue is the origin for the quadrants and address grid. This reference point has been maintained to minimize unnecessary address changes.



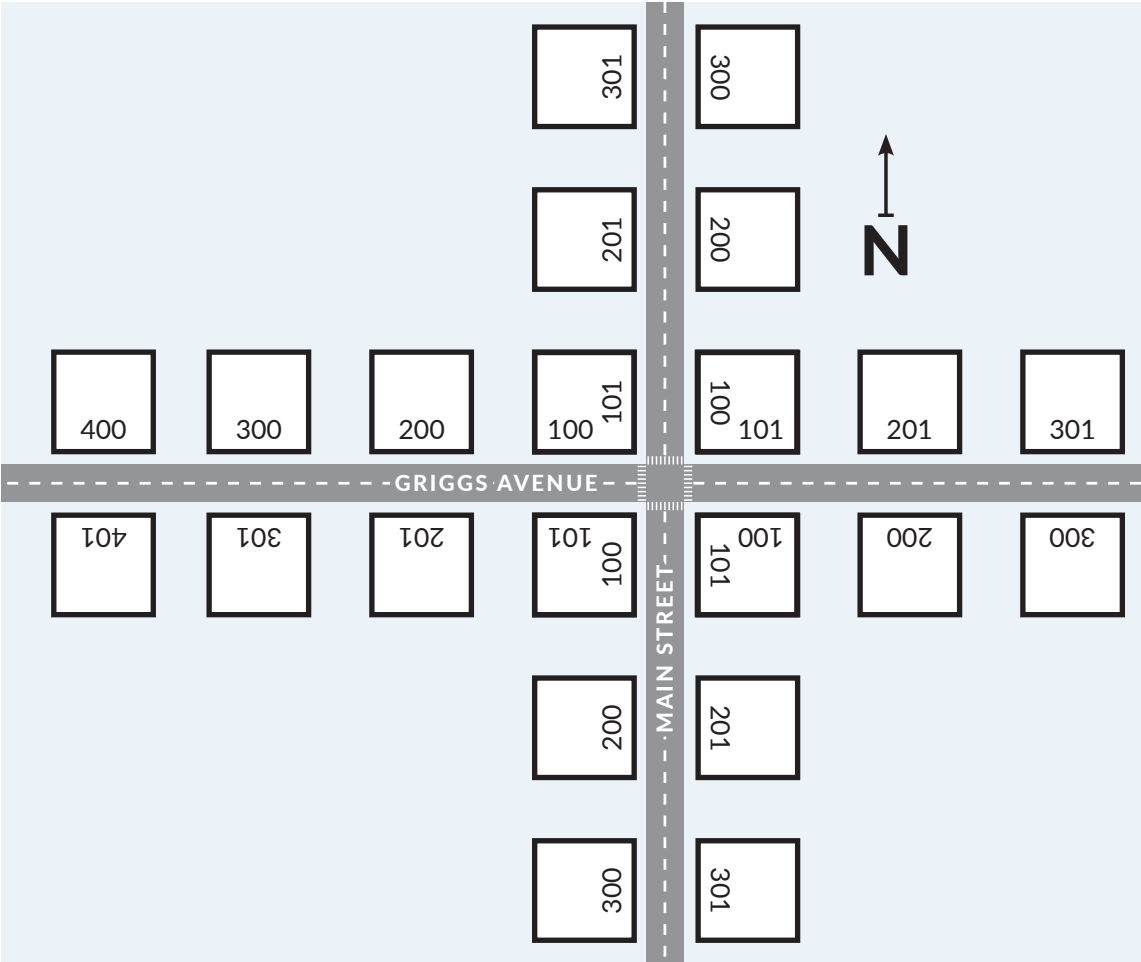
Graphic 1



Graphic 2

ROADWAY DIRECTION DESIGNATION

The addressing pattern starts from the central intersection of Main Street and Griggs Avenue. This intersection also marks the change for East/West and North/South roadway designation. Address numbers radiate from this central point. Even address numbers, starting with 100, increase from this point and will always be on the right side of the street. Odd numbers, starting with 101, increase from this point and will always be on the left (Graphic 3).



Graphic 3

ADDRESS NUMBERING SEQUENCE

The City shall assign and re-assign property addresses as practicable for consistency with the addressing quadrants and grid. Each addressing block shall entail a 100-sequence block of numbers and be approximately 600 feet in length. It is advised that addresses on parallel roadways are staggered from one street to the next so that each block does not begin with the same numbering sequence (i.e. 00, 04, 08). See Graphic 4.

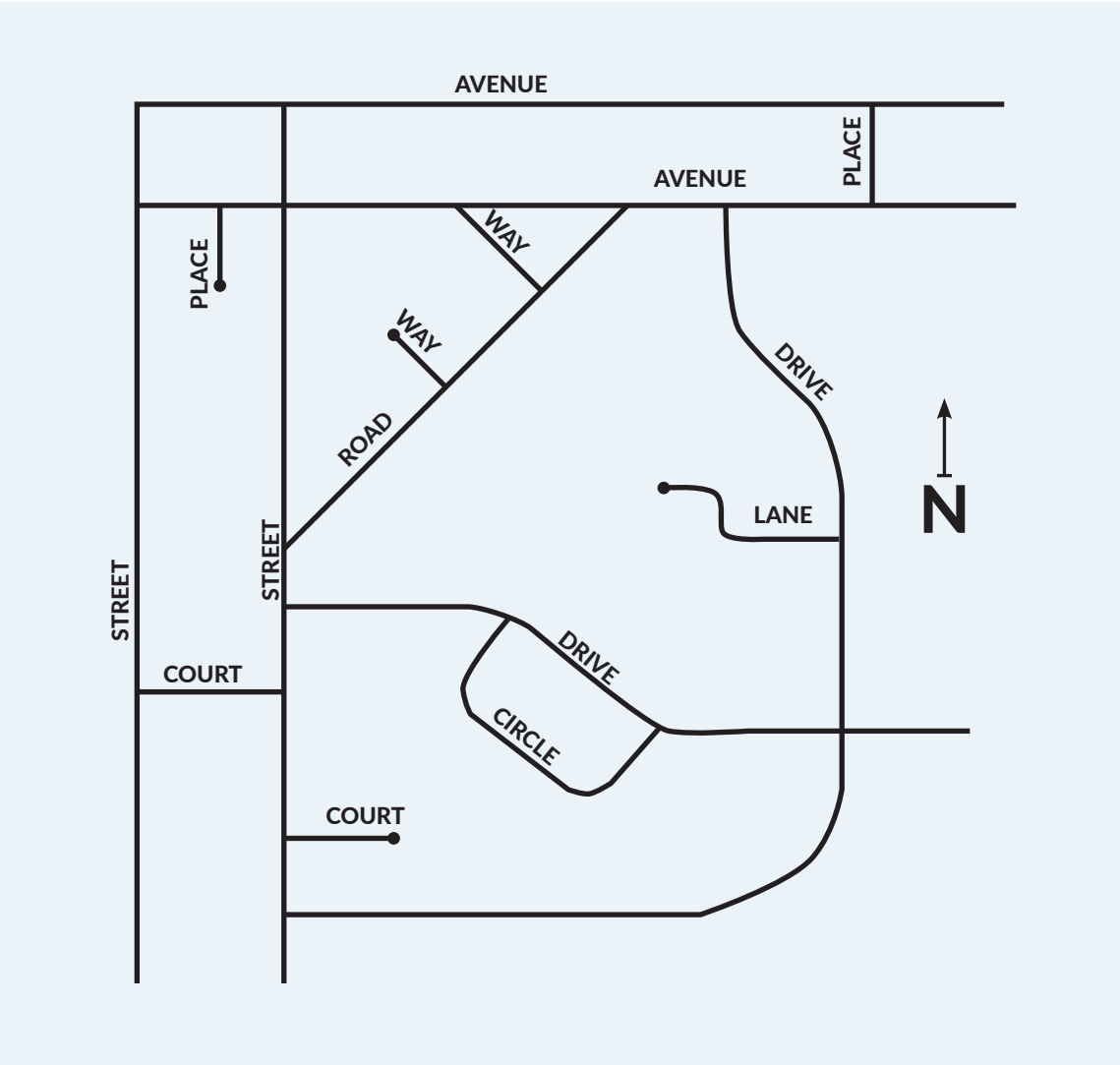
2201	2301	2311	2321	2331	2341	2351	2361	2371	2381	2391	2401
- WASHINGTON AVENUE -											
2202	2302	2312	2322	2332	2342	2352	2362	2372	2382	2392	2402
2203	2303	2313	2323	2333	2343	2353	2363	2373	2383	2393	2403
- JEFFERSON AVENUE -											
2204	2304	2314	2324	2334	2344	2354	2364	2374	2384	2394	2404
2205	2305	2315	2325	2335	2345	2355	2365	2375	2385	2395	2405
- LINCOLN AVENUE -											
2206	2306	2316	2326	2336	2346	2356	2366	2376	2386	2396	2406
2207	2307	2317	2327	2337	2347	2357	2367	2377	2387	2397	2407
- ROOSEVELT AVENUE -											
2208	2308	2318	2328	2338	2348	2358	2368	2378	2388	2398	2408

Graphic 4

ROADWAY SUFFIX DESIGNATION

The following standard roadway suffixes shall generally be used to identify designated roadway types. The roadway types are illustrated with Graphic 5.

Designated Roadway Types		
General Description	Over 1,000 Feet in Length	Under 1,000 Feet in Length
North/South	Street	Place
East/West	Avenue	Court
Diagonal	Drive	Way/Lane
Curvilinear	Road	Circle/Arc
Right-of-Way Minimum of 66 feet (Collector, Arterial)	Boulevard	N/A



Graphic 5

ROADWAY ABBREVIATIONS

The following abbreviations will be used for addressing, subdivision platting, and mapping. Any word **not** listed should be spelled out. Any word listed may be abbreviated, if necessary, but only as shown.

Word	Abbreviation
Roadway Type	
Alley	AL
Avenida	AVE
Avenue	AVE
Boulevard	BLVD
Bridge	BRDG
Bypass	BYP
Calle	CALLE
Callecita	CITA
Camino	CMA
Causeway	CSWY
Circle	CIR
Court	CT
Crescent	CRES
Drive	DR
Express Way	EXPWY
Extention	EXT
Freeway	FRWY
Highway	HWY
Interstate	I – (no.)
Lane	LN
Manor	MNR
Parkway	PKWY
Place	PL
Plaza	PLZ
Road	RD
Roadway	RDWY
Sky Way	SKWY
Square	SQ
Street	ST
Terrace	TER
Throughway	THWAY
Trail	TRL
Turn Pike	TPKE

Word	Abbreviation
Roadway Direction	
North	N
South	S
East	E
West	W
Northeast	NE
Northwest	NW
Southeast	SE
Southwest	SW
Lettered Streets	
A	A
B	B
C	C
Etc.	Etc.
Numbered Streets	
First	1ST
Second	2ND
Third	3RD
Fourth	4TH
Fifth	5TH
Etc.	Etc.

GENERAL ROADWAY NAME CONVENTIONS

These roadway naming conventions shall serve as guidelines for the proposing and assignment of roadway names. The intent is to provide acceptable names efficiently and transparently for public streets and roadways. All roadways that serve two or more properties shall be named regardless of public or private ownership. An assigned roadway name by the City shall not constitute nor imply acceptance of the roadway as a public way for maintenance.

Roadway Name Documentation

The City shall maintain a record of assigned roadway names. This information will be referenced when a roadway name is proposed or proposed to be changed.

General Roadway Naming Guidelines

The following general criteria shall be considered for roadway naming:

1. A roadway shall be identified as a dedicated, public right-of-way for vehicular and pedestrian traffic and use.
2. No alley shall be assigned a name unless a very unusual circumstance exists and warrants assigning a roadway name.
3. Roadways divided by man-made obstacles (school, church, interstate highway, shopping center, park, etc.) and unlikely to extend through the obstacle shall be considered a separate roadway and have a different name.
4. An existing roadway that does or will continue through a city park shall continue its name.
5. A roadway that is offset by more than 125 feet shall be considered a separate roadway and shall require a different name.
6. Roadways divided by more than a city block (approximately 600 feet) by a natural barrier, arroyo, or topographic feature shall be considered separate roadways and shall require different names.
7. A roadway divided by vacant land greater than a city block (approximately 600 feet) with the potential for development shall be planned to continue and retain its name.
8. A roadway divided by a railroad crossing may continue its name if a railroad crossing exists within five blocks in both directions. (Graphic 6)
9. A roadway shall have the same name throughout its length. If a roadway name must change, this change will occur at a major intersection.
10. Frontage Roads (a roadway parallel and adjacent to another roadway, typically a highway or freeway) shall maintain its name for its entire length.



Graphic 6

New Roadway Name Guidelines

The following criteria shall be considered for the assignment of new roadway names:

1. A new roadway name shall not duplicate an existing or known name.
2. A new roadway name shall not phonetically sound like any existing roadway name (i.e., Bird and Byrd).
3. A new roadway name shall not closely resemble the spelling of any existing roadway (i.e., Locus and Locust).
4. A new roadway name shall not exceed 13 letters (ask streets) and spaces unabbreviated.
5. A new roadway name shall be an appropriate and suitable word. New roadway names shall not be comical, derogatory, discriminatory, racist or vulgar in intent, interpretation, or use.
6. A new roadway name shall be reasonably straightforward and easy to pronounce.
7. A new roadway name shall not duplicate through translation an existing Spanish or English roadway name.
8. A new roadway using the word Camino, Calle, or Avenida shall not include the word Road, Street, or Avenue.
9. Private roadway names shall follow the same naming criteria and conventions as public roadways.

Roadway Renaming Guidelines

The criteria for changing and renaming existing roadways shall be the same as General Roadway Naming and New Roadway Name Guidelines.

ADDRESS NUMBERING AND ROADWAY NAME ASSIGNMENT PROCESS

Designated city staff shall administer the assignment of all addresses and the approval of all roadway names within the City. All addresses and roadway names shall adhere to the addressing and roadway naming guidelines outlined in this document.

New Address

The following process shall be used to assign an address.

1. Address numbers shall be assigned at intervals determined by the City.
2. Address numbers shall be assigned following the previously described addressing quadrant and grid system.
3. Property address numbers shall be assigned to each residence upon submission of a construction permit application.
4. No certificate of occupancy shall be issued for any principal structure until the City has assigned an address.
5. Temporary property numbers, including roadway name, shall be conspicuously displayed on a property with an active construction permit during construction to assist construction inspections and delivery of emergency services.
6. Roadway name signs shall be installed by the developer prior to the determination of substantial completion for new subdivisions.
7. No certificate of occupancy or completion shall be issued by the City prior to the assigned property address number being displayed and the roadway sign being installed.

New Subdivision Development

The following process shall be used to assign new subdivision addresses and roadway names.

1. All roadway names shall be approved by the City following the previously described roadway name conventions.
2. All roadway names and property address assignments shall be established at the same time as preliminary plat approval.
3. City roadway name records will be updated upon the recording of a subdivision final plat.
4. The City will make new subdivision roadway names and property addresses available to all pertinent parties upon the recording of a subdivision final plat.

Address Changes

The City or a property owner may initiate a change for a property/structure/residence address. All address changes shall be approved following the previously described addressing quadrant and grid system. Reasons to initiate an address include (but is not limited to):

1. An out of sequence address number.
2. An odd address number on the even address number side of a street.
3. An even address number on the odd address number side of a street.

- Agenda Item # 3.3
4. A duplicate address number (including duplicate numbers assigned on roadways with similar sounding names).
 5. A property incorrectly using an address assigned to another property.
 6. A property accessed from a different street than the address in use.
 7. A lack of available space between address numbers to accommodate future development.
 8. A roadway name has changed, or a roadway easement has been named.
 9. An opportunity to eliminate half number addresses.

The City may change an existing property address number to correct a number if it impacts public safety or general welfare or creates confusion. All impacted property owners shall be notified of the address number change in writing. The written notice will inform each property owner that the address number change shall become effective 30 days from the date of the notice.

New Roadway Names or Street Name Changes to Correct Address and Safety Problems

The following process shall be used to correct address problems requiring a new roadway name or a change of roadway name involving unnamed private roadways and improved public safety and general welfare.

1. New roadway names shall be assigned when a private roadway provides access to two (2) or more properties or to three (3) or more structures.
2. A roadway name may be changed administratively by the City to differentiate roadways that have:
 - 2.1 Similar sounding names but different spellings.
 - 2.2 Multiple suffixes for a continuous alignment.
 - 2.3 Created confusion and negatively impacted emergency service responses.
3. Written notice of the roadway change shall be sent to all affected persons and property owners. The notice shall confirm the roadway and any address change and the effective date of the change.
4. City maintained street signs, maps, and street name directories shall be changed upon final action by the City.

Existing Roadway Name Change Requests

The City, persons, firms, and corporations' that own property or have direct access to a roadway proposed to change its name may initiate a roadway name change. The following process shall be used to propose, review, and change a roadway name.

1. The initiator (petitioner) of a roadway name change shall present the request to the City and pay any associated City fees
2. The following petitions will be considered for roadway name changes:
 - 2.1. **Planning & Zoning Commission Approved Names.** Subdivision related roadway name changes requests for Planning & Zoning approved subdivisions post January 1, 1987 shall be reviewed and acted upon by the Planning & Zoning Commission. These petitions shall only apply to roadways designated as local streets. Petitions for roadways designated as collector or arterial streets shall be reviewed and acted upon by the City Council.

- 2.2. **Administrative City Approved Names.** Roadway name change requests to correct addressing issues shall be reviewed and approved administratively by the City (See *New Roadway Names or Street Name Changes to Correct Address Problems*).
 - 2.3. **City Council Approved Names.** Roadway name change requests related to public safety, confusion, and appropriateness of roadway names not administratively changed shall be reviewed and acted upon by the City Council.
 3. Roadway name change determinations shall:
 - 3.1. Duly consider the General Roadway Naming Guidelines and New Roadway Name Guidelines as previously noted in this document.
 - 3.2. Consider if the name change will enhance public safety.
 - 3.3. Consider if the name change will lessen confusion and aid in the efficiency, convenience, and ease in locating places and facilities.
 - 3.4. Consider if the name change will eliminate roadway names deemed derogatory, discriminatory, racist or vulgar.
 4. The City may choose to **not** consider a roadway name change request.
 5. Any party other than the City initiating a roadway name change petition shall require notification and support for the name change by at least 67% of the affected property owners.
 6. Public notice for non-administrative and petitioned roadway name changes requests shall include:
 - 6.1. Subdivision Roadway Name Change.
 - 6.1.1. A public hearing shall be required by the Planning & Zoning Commission to determine a subdivision roadway name change within a Planning & Zoning Commission approved final plat (post January 1, 1987).
 - 6.1.2 Subdivision roadway name changes shall follow the established public notice requirements of the Planning & Zoning Commission.
 - 6.2. Petitioned Roadway Name Change.
 - 6.2.1. A public hearing shall be required by the City Council to determine a petitioned roadway name change.
 - 6.2.2. Petitioned roadway name changes shall follow the established public notice requirements of the City Council.
 7. Notice of decision for all roadway name changes shall be provided by the City. This notice shall be provided to all property owners and addressees adjacent, fronting, or accessing the renamed roadway; pertinent governmental agencies; and local utility companies.
 8. Future petitions to change the name of a roadway shall not be permitted for one (1) year after a final determination has been made regarding a roadway name change action.

Compliance and Enforcement

All owners of structures shall display and maintain in a prominent place the assigned address per Las Cruces Municipal Code Section 30-1. The official(s) assigned by the Las Cruces City Manager shall enforce these guidelines and practices.



City of Las Cruces

City Council Action and Executive Summary

23-104

Type of Action:

☒ Resolution

☐ Ordinance

☐ TIDD Resolution

District:	☐ 1 ☐ 2 ☐ 3 ☐ 4 ☐ 5 ☐ 6 ☒ N/A			
1st Reading:		Adopted:	March 6, 2023	
Drafter:	Sergio Ruiz	Department:	City Manager's Office	
Program:	Council and Community Support	Line of Business:	Council and Community Support	
Title:	A RESOLUTION RECOGNIZING THE DEVASTATING IMPACT OF COVID-19 (SARS-COV-2); HONORING THE SACRIFICES THAT ESSENTIAL WORKERS HAVE MADE TO PROTECT AND SAVE LIVES IN THEIR COMMUNITIES; DECLARING SUPPORT FOR A PERMANENT COVID-19 MEMORIAL TO BE LOCATED IN BERNALILLO COUNTY, NEW MEXICO TO HONOR THE VICTIMS OF COVID-19.			

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

PURPOSE(S) OF ACTION:

To support a COVID-19 memorial.

BACKGROUND / KEY ISSUES / CONTRIBUTING FACTORS:

COVID-19 (SARS-CoV-2) is an illness caused by a virus that can transmit from person to person and has spread across the world, creating a global pandemic that is having catastrophic effects on human life, our community, and our economy; and local and state governments, health departments, and public servants have taken bold actions to protect residents, support struggling local economies, and find innovative ways to provide services.

In response to the rapid spread of COVID-19 and stay-at-home orders, essential workers have stepped up to provide critical services to help protect our communities and save lives, sacrificing their own health and safety; COVID-19 has had a disproportionate impact on low-income communities that face systemic racism, exacerbating inequities already prevalent in the systems that we must address as a nation.

Public health guidance and policies targeted at prevention, such as social distancing, wearing masks in public, and staying home help mitigate the spread of COVID-19, prevent illness, and lessen the burden on individuals and society; COVID-19 has harmed the health and well-being of children by reducing access to care and health services, disrupting schooling, and undermining their sense of safety and security.

The symptoms and severity of COVID-19 can vary dramatically by individual and the long-term health implications for survivors is largely unknown, as many survivors suffer with lingering side-effects of the disease long after they no longer test positive; and more than 6.5 million people worldwide and over 1,065,152 people in the United States have lost their lives due to COVID-19, and in New Mexico alone, more than 8,607 lives have been lost to this deadly virus.

Each life lost to COVID-19 matters and leaves a hole in the hearts of loved ones, family members, and the surrounding community. This resolution establishes support for a permanent COVID-19 Memorial to be located in Bernalillo County, New Mexico, which is being developed by the organization, Marked by Covid.

PLAN(S):

None

COMMITTEE/BOARD REVIEW:

None

DOES THIS AMEND THE BUDGET?:

☐ Yes

☒ No

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

☐ Yes

☒ No

Does this action align with Elevate Las Cruces?

☐ Yes

☒ No

OPTIONS / ALTERNATIVES:

1. Vote "Yes"; this will approve the Resolution in support of a COVID-19 memorial.
2. Vote "No"; this will not approve the Resolution in support of a COVID-19 memorial.
3. Vote to "Amend"; this could amend the Resolution based on direction from Council to staff.
4. Vote to "Table"; this could delay the adoption of the Resolution in support of a COVID-19 memorial.

RESOLUTION 23-104

A RESOLUTION RECOGNIZING THE DEVASTATING IMPACT OF COVID-19 (SARS-COV-2); HONORING THE SACRIFICES THAT ESSENTIAL WORKERS HAVE MADE TO PROTECT AND SAVE LIVES IN THEIR COMMUNITIES; DECLARING SUPPORT FOR A PERMANENT COVID-19 MEMORIAL TO BE LOCATED IN BERNALILLO COUNTY, NEW MEXICO TO HONOR THE VICTIMS OF COVID-19.

The City Council is informed that:

WHEREAS, COVID-19 (SARS-CoV-2) is an illness caused by a virus that can transmit from person to person and has spread across the world, creating a global pandemic that is having catastrophic effects on human life, our community, and our economy; and

WHEREAS, local and state governments, health departments, and public servants have taken bold actions to protect residents, support struggling local economies, and find innovative ways to provide services; and

WHEREAS, in response to rapid spread of COVID-19 and stay-at-home orders, essential workers have stepped up to provide critical services to help protect our communities and save lives, sacrificing their own health and safety; and

WHEREAS, COVID-19 has had a disproportionate impact on low-income and communities that face systemic racism, exacerbating inequities already prevalent in our systems that we must address as a nation; and

WHEREAS, public health guidance and policies targeted at prevention, such as social distancing, wearing masks in public, and staying home help mitigate the spread of COVID-19, prevent illness, and lessen the burden on individuals and society; and

WHEREAS, COVID-19 has harmed the health and wellbeing of children by reducing access to care and health services, disrupting schooling, and undermining their sense of safety and security; and

WHEREAS, the symptoms and severity of COVID-19 can vary dramatically by individual and the long-term health implications for survivors is largely unknown, as many survivors suffer with lingering side-effects of the disease long after they no longer test positive; and

WHEREAS, more than 6.5 million people worldwide and over 1,065,152 people in the United States have lost their lives due to COVID-19, and in New Mexico alone, more than 8,607 lives have been lost to this deadly virus; and

WHEREAS, each life lost to COVID-19 matters and leaves a hole in the hearts of loved ones, family members, and the surrounding community.

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

(I)

THAT the City Council affirms its support for a permanent COVID-19 Memorial to be located in Bernalillo County, New Mexico, for those who lost their lives and in honor of those who are forever marked by COVID-19 and continue to suffer from the impact of the pandemic.

(II)

Agenda Item #7.4.

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

DONE AND APPROVED this day of

Agenda Item #7.4.

APPROVED

ATTEST:

Moved by:

Seconded by:

AYES

NAYS



City of Las Cruces

City Council Action and Executive Summary

**3028; Council
Bill 23-022**

Type of Action:

☐ Resolution

☒ Ordinance

☐ TIDD Resolution

District:	☐ 1 ☐ 2 ☐ 3 ☒ 4 ☐ 5 ☐ 6 ☐ N/A
1st Reading:	March 6, 2023
Drafter:	Elizabeth Teeters
Program:	Business Development
Adopted:	March 20, 2023
Department:	Economic Development
Line of Business:	Business Development

Title: AN ORDINANCE SUPPORTING INVESTMENT OF \$897,596 IN AN ECONOMIC DEVELOPMENT PROJECT IN ACCORDANCE WITH THE CITY OF LAS CRUCES LOCAL ECONOMIC DEVELOPMENT PLAN, AUTHORIZING A PROJECT PARTICIPATION AGREEMENT BETWEEN THE CITY AND 828 PRODUCTIONS, LLC., AND ENTERING INTO AN AGREEMENT TO SERVE AS FISCAL AGENT FOR THE STATE OF NEW MEXICO'S PARTICIPATION NOT TO EXCEED \$3,000,000 IN THE PROJECT.

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

PURPOSE(S) OF ACTION:

Approve a Local Economic Development Act (LEDA) project for 828 Productions, LLC.

BACKGROUND / KEY ISSUES / CONTRIBUTING FACTORS:

828 Productions, LLC, (Company) is a film production company that has selected Las Cruces as the location for its film studio. The State of New Mexico (State) via the State's Local Economic Development Act (LEDA) Program is committing \$3,000,000 in LEDA funding. The City of Las Cruces (City) has proposed providing LEDA funding of \$897,596 in Legislative Capital Outlay Funds. In exchange, the Company has committed to employing 100 full-time persons by December 31, 2029, with a capital investment of approximately \$75,000,000.

If approved by this proposed Ordinance, the City will enter into a Project Participation Agreement (Exhibit "A") with the Company, subject to the LEDA requirements and the adopted LEDA Plan by the City, for its investment in the project. Furthermore, the City will enter into an Intergovernmental Agreement (Exhibit "B") with the State to serve as the fiscal agent for the administration of up to \$3,000,000 of LEDA contribution to the project.

A separate resolution will be brought to City Council for a budget adjustment for both City and State when the State funding is received.

SUPPORT INFORMATION:

[Exhibit "A", Project Participation Agreement](#)

[Exhibit "B", Inter Governmental Agreement](#)

[Attachment "A", LEDA Application](#)

[Attachment "B", Executive Summary](#)

PLAN(S):

City Council Strategic Plan, Department Strategic Business Plan, 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 authorize the City to provide local LEDA funding and to act as fiscal agent for State LEDA Project funds to 828 Productions, LLC.
2. Vote "No", this will not approve the Ordinance and authorize the City to provide local LEDA funding and to act as fiscal agent for State LEDA Project funds to 828 Products, LLC.
3. Vote to "Amend", this could delay the Ordinance and would require City Council to provide direction to staff.
4. Vote to "Table", this would delay the Ordinance and require City Council to provide direction to staff.

ORDINANCE 3028; COUNCIL BILL 23-022

AN ORDINANCE SUPPORTING INVESTMENT OF \$897,596 IN AN ECONOMIC DEVELOPMENT PROJECT IN ACCORDANCE WITH THE CITY OF LAS CRUCES LOCAL ECONOMIC DEVELOPMENT PLAN, AUTHORIZING A PROJECT PARTICIPATION AGREEMENT BETWEEN THE CITY AND 828 PRODUCTIONS, LLC., AND ENTERING INTO AN AGREEMENT TO SERVE AS FISCAL AGENT FOR THE STATE OF NEW MEXICO'S PARTICIPATION NOT TO EXCEED \$3,000,000 IN THE PROJECT.

The City Council is informed that:

WHEREAS, the City of Las Cruces (City) adopted an updated LEDA Plan in 2018 to encourage economic development; and

WHEREAS, 828 Productions, LLC., (the "Company") has applied for LEDA assistance from the City and the State of New Mexico; and

WHEREAS, the State of New Mexico has committed up to \$3,000,000 in LEDA funding and the City has proposed to provide LEDA funding of \$897,596 in Capital Outlay funds; and

WHEREAS, the State of New Mexico conducted an economic impact analysis establishing the benefit of this LEDA project to the community.

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

(I)

THAT the City hereby enters into a Project Participation Agreement, as shown in Exhibit "A" attached hereto and made part of this Ordinance, with 828 Productions, LLC., subject to the requirements of LEDA and the adopted LEDA Plan of the City, for its \$897,596 in investment in the project.

(II)

THAT the City hereby enters into an Intergovernmental Agreement with the State of New Mexico to serve as fiscal agent for the administration of up to \$3,000,000 the State will invest in the project, as shown in Exhibit "B" attached hereto and made part of this Ordinance.

(III)

THAT the City Manager is hereby authorized to sign the Agreements as referenced in this Ordinance on the City's behalf.

(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

PROJECT PARTICIPATION AGREEMENT

This Project Participation Agreement ("Agreement") is entered into on _____, 2023 by and between **CITY OF LAS CRUCES, NEW MEXICO** (the "City"), a political subdivision of the State of New Mexico (the "State"), and **828 Productions, LLC** (the "Company").

Recitals.

- A. Article 9, Section 14 of the New Mexico Constitution provides counties the ability to create new job opportunities by providing land, buildings or infrastructure for facilities to support new or expanding businesses, provided that adequate safeguards are employed to protect public monies and resources. Pursuant to the Local Economic Development Act, Sections 5-10-1 through 5-10-17 NMSA 1978 (the "Act"), public support for economic development may be provided if the governmental entity has adopted by ordinance an economic development plan and has approved by a second ordinance an application for a project in keeping with such plan.
 - B. Pursuant to City of Las Cruces Ordinance No. 2 8 7 3 (the "Las Cruces Local Economic Development Plan"), adopted on September 17, 2018, the City established the City of Las Cruces Economic Development Plan (the "Plan") as the City's economic development plan as required by Section 5-10-6, NMSA 1978.
 - C. As provided in the Las Cruces Local Economic Development Plan Ordinance, the City considered an application from the Company, which proposed that the City serve as local government conduit for an appropriation of up to \$3,000,000 from the Legislature of the State of New Mexico (the "**State Contribution**") and also provide up to \$897,596 in Capital Outlay funds (the "**City Contribution**") toward the Company's development of a production facility at 106 S. Miranda Street in the City of Las Cruces, New Mexico (the "Project"). The company will construct and occupy the facility and will employ a minimum of 100 full-time persons by December 31, 2029.
 - D. The City has adopted Ordinance No. 2873 ("Local Economic Development Act") and Resolution No. 19-050 ("Local Economic Development Plan" finding that the Company is a "qualifying entity" and the Project is an "economic development project" as those terms are defined by the Act, and approving this Agreement as meeting the requirements of the Act.
- 1. Goals and Objectives.** The objective of this Agreement is to create and support an economic development project that fosters, promotes and enhances local economic development efforts. The goal is that the Project will provide jobs and career opportunities that will benefit the community and contribute to its long-term economic growth and sustainability.

2. Substantive Contribution from the Company.

- a. **Facility.** The Company will establish a production facility at 106 S. Miranda Street and other suitable locations within the City of Las Cruces, New Mexico (the "Facility").
- b. **Investment.** The Company (or one of its subsidiaries, affiliates, investment partners or other related entities) will make capital investments in the Project and costs associated therewith (including, for the acquisition of land, building, equipment, tangible personal property and services associated with the acquisition, construction and equipping of the Project) in the amount of approximately \$75,000,000 by December 31, 2031 (the "Project Contribution").
- c. **Production Spend Investment.** The Company (or one of its subsidiaries, affiliates, investment partners or other related entities) will spend \$350 million on productions by December 31, 2032.
- d. **Job Creation.** The Company will directly employ a target of 100 full-time employees at the facility by December 31, 2029 (the "Job Target"). "Job" means a permanent, full-time employment position (at least 32 hours per week) offering the employee the full range of benefits offered to other full-time employees of the Company. Full-time employees do not include agency, sub-contracted, temporary employees or independent contractors.
- e. **Sustainability.** Although the Company intends to have a long-term presence in the City, for purposes of the contractual obligations of this Agreement, the Company covenants to continue to operate the Project until December 31, 2032.

3. The State Contribution

- a. The City anticipates that the State Contribution will be delivered by the State to the City for disbursement to the Company upon enactment of the Project LEDA Ordinance, and execution of this document and the intergovernmental agreement between the State and the City, after which time the City will request transfer of the State Contribution. Upon receipt, the City will place the State Contribution into a separate account established in connection with the Project, as required by law. The City will disburse the State Contribution, if and when it is received, only in the manner described in this Agreement and the Intergovernmental Agreement executed between the City and the State. The City will disburse the State Contribution to the Company as reimbursement for LEDA Eligible Expenditures subject to the Company's satisfaction of the conditions set forth herein. Disbursements shall be paid on a reimbursement basis and the Company shall first incur the LEDA Eligible Expenditures and then submit requests for reimbursement to the City. For purposes of this

Agreement, "**LEDA Eligible Expenditures**" shall mean: expenditures including, but not limited to, land, building and infrastructure, including permanently installed and situated physical assets and the design, labor and permitting required to put them in place. Examples include: foundation, drainage improvements, electrical wiring, architecture fees, insulation, landscaping and equipment rentals.

- b. The State's contribution is composed of a LEDA award of \$3,000,000 for use by the Company for such purposes as set forth in NMSA 1978, § 5-10-3(E), the application of the Company and the agreements entered into between the parties. The Company shall also instruct the contracted construction companies to use the correct **New Mexico Taxation and Revenue Department Location Code of 07-105 for the City of Las Cruces**.

4. The City Contribution.

- a. The City will account for receipts and disbursements of the State Contribution and will provide financial documentation to the State pertaining to the State Contribution. The City will contribute up to \$897,596 in Capital Outlay funds. The City will comply with the Local Economic Development Act ("LEDA") with respect to the acceptance and disbursement of the State and Local Contributions. As required by the LEDA Ordinance and the Act, City will deposit the State Contribution into a clearly identified separate account.
- b. The State Contribution will be disbursed to the Company through the City for reimbursement of LEDA Eligible Expenditures.

5. Disbursement of City and State Contributions

- a. State and City contributions shall be deposited into separate accounts for this project and disbursed through the City.
- b. **Conditions to Disbursement; Performance Milestones.** The State Contribution will be disbursed in four (4) separate allotments. The City Contribution will be disbursed in six (6) separate allotments. Each disbursement will be conditioned on (i) the Company's having incurred LEDA Eligible Expenditures prior to the disbursement; (ii) where applicable, the Company meeting minimum employment targets and being in compliance with job reporting requirements; and (iii) the Company's satisfaction of the performance milestones set forth below (the "Disbursement Performance Milestones") for each allotment prior to the disbursement:

<i>State of New Mexico LEDA Disbursement Schedule</i>		
<u>Tranche</u>	<u>Amount of State Contribution Available for Disbursement/Tranche</u>	<u>Disbursement Performance Milestone</u>
1	\$1,000,000	Obtain a certificate of occupancy, incur LEDA eligible expenses, and current with all reporting
2	\$1,000,000	Hire 30 new employees for a total employment of 30 and maintain for two quarterly reporting periods, incur LEDA eligible expenses and current with all reporting
3	\$500,000	Maintain a minimum of 35 employees for two quarterly reporting periods and have at least \$100,000,000 in film production spend and current with all reporting
4	\$500,000	Hire 40 additional new employees for a total employment of 70 employees and maintain for two quarterly reporting periods, incur LEDA eligible expenses and current with all reporting
<i>City of Las Cruces LEDA Disbursement Schedule</i>		
<u>Tranche</u>	<u>Amount of Local Contribution Available for Disbursement/Tranche</u>	<u>Release of Lien Performance Milestone</u>
1	\$304,790	Access road to Stage 1 and Work Shop
2	\$96,144	Surface Parking Workshop
3	\$83,328	Surface Parking – Stage 1 Lot
4	\$119,900	Surface Parking – POB Lots 2&3
5	\$159,100	Surface Parking – Lot 6
6*	\$134,334	Surface Parking – Lot 5
*Will not reimburse for entire cost		

- 6. Disbursement Requests.** From time to time, after the Company has satisfied the conditions for disbursement set forth herein, the Company may submit to the City and the New Mexico Economic Development Department (“EDD”) a written request for disbursement of the State Contribution (the “Disbursement Request”). All Disbursement Requests shall be accompanied by (i) documentation substantiating LEDA Eligible Expenses, and (ii) documentation of current employment level in New Mexico pursuant to Section 10c below. The Company will not submit a Disbursement Request for less than \$50,000, but may, upon completion of all performance milestones, submit a Disbursement Request for up to the full amount of the State Contribution or City Contribution then available to the Company at any time. The City may, in good faith, object to or require additional information regarding a Disbursement Request to verify compliance with this Agreement.

7. **Review.** EDD will review the Disbursement Request to assure the charges submitted are LEDA Eligible Expenditures. The EDD's review and approval or objection shall not be unreasonably withheld and shall occur within 30 calendar days of receipt of the Disbursement Request. The City will disburse to the Company the full amount requested in the Disbursement Request no later than 30 calendar days after EDD's approval of the Disbursement Request.
8. **No Offset of City costs.** The City may not offset any internal costs or overhead charges for review or processing of the Disbursement Requests against the Disbursement Request or the State Contribution.
9. **Security.** As security for the faithful performance and payment of Company's obligations under this Agreement, prior to the Company's receipt of any part of the State Contribution or City Contribution, Company shall furnish the City with a Letter of Credit or some alternative form of security in a form mutually acceptable to the parties (the "Security"). The maximum obligation secured by the Security (the "Maximum Obligation") will be \$3,897,596. The Company shall be permitted to obtain incremental increases in the Security in the amount of each Disbursement Request and shall not be required to secure the Maximum Obligation before a disbursement will be made. No State Contribution will be transferred to the City until Security in the amount of the State Contribution is accepted.
- a. The City may draw on the Security in order to satisfy any unpaid Clawback Penalty which shall become due and payable, but only thirty (30) calendar days following written demand for payment to the Company. Such draw may be initiated without filing a proceeding in any court of competent jurisdiction.
 - b. Provided that the Company has not been required to pay any Clawback, the Security will terminate on January 31, 2033, unless earlier released in accordance with this Agreement.
 - c. If the State or the City reduce the amount of LEDA Funds and/or forgivable lien that are made available for the Project and/or if the Company does not draw the entire amount of the LEDA Funds and/or forgivable lien available, the Maximum Obligation will be reduced proportionately to reflect the amount of LEDA Funds and/or forgivable lien actually received by the Company.
 - d. A mortgage agreement/municipal lien document shall be recorded in Dona Ana County in the amount of the City Contribution. Partial lien releases shall be recorded upon performance of the set performance milestones.
10. **Clawbacks.** Notwithstanding any other provision of this Agreement, the Company shall be required to pay the Clawback Penalties set forth in this Section (together with forfeiture of the security instrument provided to secure the Company's Clawback obligations), if the Company does not satisfy the conditions

set forth herein.

Facility Closure Clawback.

Full closure of the facility will result in a clawback based on the number of years the Q/E has operated under this agreement as per the following table:

2023	100%
2024	100%
2025	100%
2026	100%
2027	90%
2028	80%
2029	70%
2030	60%
2031	50%
2032	40%

- a. For purposes of this Agreement, a failure to produce product for a period of 90 calendar days or more, after initial startup (initial startup will be considered the date of the first production run or within 180 days of receipt of certificate of occupancy, whichever comes first) or failure to occupy the Facility shall be considered a cessation of operations; provided however cessations for reasonable periods for the repair or replacement of facilities damaged or destroyed, cessations resulting from labor disputes, strikes, riots or acts of God, shortages of materials or supplies or for any other reason beyond the reasonable control of the Company, or under similar circumstances will not constitute a failure by the Company to comply with this Section 10a. If the Company ceases operations for any of the causes set forth in this Section 10a, the Company shall submit a plan for resolving such cessation of operations within 30 calendar days. In the event of a cessation of operations, the Company shall provide written notice thereof and a reason therefore to the City within 10 calendar days.
- b. **Performance Clawback.** It is the Company's intent to create, hire and maintain the number of jobs set forth in the table below under the column captioned "Cumulative Fulltime Target Job Number" on the Job Determination Dates set forth below. If the Company does not meet or exceed the job numbers set forth under the column captioned "Minimum Job Number" in the table below on each of the specified Job Determination Dates (and after expiration of the Cure Periods), then the Company shall be required to pay a Clawback Penalty (as defined below) to the City which will be applied in the percentage set forth in the table below in addition the company is agreeing to generate a minimum of \$350 million in production those clawback penalties are also described below:

Job Creation and Production Spend Commitment and Schedule					
<u>Year</u>	<u>Cumulative Full Time Job Creation Target</u>	<u>Minimum Job Number</u>	<u>Job Determination Period</u>		<u>Clawback %</u>
1	10	9	Ordinance Date	12/31/23	100%
10	10+90 = 100	90	1/1/32	12/31/32	30%
b Additional Notes: Only New Mexico based employees count towards job creation target.					
^ Clawback calculator attached for illustrative purposes.					

Year	Cumulative Spend Target	Minimum Spend	Spend Determination Period		Clawback %
5	\$55,000,000	\$50,000,000	Ordinance Date	12/31/2027	100%
10	\$350,000,000	\$315,000,000	1 /1/32	12/31/2032	50%
Clawback percentage is calculated on the shortfall quotient times the amount of LEDA received by the company time the percentage of clawback, example illustrated below					
Year 10 production spend by the company \$290,000,000 LEDA received \$3,897,000 $\$315,000,000 - \$290,000,000 = \$25,000,000$ $\$25,000,000 / \$315,000,000 = 7.94\%$ $7.94\% \times \$3,897,000 = \$309,285.71$ $\$309,285.71 \times 50\% = \$154,642.86$					

For the purposes of this Section:

The “**Clawback Penalty**” is a penalty that the Company will be required to pay the City upon the Company’s failure to meet the Minimum Job Target on the applicable Job Determination Date, if such Minimum Job Target is not otherwise reached by the Company during the Cure Period. The Clawback Penalty shall be equal to the product of the Percentage Hiring Shortfall (as defined herein), multiplied by the total State Contribution paid to the Company as of that time. For purposes of this subsection, the “**Percentage Hiring Shortfall**” shall be the quotient of (i) the Minimum Job Number for applicable Job Determination Date, minus the actual number of jobs the Company maintains at the Facility at that time, divided by (ii) the Minimum Job Number for applicable Job Determination Date. See Attachment 1 hereto for examples of job Clawback Calculations

“**Cure Period**” is the period of 180 calendar days after each Job Determination Date during which the Company shall have the opportunity to cure any shortfall in meeting the Minimum Job Number. For the avoidance of doubt, if the Company meets the Minimum Job Number at any time during the Cure Period as validated

by the job reporting requirements set forth herein, the Company shall have no obligation to pay a Clawback Penalty corresponding to the applicable Job Determination Date. If the Company fails to reach the Minimum Job Number during the Cure Period, the Company shall pay the City a Clawback Penalty determined in accordance with the table set forth above.

In the event that there are shortfalls on both jobs and spend requirements the respective clawback penalties will be combined to determine the total clawback required.

The parties hereto recognize certain economic factors generally described as "Business Climate Changes" are beyond the control of any of the parties and may affect the ability of the Company to strictly adhere to the job creation numbers and schedule set forth herein. "Business Climate Changes" means substantial changes, beyond the control of the Company within the industry in which the Company operates, that causes a significant decrease in the Company's ability to perform pursuant to the requirements of this agreement with the City. The Company may request specific modifications to the job creation schedule in writing within ten calendar days of learning of the existence of the "Business Climate Change." Such notification shall include the details of the business climate change, the effect thereon on the Company, and the modification of this agreement the Company requests. If the City and EDD agree that Business Climate Changes have affected the Company's ability to perform, the Performance Clawback may be modified by ordinance.

- c. **Job Reporting.** The Company shall submit quarterly employment reports documenting its quarterly filing of the Department of Workforce Solutions' (DWS) Employment and Wage Detail Reporting as submitted to DWS in the form and manner required by EDD and the City beginning with the January 31, 2023 and continuing every April 30, July 31 and October 31 thereafter until the completion of this agreement. The State will provide copies of all such reports to the City or the State may request a copy of the Company's quarterly employment reports at any time while this Agreement is in effect and the Company agrees to provide such documents. The Company acknowledges this quarterly reporting will be relied upon by the City and the State to ascertain if the Company is in compliance with the job creation provisions of this Agreement and all subsequent and ancillary agreements. The Company will receive no disbursements of State Contribution as stipulated in this Agreement without up-to-date quarterly job reporting as set forth herein.
 - 1. The Company shall complete an annual economic impact data sheet (EIA) provided by the State of New Mexico Economic Development department not late than February 28 of each year beginning in 2024. This will reflect actual economic activity and hiring of the Q/E for the preceding calendar year. Failure to complete EIA data sheet by April 15th of any calendar year Q/E shall be subject to a 10% clawback of all

funds received.

- d. If the Company has been required to pay the Facility Closure Clawback, the Company will not be required to pay any Performance Clawback that may come due after the date of such payment.

11. Fees. Each party shall bear its own costs and expenses in connection with the negotiation, execution and delivery of this Agreement or any amendment or enforcement of this Agreement.

12. Annual Performance Review. To ensure the prudent use of the taxpayer's funds and as required by the LEDA statute and Ordinance, the Project will be subject to an annual performance review conducted by City or EDD staff beginning on June 30, 2023 and every year thereafter until this Agreement terminates. The review will evaluate whether the Project is meeting the requirements set forth in this Agreement and any subsequent agreements or amendments and shall be made available to the State. At this time, the Company may report any difficulties it has experienced under the terms of this Agreement or the LEDA program and may request any assistance it deems necessary. The City or State may request the Company provide data and information to assess the broader economic impact of the Project, but the Company shall not be required to divulge information or documents it considers confidential or proprietary.

If the requirements are not being met, the City may terminate this assistance to the Project by passage of an ordinance which terminates this Agreement and specifies the disposition of all obligations of the Project. In addition, in accordance with LEDA, the City may enact an ordinance revoking the LEDA Ordinance and terminating any further payments for any or all Projects thereunder. In the event the City terminates the LEDA Ordinance or this Agreement while the Company is in compliance with the terms and requirements of this Agreement, the City will not have a right to clawback any of the payments already made to the Company.

13. Termination. This Agreement shall terminate at the close of business on January 31, 2033 or when otherwise terminated by ordinance.

14. Request for early release of security. If the Company achieves and then sustains the Minimum Job Number of 100 permanent, full-time employees for six (6) consecutive months prior to December 31, 2030 and has made in excess of three hundred and fifty million dollars (\$350,000,000) in production spend the Company may request release of the Security and termination of the agreement. Said request shall be made to the City in writing and accompanied by documentation comprising its quarterly job reports demonstrating such employment. In no event shall the security be released until the Company has furnished contemporaneous job reporting documentation and completed the corresponding Annual Performance Review. A request for release of the Security may not be submitted prior to December 31, 2030. Upon receipt of such a request the New Mexico Economic

Development Department will work with the Company to gather sufficient documentation of the economic activity directly created by the Company during the period of this agreement and complete an economic impact analysis report. If said report verifies that the State of New Mexico has received direct tax revenues from the activity of the company said request shall be granted.

- 15. Liability.** No party shall be responsible for liability incurred as a result of the other party's acts or omissions. Nothing herein shall operate or be deemed to alter or expand any liabilities or obligations under the applicable provisions of the New Mexico Tort Claims Act (NMSA 1978 §§ 41-4-1, et seq.), or to waive any immunities, limitations or required procedures thereunder. Nothing in this Agreement constitutes a waiver of any party's right to seek judicial relief.
- 16. Amendments.** This Agreement shall not be altered, changed or amended, except by instrument in writing executed by all of the Parties hereto and EDD. Any amendments may be subject to the approval of the Governing Body of City of Las Cruces.
- 17. Governing Law/Venue.** This Agreement shall be governed by the laws of the State of New Mexico. The venue for any litigation shall be a competent court of jurisdiction located in New Mexico.
- 18. Miscellaneous.** This Agreement binds and inures to the benefit of the City and the Company and their respective successors and permitted assigns. This Agreement may not be assigned without the written consent of the non-assigning party and the EDD; provided, however, that with notice to the City and the EDD, the Company may assign this Agreement to any affiliate or other member of the Company that agrees in writing to assume and perform all of the Company's obligations under this Agreement. This Agreement may be executed in any number of counterparts, each of which is an original and all of which taken together constitute one instrument.
- 19. Notice.** All notices or other written communications, including requests for disbursement, that are required or permitted to be given pursuant to this Agreement must be in writing and delivered personally, by a recognized courier service, by a recognized overnight delivery service, by fax, by electronic mail, or by registered or certified mail, postage prepaid, to the parties at the addresses shown below. If notice is mailed, it will be deemed received on the earlier of actual receipt or on the third business day following the date of mailing. If a notice is hand-delivered or sent by overnight delivery service, it will be deemed received upon actual delivery. If any written notice is sent by facsimile or electronic mail, it will be deemed received upon printed or written confirmation of the transmission. A party may change its notice address by written notice to the other party to this Agreement.

The initial notice addresses for the parties are as follows:

If to the City:

City of Las Cruces
Attention: Economic Development
P O Box 20000
Las Cruces, New Mexico 88004

If to the Company:

828 Productions, LLC
100 S. Church Street
Las Cruces, NM 88001

Effective Date: _____

Attachment:

1. Example of Clawback Calculations

SIGNATURE PAGE TO PROJECT PARTICIPATION AGREEMENT

CITY OF LAS CRUCES, NEW MEXICO

By _____

Name Ifo Pili

Title City Manager

828 Productions, LLC

By _____

Name: _____

Title: _____

Attachment 1 Example of Clawback Calculations

Clawback Calculations

Clawback Formula = (Job Creation % Shortfall) * (Cumulative LEDA Dollars Distributed)

Job Creation % Shortfall = $(1 - (\text{actual jobs} / \text{cumulative hiring target})) * 100\%$

Example - 1 100%	End of year 1, inclusive of cure period	
Actual Employees	(a)	41
Cumulative Hiring Target	(b)	42
Job Creation % Shortfall =	(c) = 1-(a/b)	2.38%

LEDA Dollars Distributed	(d)	\$	150,000.00
Clawback %	(e)		100%
Penalty	(f) = c*d*e	\$	3,571.43

Example - 2 100%	End of year 2, inclusive of cure period	
Actual Employees	(a)	57
Cum Hiring Target	(b)	58
Job Creation % Shortfall =	(c) = 1-(a/b)	1.72%
LEDA Dollars Distributed	(d)	\$ 200,000.00
Clawback %	(e)	100%
Penalty	(f) = c*d*e	\$ 3,448.28

Example - 3 75%	End of year 3, inclusive of cure period	
Actual Employees	(a)	57
Cum Hiring Target	(b)	58
Job Creation % Shortfall =	(c) = 1-(a/b)	1.72%
LEDA Dollars Distributed	(d)	\$ 200,000.00
Clawback %	(e)	75%
Penalty	(f) = c*d*e	\$ 2,586.21

**INTERGOVERNMENTAL AGREEMENT BETWEEN
THE NEW MEXICO ECONOMIC DEVELOPMENT DEPARTMENT
AND THE CITY OF LAS CRUCES, NEW MEXICO**

This Intergovernmental Agreement (“Agreement”) is entered into as of the date of the last signature affixed below by and between the New Mexico Economic Development Department (“EDD”) and The City of Las Cruces (the “City”), a political subdivision of the State of New Mexico, and collectively referred to as “the Parties” with reference to the following facts.

RECITALS:

WHEREAS, the legislature of the State of New Mexico appropriated funds to the Economic Development Department for economic development projects statewide pursuant to the Local Economic Development Act (the “Appropriation”); and

WHEREAS, the purpose of the Local Economic Development Act, NMSA 1978 §5-10-1 through §5-10-14 (2020) (“LEDA”), is to provide “public support for economic development to foster, promote and enhance local economic development efforts”; and

WHEREAS, the City has adopted LEDA by Ordinance No. 2873, which established the City of Las Cruces Economic Development Plan that promotes economic development within the City; and

WHEREAS, 828 Productions, LLC (hereinafter “Qualifying Entity”) has entered into a Local Economic Development Project Participation Agreement (hereinafter “PPA”) with the City. A copy of the City’s Ordinance and PPA are attached hereto and incorporated herein; and

WHEREAS, pursuant to the terms of that PPA, the Qualifying Entity will remodel/refurbish and occupy the production facility at 106 S. Miranda Street and other suitable locations within Las Cruces, New Mexico (the “Project”) and will employ at least 100 full-time persons by December 31, 2029; and

WHEREAS, EDD and the City desire to enter into this Agreement as necessary to facilitate disbursement of funds for the Project.

NOW THEREFORE, the Parties do hereby agree to the following terms and conditions to accomplish the Project.

SECTION 1. PURPOSE OF AGREEMENT:

The purpose of this Agreement is to define the responsibilities of the City and EDD for the oversight and administration of up to \$3,000,000 of the Appropriation for the Project. It is the intent of the parties that the City will receive an amount up to three million dollars (\$3,000,000) to implement the Project. The Parties agree that any and all State funds received will be accounted for by the City as the fiscal agent for EDD in accordance with the procedures the City will use to account for its own funds and property used to implement the project, or any properties acquired or developed by the City as a result of implementation of the Project will be used by the City for economic development purposes only.

SECTION 2. SCOPE OF WORK:

The City will act as fiscal agent for up to \$3,000,000 of the Appropriations for the Project. Pursuant to Section 5-10-3(D) of LEDA, EDD will transfer up to \$3,000,000 to the City for costs and expenses associated with the Project. In exchange for the contribution, the Qualifying Entity certifies it will employ at least 100 full-time employees at the facility by December 31, 2029, and generate a minimum of \$350 million in production spend by December 31, 2032.

All the terms, conditions, and requirements set forth under the PPA are incorporated into this Agreement. EDD and the City agree that failure of the Qualifying Entity to create the number of new full-time jobs described in the PPA or otherwise meet its obligations set forth under the PPA shall require the City to apply the applicable Clawback as provided for by the PPA. In the event that the Qualifying Entity does not remit to the City the monies owned as provided for by the PPA then such violation will require that the City foreclose on the

security interest after any cure period granted to the Qualifying Entity. Any monies recovered by the City as a result of payment made by the Qualifying Entity from the application of the applicable Clawbacks shall be returned to EDD within 30 calendar days. Any foreclosure of the security interest shall be returned to EDD. The Qualifying Entity will deliver to the City contemporaneously with the execution of the PPA a form of security acceptable to all parties, which will be incorporated into this Agreement (the "Security").

SECTION 3. CITY RESPONSIBILITIES:

The City shall:

- A. Pay the costs and expenses incurred for the Project from the Appropriation.
- B. Provide to EDD supporting documentation in a format acceptable to EDD for activities associated with the Project. Any funds recaptured by the City as the result of enforcing the provisions of the PPA shall be returned to EDD.
- C. The City shall notify EDD in writing of any failure to meet requirements (default) of the PPA by the Qualifying Entity within 15 business days of learning of the event of default.
- D. Serve as Fiscal Agent for the funds transferred to it under this Agreement.
- E. Distribute the funds transferred to the City by EDD to the Project; account for receipts and disbursements of said monies; and provide EDD with the required financial documentation pertaining to this disbursement.
- F. Submit all required and reasonably requested documentation to EDD including the endorsed LEDA Ordinance approved by the City Council accepting the Project as qualifying entity for LEDA, with the accompanying endorsed Project Application and PPA entered into by the City and the Qualifying Entity, a fully executed copy of the Security, and copies of invoices and other documentation as required by EDD within the time required.
- G. Not impose any obligations on EDD with respect to the administration of this Project, other than the transfer of funds as described herein; and

- H. Initiate and prosecute litigation as necessary to enforce the terms of the PPA, at EDD's cost, if necessary.

SECTION 4. CITY CERTIFICATIONS:

As Fiscal Agent, the City hereby assures and certifies that:

- A. It will comply with all applicable State laws, regulations, policies, guidelines and requirements with respect to the acceptance and use of the Appropriation.
- B. It has the legal authority to receive and expend the Appropriation.
- C. It will enforce the provisions of Ordinance No. 2873 and the City's Economic Development Plan.
- D. It has exercised due diligence in confirming that the Project is a viable economic development initiative with potential long term economic development benefits based on information provided by EDD;
- E. It will provide to EDD upon request all documentation and references to expertise it has relied upon in approving this Project upon receipt thereof or reliance thereupon and also with copies of all reports and documentation City receives from the Qualifying Entity;
- F. It has entered into a PPA with the Qualifying Entity and has obtained from the NM EDD all financial documentation necessary to protect the City's and State's investments in the Project;
- G. It shall not at any time during the life of this Agreement convert any property acquired or developed pursuant to this Agreement to uses other than those within the Project description as defined herein;
- H. It will notify EDD of any default on the part of the Qualifying Entity within 15 business days of learning of any default and shall provide the Qualifying Entity an opportunity to cure any default by in accordance with the PPA prior to termination thereof;
- I. No member, officer or employee of the City or its designees or agents, no member of the governing body of the locality of which the Project is situated, and no other public official that exercises any functions or

responsibilities with respect to the Project during his/her tenure, or for one (1) year thereafter, shall have any interests, direct or indirect, in any contract or subcontract, or the process thereof, for work to be performed in connection with the Project that is the subject of this Agreement. The City shall incorporate in all contracts or subcontracts a provision prohibiting such interest pursuant to this certification; and

- J. It has complied with Article IX, Section 14, of the New Mexico Constitution known as the "anti-donation clause."

SECTION 5. EDD RESPONSIBILITIES:

EDD shall:

- A. Transfer to the City for costs and expenses incurred for the Project an amount not to exceed three million dollars (\$3,000,000). The funds shall be used only for the purpose stated in this Agreement.
- B. Monitor job creation by the Qualifying Entity and report the number of jobs created to the City each quarter up to January 31, 2033.
- C. At its discretion, review and audit the Project if it is deemed to be necessary or desirable; and
- D. Reimburse the City for any costs associated with litigation to enforce the terms of the Security and the Clawback provisions.

SECTION 6. TERM OF AGREEMENT:

This Agreement shall become effective on the date it is fully executed and shall terminate on January 31, 2033 or when all of the obligations of the PPA have been fulfilled.

SECTION 7. LIABILITY:

No Party shall be responsible for liability incurred as a result of the other Party's acts or omissions. Any liability incurred in connection with this Agreement is subject to the New Mexico Tort Claims Act. The City and EDD may agree to reimburse one another under these liability provisions, subject to sufficient

appropriation by the New Mexico Legislature or sufficient funds being available to the party, as determined by the Party responsible for payment.

SECTION 8. DISPOSITION OF PROPERTY; RECORDS; RETURN OF SURPLUS FUNDS

- A. Property purchased under this Agreement for the Project shall remain with the purchasing party unless otherwise agreed upon.
- B. The City shall keep such records as will fully disclose the amount and disposition of the total funds from all sources budgeted for the Project, the purposes for which such funds were used and such other records as EDD may require.
- C. If, upon the expiration of the Project or the termination date of this Agreement, any surplus funds are possessed by the City, the City shall return said funds to EDD for disposition in accordance with law.

SECTION 9. STRICT ACCOUNTABILITY:

The City shall be strictly accountable for receipts and disbursements relating hereto and shall make all relevant financial records available to EDD and the New Mexico State Auditor quarterly or upon request and shall maintain all such records for a period of six (6) years following completion of all the records and any audits.

SECTION 10. REPORTS:

The Qualifying Entity shall submit quarterly reports regarding employment to the EDD during the life of this Agreement and EDD shall share those reports and any other information obtained respecting job retention and creation attributable to the State appropriation with the City. The City shall coordinate with EDD to conduct an annual performance review of the Project.

SECTION 11. NOTICES; REPRESENTATIVES OF THE PARTIES:

Any notice required to be given to either party by this Agreement shall be in writing and shall be delivered in person, by courier service or by U.S. Mail, either first class or certified, return receipt requested, postage prepaid, as follows. The parties hereby designate the individuals named below as their representative responsible for overall administration of this Agreement.

To EDD:

Finance Development Team Leader
NM Economic Development Department
Joseph Montoya Building
1100 St. Francis Drive
PO Box 20003
Santa Fe, New Mexico 87504

To the CITY:

City Manager
The City of Las Cruces
700 S Main Street
P O Box 20000
Las Cruces, NM 88004

SECTION 12. AMENDMENTS:

This Agreement shall not be altered, changed or amended, except by instrument in writing executed by all of the Parties hereto.

SECTION 13. GOVERNING LAW/VENUE:

This Agreement shall be governed by the laws of the State of New Mexico. The venue for any litigation shall be a competent court of jurisdiction located in New Mexico.

SIGNATURE PAGE FOLLOWS

IN WITNESS WHEREOF, the parties have executed this Agreement effective
as of the last date of signature below,

THE CITY OF LAS CRUCES, NEW MEXICO

By: _____

Name: _____ Ifo Pili _____

Title: _____ City Manager _____

Date: _____

APPROVED AS TO FORM

By: _____

The City of Las Cruces Attorney

NEW MEXICO ECONOMIC DEVELOPMENT DEPARTMENT

By: _____

Alicia J. Keyes
Cabinet Secretary

Date: _____

APPROVED AS TO FORM

By: _____

Jesika Ulibarri
General Counsel

FY22 LEDA Application

Applicant	Todd Lundbohm		
Applicant ID	APP-015963		
Company Name	828 Studio NM, LLC	828 Productions LLC	
Email	todd@828productions.com		
Status	Submitted		
Application Amount	\$0.00		
Funded/Approved	☐		
LEDA Starting Job Count	0		
LEDA PPA Job Count Target	335		

Contact Information

Question: Legal Company Name

828 Productions LLC

Question: Trade Name (dba)

828 Productions LLC

Question: Project Name

828 Studios

Question: Company Street Address

~~100 South Church Street~~ 106 S Miranda St

Question: Company City

Las Cruces

Question: Company State

NM

Question: Company Zip

Agenda Item #9.1.

~~88001~~ 88005

Question: Phone

2089124075

Question: Website

<https://828productions.com/>

Question: Primary Contact Person First Name

Todd

Question: Primary Contact Person Last Name

Lundbohm

Question: Federal Tax ID #

83-2900195

Question: NM State Tax and Revenue (CRS) #

03568111000

Question: City/County Business License Registration will be pursued

☒ Yes

☐ No

Question: NAICS Code(s)

512199

Question: DUNS # (preferred but not required)

Applied For

Question: This Business is organized as a:

☐ C-Corporation

☐ S-Corporation

☒ LLC

☐ Partnership

☐ Sole Proprietorship

Agenda Item #9.1.

☐ B-Corporation

Question: Incorporation Papers

[828 PRODUCTIONS, LLC - DE - FORMATION.pdf](#) (9/17/2022, 11:10 AM)

Question: Resumes of all principals (owners, partners, directors or officers; required for businesses 1 year or younger)

[Todd bio.pdf](#) (9/17/2022, 11:13 AM)

[SDenton Bio 12 6 21 v3.pdf](#) (9/17/2022, 11:13 AM)

[Mark Andrews Bio.pdf](#) (9/17/2022, 11:13 AM)

Question: Company Contact for Project Administration (if different from above)

Christine Sheppard

Question: Title

Project Coordinator

Question: Telephone

~~575-520-6905~~ 575-323-1895

Question: Cell Phone

~~575-520-6905~~ 575-323-1895

Question: Email

csheppard@828productions.com

Project Information

Please include detailed information such as:

- Executive Summary; Business description and history
- Infrastructure Development/Needs
- Market analysis and strategy
- Summary of competition
- Tax Reporting Status
- Effect on Existing Industry and Commerce during and after Construction

Agenda Item #9.1.

- Land Acquisition
- Local Purchasing
- Water Conservation
- Relocation of Individuals or Businesses
- Construction Schedule
 - Target Close Date
 - General Contract Signed
 - Construction Start
 - Construction End
 - New Facility Operational Date
- Operations plan; Organizational chart
- Any document or record that the local governing body, in its sole discretion, deems necessary.

Question: Description of the Proposed Development, its product and its timeline.

828 Productions plans to construct a movie studio in Las Cruces, New Mexico (the “Studio”) as well as provide financing for independent films. Construction on the first phase of the project is anticipated to begin in Q4 of 2022 with an estimated construction period of 18 months. Employees started to be hired in May of 2022 and will continue for initial management employees. Start up hiring for the studio operation will begin six months prior to construction completion. The film financing operations are anticipated to begin in Q4 of 2022/ Q1 of 2023.

Question: Provide a detailed scope of work that is specific to the funding request/award and what the funds will be used for.

828 Productions plans to construct a movie studio in Las Cruces, New Mexico (the “Studio”) and will be managing the production of films in Las Cruces as well as in other locations. Over 100 employees in the next 6 years will be hired. The first phase of the studio will include 4 sound stages, office space, mill, etc. Funding will be used for construction as well as start-up payroll for an approximate 6 month period that studio operations ramps up.

Question: Business Plan (required for businesses 1 year or younger)

See supporting documentation - studio model with construction costs as well as start-up budget and estimated revenues and expenses.

Question: Supporting Documentation

[828 Studios Redevelopment Schedule Rev 09 16 22.pdf](#) (9/29/2022, 3:58 PM)

Financial Information

*Upload sources and uses chart; enter N/A and zero for questions that do not apply to your business

Question: Provide detailed assumptions for your project including three years of projected cash flow income statements. If the applicant has been in business less than one year, you may be requested to provide additional financial information after review.

[828 Operating Financials Phase I CONFIDENTIAL Rev 9.10.22.pdf](#) (9/29/2022, 4:01 PM)

Question: Provide financial statements (balance sheet, profit and loss and cash flow) or tax returns for the past three years. Also provide interim statements within 90 days of application date.

[828 Productions financial history description.docx](#) (9/17/2022, 11:31 AM)

Question: What is the collateral/security to be pledged to the funds awarded?

- ☐ Letter of Credit
- ☒ Surety Bond
- ☐ Mortgage Security
- ☐ Security Agreement/Escrow
- ☐ Security Agreement/Lien
- ☐ Security Interest/Lien

Question: What is the method of appraisal for stated security (if Security Mortgage or Lien were selected above)?

N/A

Question: What is the equity investment from the applicant?

\$1,000,000.00

Question: External Equity Investment Sources

Equity raised from outside investors

Question: External Equity Investment Amount

\$25,000,000.00

Question: City/County Funding Source

City of Las Cruces Cinematic Infrastructure funds

Agenda Item #9.1.

Question: City/ County Funding Amount

\$897,596.12

Question: Bank Loan Source (financial institution names), type (commercial, USDA, SBA 504, etc.), and stage (applied or approved)

Currently working on initial discussions with banks

Question: Bank Loans Amount Total

\$25,000,000.00

Question: Other Loans Source

~~828 Media Capital~~ 828 Affiliates

Question: Other Loans Amount

\$20,000,000.00

Question: Other Sources

N/A

Question: Other Sources Amount

\$0.00

Question: Total Project Amount (Sum of above)

\$71,000,000.00

Question: Supporting financial documentation

[LEDA Job Creation Additional Financial Information.pdf](#) (9/30/2022, 1:20 PM)

Company History and Background

Question: How long has the company been in operation, as of the date of application?

828 Productions was formed in 2021 and will begin operations with the beginning of this project 2022

Question: At the time of this application, how many full-time employees do you currently employ? Please provide the most recent Department of Workforce Solutions report below. If no employees, disregard report. Enter 0.

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3.00

Question: List owners with more than 20% ownership stake in the company. Additionally, please list principal directors and/or officers.

Owners

Todd Lundbohm

Directors/officers

Stephanie Denton

Mark Andrews

Question: Are owners and/or officers current with financial obligations/payments to the State of New Mexico or any other Federal or State entity? If no, please explain.

Yes

Question: Does the applicant have any loans or other financial obligations on which payments are not current? If yes, please explain.

No

Question: Please identify any financially affiliated/associated companies in which any of the applicant's owners have a 20% stake.

828 Productions, Inc is the only entity associated with 828 Productions LLC. There are other entities that were formed to lend or invest in, movies specifically, that have not been listed.

~~Please let us know if you need a more detailed list of entities.~~

Community Aspects

Question: At the community level, what are the infrastructure needs not yet in place or in process that will affect this project's application?

TBD

Question: What specific incentives are being REQUESTED from the COMMUNITY? Please explain where the applicant is in this process and provide an idea of a timeline for incentives' deployment.

1. Asking for allocation of funds from the EDD. Application is ongoing. We anticipate deployment of funds in Q4 of 2022/Q1 2023
2. Asking for allocation of funds from JTIP. We anticipate deployment of funds in Q4 of 2022/ Q1 2023
3. Asking for allocation of funds from the City of Las Cruces. We anticipate deployment of funds in Q4 of 2022/ Q1 2023

Question: What specific incentives will be PROVIDED from the COMMUNITY?(e.g. parcel of

Agenda Item #9.1.

land, building lease, waiver of fees, utility access/extension)?

City of Las Cruces Cinematic Infrastructure funds, LEDA funds

Job Creation / Performance

Please download the job creation worksheet to work up the required information for this section.

- [Job Creation Worksheet](#)

Question: Outline the number and types of jobs to be created.

Additoinal part time jobs (annually) depending on production type

Full Time Jobs - total 100 :

Year Round Management

Year Round Studio Staff

Year Round Studio Crew

Year Round VFX, LED, MoCap & Post Team

Year Round Accounting Team

Question: Outline the proposed pay scale and payroll proposed by the entity.

100 jobs with an average salary of \$75,000 per year.

Question: Outline the benefits offered to the employees, including but not limited to health care and retirement.

Permanent employees will be offered PTO, health, dental, and 401(k) with discretionary match.

Question: Outline any efforts being made or proposed by the applicant to hire people within the local employment pool.

We are going to fill as many jobs locally as possible. All efforts will be made to relocate individuals that are needed for employment outside of the local job pool.

Question: Attach job creation worksheet

[828 Job Creation Worksheet Final.pdf](#) (9/30/2022, 1:09 PM)

Question: Starting Headcount (from worksheet above)

0.00

Question: Total new jobs to be created Year 1 (from worksheet above)

62.00

Agenda Item #9.1.

Question: Total new payroll Year 1 (from worksheet above)

\$4,635,000.00

Question: Total number of new jobs to be created Year 2 (from worksheet above)

28.00

Question: Total new payroll Year 2 (from worksheet above)

\$2,295,000.00

Question: Total number of new jobs to be created Year 3 (from worksheet above)

10.00

Question: Total new payroll Year 3 (from worksheet above)

\$575,000.00

Economic Impact Analysis

NMEDD will perform an Economic Impact Analysis to address the impact to the local tax base, the school system, etc. using the Economic Impact Datasheet provided by the applicant.

Question: Outline any impacts to the environment, positively or negatively.

The studio will be built as sustainably possible with the smallest carbon footprint feasible. Modern building standards will be used with renewable energy sources utilized where feasible(i.e. solar).

Question: Status of permitting/regulatory matters needed for project.

In process with City of Las Cruces

Attachments

Please download the authorization for examination and release of information template and the example employer quarterly wage and contribution report.

- [Authorization for examination and release of information form](#)
- [Employer quarterly wage and contribution report example](#)

If you are a new business, please apply for a NM Tax Identification Number here:

Agenda Item #9.1.

<http://www.tax.newmexico.gov/Businesses/wage-withholding-tax.aspx>

Please download the LEDA Application Affirmation Template here:

[LEDA Application Affirmation Template](#)

[Click here](#) to view a filled out sample.

Question: New Mexico Economic Development Department authorization for examination and release of information.

[FE Authorization for examination and release of information Notarized.pdf](#) (9/30/2022, 1:13 PM)

Question: Latest New Mexico employer's quarterly wage and contribution report submitted to the Department of Workforce Solutions.

[LEDA NM Quarterly Wage Report.pdf](#) (9/30/2022, 1:18 PM)

Question: Affirmation and any other supporting documents

[FE_2020_LEDA_App_Affirmationpdp.pdf](#) (9/26/2022, 9:21 AM)

Delaware

The First State

Page 1

*I, JEFFREY W. BULLOCK, SECRETARY OF STATE OF THE STATE OF
DELAWARE, DO HEREBY CERTIFY THE ATTACHED IS A TRUE AND CORRECT
COPY OF THE CERTIFICATE OF FORMATION OF "828 PRODUCTIONS, LLC",
FILED IN THIS OFFICE ON THE NINETEENTH DAY OF DECEMBER, A.D.
2018, AT 7:52 O`CLOCK P.M.*

A handwritten signature of Jeffrey W. Bullock in black ink, written over a horizontal line.

Jeffrey W. Bullock, Secretary of State

7202282 8100
SR# 20188269978

You may verify this certificate online at corp.delaware.gov/authver.shtml

Authentication: 204150649
Date: 12-20-18

State of Delaware
Secretary of State
Division of Corporations
Delivered 07:52 PM 12/19/2018
FILED 07:52 PM 12/19/2018
SR 20188269978 - File Number 7202282

STATE OF DELAWARE
CERTIFICATE OF FORMATION
OF LIMITED LIABILITY COMPANY

The undersigned authorized person, desiring to form a limited liability company pursuant to the Limited Liability Company Act of the State of Delaware, hereby certifies as follows:

1. The name of the limited liability company is 828 Productions, LLC.

2. The Registered Office of the limited liability company in the State of Delaware is located at 850 New Burton Road, Suite 201 (street), in the City of Dover, Zip Code 19904. The name of the Registered Agent at such address upon whom process against this limited liability company may be served is COGENCY GLOBAL INC..

By: Morgan Sloane
Authorized Person

Name: Morgan Sloane
Print or Type

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Todd Lundbohm is an award-winning filmmaker with broad ranging experience in Development, Production, Postproduction and VFX. He began his career as an Art Director for NXNW Productions, working on several national campaigns before diving headfirst into narrative filmmaking: writing, directing and producing multiple projects, working throughout the US, Mexico, South America and Western Europe. Todd's feature screenplay, *MERIDIAN* has won numerous awards, as well as recognition from the SXSW Film Festival and Francis Ford Coppola's American Zoetrope writing competition.

As Founder and CEO of 828 Media Capital, Todd has financed projects with a total production spend north of \$50 million. 828 is a full-service film finance and production company, whose recent films include millennial murder mystery, ***Helen's Dead***, starring Tyrese Gibson, Anabelle Dexter-Jones, and Emile Hirsch; *Deauville Film Festival Grand Special Prize Nominee* ***The Last Son*** starring Sam Worthington, Colson Baker, Thomas Jane, and Heather Graham; Camille Delmarre's high octane action film, ***Assassin Club***, starring, Henry Golding, Noomi Rapace and Sam Neil; ***The Price We Pay***, from legendary horror director Ryûhei Kitamura, starring Emile Hirsch and Stephen Dorff; Gothic horror ***Raven's Hollow*** starring William Moseley, Melanie Zanetti, Kate Dickie and David Hayman; WWII Submarine movie ***Operation Seawolf*** Starring Dolph Lundgren and Frank Grillo; ***The Requin*** starring Alicia Silverstone and James Tupper; and *SXSW Grand Jury Prize winner* ***The Fallout*** starring Jenna Ortega, Maddie Ziegler, Shailene Woodley, and Julie Bowen.

Stephanie Denton is a feature film and television executive who has headed up acquisitions, sales, and distribution divisions for the industry's leading independent film and television companies, including Lionsgate International, Lakeshore Entertainment, Initial Entertainment Group and Bold Films.

Over the last 25 years, Denton has sold over 250 feature films, worked with legendary filmmakers such as Martin Scorsese, Lasse Halstrom, Sam Rami, Mark Pellington, Jon Amiel, Garry Marshall, Peter Howitt, James Mangold, Stephen Merchant, and James Wan to produce and sell high-profile films out of the independent film sector. Noteworthy releases include *THE AVIATOR*, *UNFINISHED LIFE*, *THE GIFT*, *ARLINGTON ROAD*, *LAWS OF ATTRACTION*, *UNDERWORLD*, *310 TO YUMA*, *WAR*, *HOTEL RWANDA*, *DAYBREAKERS*, *RUNAWAY BRIDE*, *FIGHTING WITH MY FAMILY*, and the box office record-breaking *SAW* franchise.

Denton's steady hand as a film and tv executive was evident in her leadership of the launch of Arc Animation Studios Original I.P. and Sales division during its transition from STARZ Entertainment, and her experience in acquisitions and co-production for WWE Studios in Los Angeles where she drove the company's marketing and production initiative to release brand adjacent content across platforms, and spearheaded a theatrical co-distribution deal in North America with Blumhouse Productions for Festival film favorites, *OCCULUS*, *SLIGHT*, and *BIRTH OF A DRAGON*.

A few of Denton's premier accomplishments include the development and production of Len Wiseman's hugely successful *UNDERWORLD* franchise for Lakeshore Entertainment, sourcing and selling high profile projects such as *WAR* starring Jason Statham and Jet Li, and *DAYBREAKERS* starring Ethan Hawke for Lionsgate Entertainment. She also closed multi-picture domestic distribution deals with Sony/Screen Gems, Universal Pictures, and Paramount Studios.

Denton began consulting for 828 Media in 2020, assisting with the company's expanding lending portfolio, and has since become a member of the 828 Productions team. Utilizing her extensive relationships in Production and Distribution, Denton's main focus will be sourcing co-production and development opportunities, and securing key distribution alliances in both the Domestic and International markets that will establish 828 Productions as an industry leader in the Indie Film space.

BIOGRAPHY

Mark Andrews

Mark started his career in finance & management consulting but his real passion was for film. This passion was realized in 1995 when he invested in his first feature film '**Mainline Run**'. Three years later he took the plunge and became a full time producer, co-writing and producing the feature film '**Distant Shadow**' which made more than 4 times its budget. This led to being hired to produce budgets & schedules for the UK's Spice Factory and oversee production on '**Redemption Road**'.

Seeing the opportunities film financing in the United Kingdom offered, Mark co-founded '**Studio Finance**,' a UK Film tax shelter utilizing the UK Government's Section 48 Tax breaks for film production before going on to consult for another film financing group, '**UKFS**' backed by Guernsey based Channel House Trustees. In their three years of operating, UKFS were responsible for more than \$300 million of tax shelter film financing for the UK film industry. It was here acting as a Senior Finance Executive that he oversaw such films as '**Wake of Death**,' '**Modigliani**,' '**School for Seduction**,' '**Out of Season**' and '**Battle of the Brave**' amongst others.

In 2004 Mark moved to Los Angeles where he began consulting for various production companies, investors and independent producers, was Head of Entertainment for Exemplar Capital an East Coast Investment Bank and Law Firm and was instrumental in forming various film financing structures including a \$150m film fund.

Some of the projects he has been instrumental in developing or setting up at various companies are Animated Horror '**Down Satan**' in partnership with re-known Horror Author '**Clive Barker**'; Supernatural Thriller '**Indelible**' being Directed by National Film Award Winner '**Howard J Ford**' (The Dead 1&2, Never Let Go); '**Kill the Messenger**' from the creator of (RoboCop), '**Michael Miner**,' and the Epic Western '**The Girl With No Name**' in conjunction with **Co-Op Entertainment** and **LegionM** being directed by '**Tanya Wexler**' (Buffaloed, Jolt).

In 2018 Mark produced the movie '**Dead Water**' starring '**Casper Van Dien**' and '**Judd Nelson**,' released by **Saban** in July 2019.

He currently oversees the development, financing and production operations for 828 Productions a west coast full service film finance and production company where he has executive produced and produced such films as **THE FALLOUT** starring Jenna Ortega, Maddie Ziegler, Shailene Woodley and Julie Bowen, **THE LAST SON** starring Sam Worthington, Colson Baker, Thomas Jane and Heather Graham, **THE PRICE WE PAY**, directed by horror legend Ryûhei Kitamura, starring Emile Hirsch and Stephen Dorff, and the recently wrapped **RAVENS HOLLOW** starring William Moseley, Melanie Zanetti, Kate Dickie and David Hayman.

In summary, Mark is a highly accomplished and seasoned writer, producer & production executive with a proven track record of over twenty years of experience in development, financing, production and distribution. He is a high impact contributor and versatile professional with exceptional business and production acumen who is comfortable working alone or managing hundreds of individuals while ensuring timely completion of project deadlines and remaining on, or under budget.

He holds a National Diploma in Business and Finance from the UK and a Certificate of Achievement for Contract Law from HarvardX University.

Mark lives in Colorado Springs with his wife and dog 'Piper'.

PROJECT OVERVIEW

MON 8/15/22 - MON 11/18/24

% COMPLETE

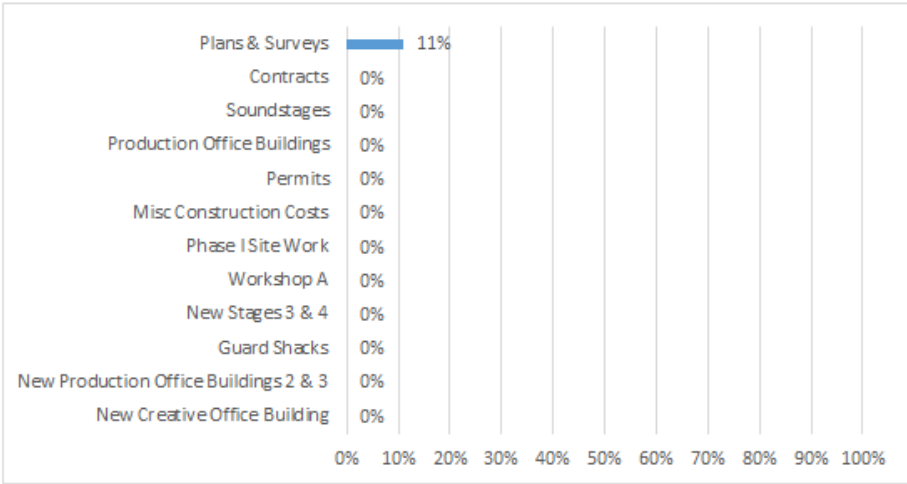
1%

MILESTONES DUE

Milestones that are coming soon.

Name	Finish
Stage 1 COA	Thu 10/26/23
Stage 2 COA	Mon 8/12/24
Workshop A COA	Tue 7/9/24
Stage 3 COA	Fri 12/29/23
Stage 4 COA	Mon 1/8/24

% COMPLETE



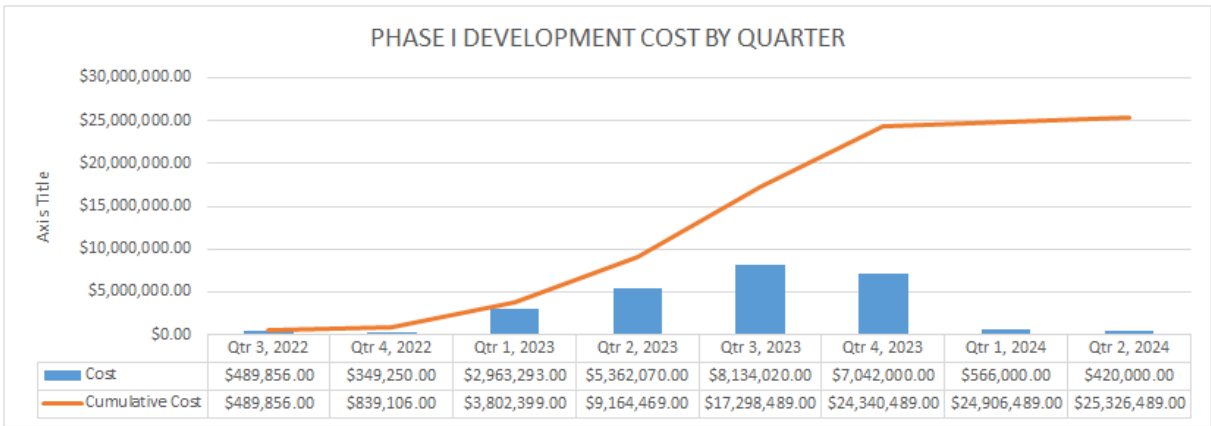
LATE TASKS

Tasks that are past due.

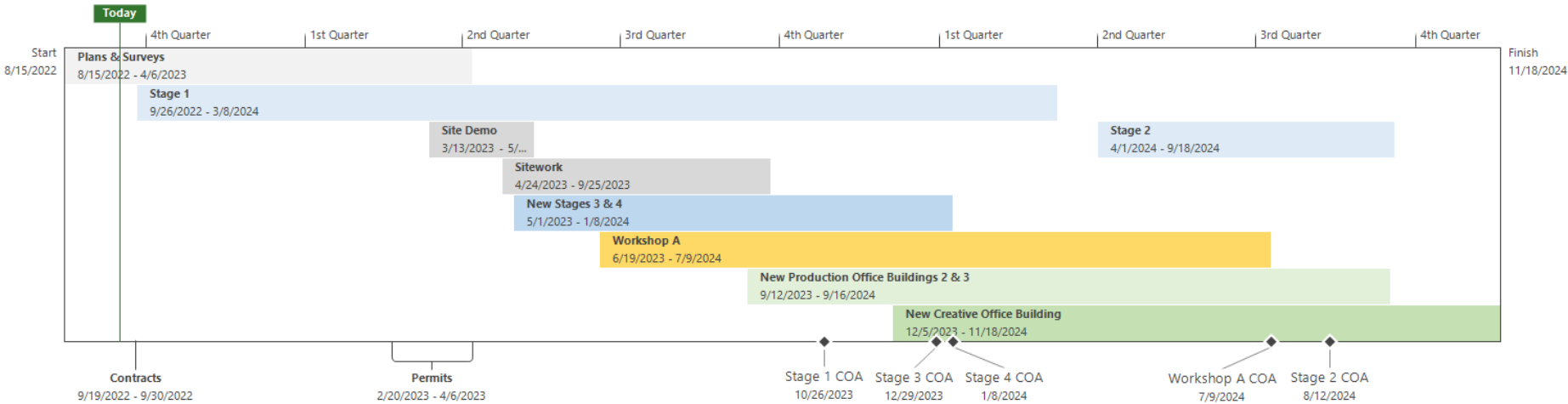
Name	Start	Finish	% Complete
DD Drawings	Mon 9/12/22	Mon 12/26/22	0%

CASH FLOW

Cost	Remaining Cost
\$25,326,489.00	\$25,326,489.00



Name	Cost	Start	Unique ID
828 STUDIOS NM	\$25,326,489.00	Mon 8/15/22	1
RENOVATION	\$9,341,489.00	Mon 8/15/22	171
Contracts	\$0.00	Mon 9/19/22	2
Plans & Surveys	\$532,100.00	Mon 8/15/22	7
Permits	\$103,500.00	Mon 2/20/23	312
Phase I Site Work	\$1,858,393.00	Mon 3/13/23	17
Misc Construction Costs	\$166,141.00	Mon 3/13/23	314
Soundstages	\$4,743,605.00	Mon 9/26/22	68
Workshop A	\$1,846,000.00	Mon 6/19/23	110
Production Office Buildings	\$91,750.00	Tue 11/1/22	157
NEW CONSTRUCTION	\$15,985,000.00	Mon 5/1/23	172
New Stages 3 & 4	\$14,000,000.00	Mon 5/1/23	173
New Production Office Buildings 2 & 3	\$1,280,000.00	Tue 9/12/23	298
New Creative Office Building	\$640,000.00	Tue 12/5/23	141
Guard Shacks	\$65,000.00	Tue 9/5/23	158



Project Timeline and Budgetary Estimates are derived from Highland Enterprises Inc. and Giant Entertainment & Management Inc. with supporting detail located in the appendix of this project summary.

Although preliminary in nature, the following schedule and associated costs are based on prior experience in respective fields. Even so, fixed costs can only be determined after full review of Construction Drawings, still to be developed.

828 Studios Redevelopment Schedule.mpp

ID	Task Mode	Task Name	Duration	Start	Finish	Cost	May 1 5/1	September 8/21	January 10/2	May 12/5	September 15/28	January 17/11	May 112/1	September 13/3	January 14/28	May 16/23	September 18/10	January 112/8	May 12/2	September 13/30
1		828 STUDIOS NM	578 days?	Mon 8/15/22	Mon 11/18/24	\$25,326,489.00														1%
2		RENOVATION	535 days?	Mon 8/15/22	Wed 9/18/24	\$9,341,489.00														1%
3		Contracts	10 days	Mon 9/19/22	Fri 9/30/22	\$0.00														0%
4		General Contractor	10 days	Mon 9/19/22	Fri 9/30/22	\$0.00														0%
5		Architectural	10 days	Mon 9/19/22	Fri 9/30/22	\$0.00														0%
6		Engineering	10 days	Mon 9/19/22	Fri 9/30/22	\$0.00														0%
7		Mechanical	10 days	Mon 9/19/22	Fri 9/30/22	\$0.00														0%
8		Electrical	10 days	Mon 9/19/22	Fri 9/30/22	\$0.00														0%
9		Plumbing	10 days	Mon 9/19/22	Fri 9/30/22	\$0.00														0%
10		Structural	10 days	Mon 9/19/22	Fri 9/30/22	\$0.00														0%
11		Civil	10 days	Mon 9/19/22	Fri 9/30/22	\$0.00														0%
12		Surveys	10 days	Mon 9/19/22	Fri 9/30/22	\$0.00														0%
13		Geotech	10 days	Mon 9/19/22	Fri 9/30/22	\$0.00														0%
14		Project Management	10 days	Mon 9/19/22	Fri 9/30/22	\$0.00														0%
15		Plans & Surveys	156 days?	Mon 8/15/22	Thu 4/6/23	\$532,100.00														11%

Critical		Task Progress		Baseline		Summary		Inactive Task	
Critical Split		Manual Task		Baseline Split		Manual Summary		Inactive Milestone	
Critical Progress		Start-only		Baseline Milestone		Project Summary		Inactive Summary	
Task		Finish-only		Milestone		External Tasks		Deadline	
Split		Duration-only		Summary Progress		External Milestone			

828 Studios Redevelopment Schedule.mpp

ID	Task Mode	Task Name	Duration	Start	Finish	Cost	May 1 5/1	September 8/21	January 10/2	May 11/2	September 10/2	January 11/2	May 13/3	September 10/2	January 11/2	May 13/3
16		Conceptual Site Plans	15 days	Mon 8/15/22	Fri 9/2/22	\$0.00										
17		DD Drawings	76 days	Mon 9/12/22	Mon 12/26/22	\$257,500.00										
18		Construction Drawings	39 days	Tue 12/27/22	Fri 2/17/23	\$257,500.00										
19		Demo Permit	34 days	Mon 2/20/23	Thu 4/6/23	\$0.00										
20		Geotechnical Survey	30 days	Mon 9/26/22	Fri 11/4/22	\$8,000.00										
21		Topographical Survey	10 days	Mon 9/26/22	Fri 10/7/22	\$9,100.00										
22		Stormwater Plans	41 days	Wed 10/19/22	Mon 12/26/22	\$0.00										
23		Materials testing	15 days	Mon 11/7/22	Tue 11/29/22	\$0.00										
24		Traffic Study				\$0.00										
25		Traffic Circulation Plan	15 days	Mon 8/15/22	Fri 9/2/22	\$0.00										
26		Permits	34 days?	Mon 2/20/23	Thu 4/6/23	\$103,500.00										
27		Grading Permit	34 days	Mon 2/20/23	Thu 4/6/23	\$0.00										
28		Underground Utilities Permit	34 days	Mon 2/20/23	Thu 4/6/23	\$0.00										
29		MEP Permits	34 days	Mon 2/20/23	Thu 4/6/23	\$0.00										
30		Structural Building Plans/Permit	34 days	Mon 2/20/23	Thu 4/6/23	\$0.00										

Critical

Critical Split

Critical Progress

Task

Split

Task Progress

Manual Task

Start-only

Finish-only

Duration-only

Baseline

Baseline Split

Baseline Milestone

Milestone

Summary Progress

Summary

Manual Summary

Project Summary

External Tasks

External Milestone

Inactive Task

Inactive Milestone

Inactive Summary

Deadline

828 Studios Redevelopment Schedule.mpp																		
ID	Task Mode	Task Name	Duration	Start	Finish	Cost	May 1 5/1	June 6/26	September 9/21	October 10/2	January 11/25	May 1 4/2	September 9/7	January 11/12	May 1 4/28	September 9/18	January 11/12	May 1 4/30
31		Stormwater Retention Permit	34 days	Mon 2/20/23	Thu 4/6/23	\$0.00												
32		Landscaping Permit	34 days	Mon 2/20/23	Thu 4/6/23	\$0.00												
33		Fire Life Safety Permits	34 days	Mon 2/20/23	Thu 4/6/23	\$0.00												
34		Stage 1 Renovation Permit	34 days	Mon 2/20/23	Thu 4/6/23	\$0.00												
35		Stage 2 Renovation Permit	34 days	Mon 2/20/23	Thu 4/6/23	\$0.00												
36		Workshop Renovation Permit	34 days	Mon 2/20/23	Thu 4/6/23	\$0.00												
37		Creative Office Building Permit				\$0.00												
38		Guard Shack Permits	34 days	Mon 2/20/23	Thu 4/6/23	\$0.00												
39		Phase I Site Work	141 days	Mon 3/13/23	Mon 9/25/23	\$1,858,393.00												
40		Site Demo	45 days	Mon 3/13/23	Fri 5/12/23	\$390,403.00												
41		Tree removal	45 days	Mon 3/13/23	Fri 5/12/23	\$52,096.00												
42		Removal of volcanic rock to Phase 2	45 days	Mon 3/13/23	Fri 5/12/23	\$166,000.00												
43		Removal of tires	45 days	Mon 3/13/23	Fri 5/12/23	\$1,500.00												
44		Removal of trash and debris	45 days	Mon 3/13/23	Fri 5/12/23	\$18,226.00												
45		Removal of RV trailer	45 days	Mon 3/13/23	Fri 5/12/23	\$2,700.00												
		Critical		Task Progress		Baseline		Summary		Inactive Task								
		Critical Split		Manual Task		Baseline Split		Manual Summary		Inactive Milestone								
		Critical Progress		Start-only		Baseline Milestone		Project Summary		Inactive Summary								
		Task		Finish-only		Milestone		External Tasks		Deadline								
		Split		Duration-only		Summary Progress		External Milestone										
Page 3																		

828 Studios Redevelopment Schedule.mpp

ID	Task Mode	Task Name	Duration	Start	Finish	Cost	May 1 5/1	September 8/21	January 10/2/21	May 12/5/21	September 17/23	January 11/12/21	May 13/3/21	September 18/23	January 11/2/21	May 13/30/21
46		Waste Removal; Stage 1	45 days	Mon 3/13/23	Fri 5/12/23	\$8,650.00										
47		Waste Removal; Stage 2	45 days	Mon 3/13/23	Fri 5/12/23	\$37,100.00										
48		Waste Removal WS-A	45 days	Mon 3/13/23	Fri 5/12/23	\$30,000.00										
49		Clean and expose RR Tracks	45 days	Mon 3/13/23	Fri 5/12/23	\$22,601.00										
50		Demolition - above grade concrete	45 days	Mon 3/13/23	Fri 5/12/23	\$44,830.00										
51		Demo Bagging Equip WS-A	45 days	Mon 3/13/23	Fri 5/12/23	\$6,700.00										
52		Sitework	111 days	Mon 4/24/23	Mon 9/25/23	\$1,467,990.00										
53		Rough Grading	36 days	Mon 4/24/23	Mon 6/12/23	\$0.00										
54		Access road to Stage 1 and Work Shop	30 days	Tue 6/13/23	Mon 7/24/23	\$304,790.00										
55		Asphalt Parking - Lot 4	30 days	Tue 6/13/23	Mon 7/24/23	\$159,100.00										
56		Asphalt Parking - Lot 5	30 days	Tue 6/13/23	Mon 7/24/23	\$167,015.00										
57		Asphalt Parking Work Shop	33 days	Wed 7/12/23	Fri 8/25/23	\$96,144.00										
58		Asphalt Parking - Lot 6	30 days	Tue 6/13/23	Mon 7/24/23	\$172,715.00										
59		Asphalt Parking - Stage 1 Lot	31 days	Mon 8/14/23	Mon 9/25/23	\$83,328.00										
60		Asphalt Parking - POB Lots 2&3	30 days	Tue 6/13/23	Mon 7/24/23	\$119,900.00										

Critical

Critical Split

Critical Progress

Task

Split

Task Progress

Manual Task

Start-only

Finish-only

Duration-only

Baseline

Baseline Split

Baseline Milestone

Milestone

Summary Progress

Summary

Manual Summary

Project Summary

External Tasks

External Milestone

Inactive Task

Inactive Milestone

Inactive Summary

Deadline

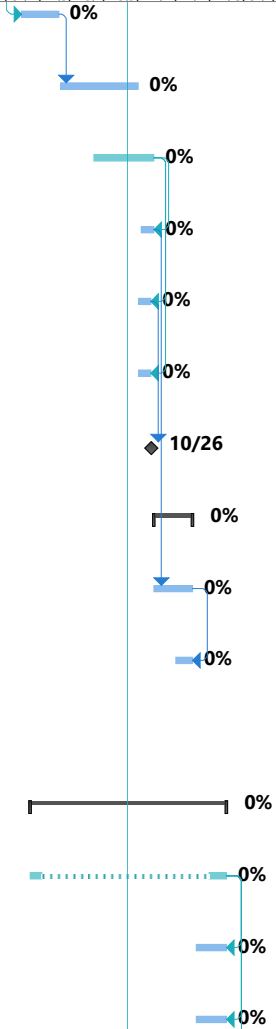
828 Studios Redevelopment Schedule.mpp

ID	Task Mode	Task Name	Duration	Start	Finish	Cost	May 1 5/1	September 8/21	October 10/2	January 11/2	May 1 5/28	September 9/17	January 11/12	May 1 5/3	September 8/23	January 11/10	May 1 5/12	September 8/2	January 11/30
61		Graveled area temp power plants	30 days	Tue 6/13/23	Mon 7/24/23	\$33,250.00						0%							
62		Cantina Slab	30 days	Tue 6/13/23	Mon 7/24/23	\$7,200.00						0%							
63		Underground Retention Ponds	30 days	Tue 6/13/23	Mon 7/24/23	\$75,000.00						0%							
64		Landscape Phase 1 (12,000 SF)	30 days	Tue 7/25/23	Mon 9/4/23	\$249,548.00						0%							
65		Misc Construction Costs	347 days	Mon 3/13/23	Tue 7/9/24	\$166,141.00							0%						
66		Contractor Fee	347 days	Mon 3/13/23	Tue 7/9/24	\$125,000.00							0%						
67		Temporary Facilities	347 days	Mon 3/13/23	Tue 7/9/24	\$2,100.00							0%						
68		Temporary Utilities	347 days	Mon 3/13/23	Tue 7/9/24	\$19,041.00							0%						
69		Builders Risk Insurance	347 days	Mon 3/13/23	Tue 7/9/24	\$20,000.00							0%						
70		Soundstages	505 days?	Mon 9/26/22	Wed 9/18/24	\$4,743,605.00							0%						
71		Stage 1	367 days?	Mon 9/26/22	Fri 3/8/24	\$4,323,605.00							0%						
72		Remove and replace 9,000 SF of existing floor	30 days	Mon 9/26/22	Wed 4/12/23	\$215,256.00						0%							
73		Replace Roof & Walls	156 days	Mon 3/27/23	Mon 10/30/23	\$2,303,249.00							0%						
74		Add sub-framing as required	10 days	Thu 3/30/23	Wed 4/12/23	\$0.00							0%						
75		Remove Sheeting	30 days	Mon 3/27/23	Fri 5/5/23	\$0.00							0%						

Critical		Task Progress		Baseline		Summary		Inactive Task	
Critical Split		Manual Task		Baseline Split		Manual Summary		Inactive Milestone	
Critical Progress		Start-only		Baseline Milestone		Project Summary		Inactive Summary	
Task		Finish-only		Milestone		External Tasks		Deadline	
Split		Duration-only		Summary Progress		External Milestone			

828 Studios Redevelopment Schedule.mpp

ID	Task Mode	Task Name	Duration	Start	Finish	Cost	May 1 5/1	September 6/26	January 10/1	May 1 11/2	September 7/23	January 11/11	May 1 12/1	September 3/3	January 4/28	May 1 6/23	September 8/18	January 11/12	May 1 2/2	September 3/30
76		Modify Steel Structure (panel prep)	45 days	Mon 3/27/23	Fri 5/26/23	\$0.00														
77		Install 4 Kingspan Insulated panels	92 days	Tue 5/30/23	Wed 10/4/23	\$0.00														
78		Install 6 interior SIP panels	71 days	Mon 7/24/23	Mon 10/30/23	\$0.00														
79		Install Duct liner on roof and wall interior	15 days	Tue 10/10/23	Mon 10/30/23	\$0.00														
80		1 ea - 18' W x 12' H barn door	14 days	Fri 10/6/23	Wed 10/25/23	\$0.00														
81		3ea - Hollow metal man doors	14 days	Fri 10/6/23	Wed 10/25/23	\$0.00														
82		Stage 1 COA	1 day	Thu 10/26/23	Thu 10/26/23	\$0.00														
83		Mechanical	46 days?	Tue 10/31/23	Tue 1/2/24	\$624,000.00														
84		HVAC - 150 TNS heating and cooling	46 days	Tue 10/31/23	Tue 1/2/24	\$624,000.00														
85		Exhaust Fans	20 days	Wed 12/6/23	Tue 1/2/24	\$0.00														
86		Gas Line (Heating)				\$0.00														
87		Electrical	232 days	Mon 4/10/23	Tue 2/27/24	\$615,100.00														
88		750 KVA Transformer 900 amp, 480V 3P	36 days	Mon 4/10/23	Tue 2/27/24	\$615,100.00														
89		Main Panel	36 days	Tue 1/9/24	Tue 2/27/24	\$0.00														
90		Bull Switches	36 days	Tue 1/9/24	Tue 2/27/24	\$0.00														



Critical		Task Progress		Baseline		Summary		Inactive Task	
Critical Split		Manual Task		Baseline Split		Manual Summary		Inactive Milestone	
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Task		Finish-only		Milestone		External Tasks		Deadline	
Split		Duration-only		Summary Progress		External Milestone			

828 Studios Redevelopment Schedule.mpp

ID	Task Mode	Task Name	Duration	Start	Finish	Cost	May 1 5/1	September 6/26	January 10/10	May 11/2	September 12/5	January 14/2	May 15/28	September 7/23	January 11/11	May 11/12	September 3/7	January 4/28	May 16/23	September 18/10	January 11/12	May 13/30
91		high bay lighting	36 days	Tue 1/9/24	Tue 2/27/24	\$0.00																
92		emergency lighting	36 days	Tue 1/9/24	Tue 2/27/24	\$0.00																
93		ingress/egress, exterior wall pack lighting	36 days	Tue 1/9/24	Tue 2/27/24	\$0.00																
94		general purpose 120V outlets through out	36 days	Tue 1/9/24	Tue 2/27/24	\$0.00																
95		Plumbing	45 days	Mon 1/8/24	Fri 3/8/24	\$566,000.00																
96		Install Waterline	45 days	Mon 1/8/24	Fri 3/8/24	\$20,000.00																
97		Fire Sprinkler system	45 days	Mon 1/8/24	Fri 3/8/24	\$546,000.00																
98		Stage 2	123 days?	Mon 4/1/24	Wed 9/18/24	\$420,000.00																
99		Stage 2 Renovation	95 days	Mon 4/1/24	Fri 8/9/24	\$420,000.00																
100		Remove Sheet Metal	19 days	Mon 4/1/24	Thu 4/25/24	\$0.00																
101		Install 4 Kingspan panels	38 days	Mon 4/29/24	Wed 6/19/24	\$0.00																
102		Install 6 SIP panels	38 days	Mon 6/10/24	Wed 7/31/24	\$0.00																
103		Install interior Duct liner	10 days	Thu 7/18/24	Wed 7/31/24	\$0.00																
104		1 ea - 16' W x 14' H Barn Door	14 days	Tue 7/23/24	Fri 8/9/24	\$0.00																
105		3ea - Hollow metal man doors	14 days	Tue 7/23/24	Fri 8/9/24	\$0.00																

Critical		Task Progress		Baseline		Summary		Inactive Task	
Critical Split		Manual Task		Baseline Split		Manual Summary		Inactive Milestone	
Critical Progress		Start-only		Baseline Milestone		Project Summary		Inactive Summary	
Task		Finish-only		Milestone		External Tasks		Deadline	
Split		Duration-only		Summary Progress		External Milestone			

828 Studios Redevelopment Schedule.mpp

ID	Task Mode	Task Name	Duration	Start	Finish	Cost	May 1 5/1	6/26	8/21	September 10/1	January 11/2	May 1 12/5	September 14/2	January 15/28	May 1 7/23	September 19/11	January 112/1	May 1 1/7	September 13/3	January 14/28	May 1 6/23	September 18/10	January 112/8	May 1 2/2	September 13/30
106		Stage 2 COA	1 day	Mon 8/12/24	Mon 8/12/24	\$0.00																	8/12		
107		Mechanical	23 days	Mon 7/29/24	Wed 8/28/24	\$0.00																	0%		
108		HVAC - 20 TNS	23 days	Mon 7/29/24	Wed 8/28/24	\$0.00																	0%		
109		Exhaust fans	22 days	Tue 7/30/24	Wed 8/28/24	\$0.00																	0%		
110		Electrical	23 days?	Mon 8/19/24	Wed 9/18/24	\$0.00																	0%		
111		250 KVA Transformer	23 days	Mon 8/19/24	Wed 9/18/24	\$0.00																	0%		
112		Interior Main				\$0.00																			
113		Bull Switches				\$0.00																			
114		warehouse lighting				\$0.00																			
115		emergency lighting ingress/ egress				\$0.00																			
116		exterior wall pack lighting				\$0.00																			
117		convenient outlets, 220V outlets				\$0.00																			
118		Plumbing	13 days?	Mon 7/22/24	Wed 8/7/24	\$0.00																	0%		
119		Interior Water Lines/Sink	13 days	Mon 7/22/24	Wed 8/7/24	\$0.00																	0%		
120		Fire Sprinkler System				\$0.00																			

Critical		Task Progress		Baseline		Summary		Inactive Task	
Critical Split		Manual Task		Baseline Split		Manual Summary		Inactive Milestone	
Critical Progress		Start-only		Baseline Milestone		Project Summary		Inactive Summary	
Task		Finish-only		Milestone		External Tasks		Deadline	
Split		Duration-only		Summary Progress		External Milestone			

828 Studios Redevelopment Schedule.mpp																	
ID	Task Mode	Task Name	Duration	Start	Finish	Cost	May 1 5/1	6/26/8/21	September 10/10	January 11/2/11	May 12/5/4/2	September 17/23/9/17	January 11/12/1/7	May 14/28/6/23	September 18/10/13	January 11/12/8/2/2	3/30/5
121		Workshop A	277 days?	Mon 6/19/23	Tue 7/9/24	\$1,846,000.00											0%
122		2ea - Concrete Loading docks	67 days	Mon 6/19/23	Tue 9/19/23	\$208,000.00											0%
123		concrete approach ramps	67 days	Mon 6/19/23	Tue 9/19/23	\$208,000.00											0%
124		hand railing	10 days	Wed 9/6/23	Tue 9/19/23	\$0.00											0%
125		dock levelers	10 days	Wed 9/6/23	Tue 9/19/23	\$0.00											0%
126		Workshop A Renovation	93 days?	Mon 11/20/23	Wed 3/27/24	\$1,638,000.00											0%
127		Remove existing roof and wall sheeting	25 days	Mon 11/20/23	Fri 12/22/23	\$0.00											0%
128		Modify Steel Structure (panel prep)	38 days	Mon 12/11/23	Wed 1/31/24	\$0.00											0%
129		Install PBR 26 ga roof sheets	33 days	Mon 2/5/24	Wed 3/20/24	\$0.00											0%
130		Install/replace sub-framing				\$0.00											0%
131		Install exterior OSB/SIP panels	38 days	Mon 2/5/24	Wed 3/27/24	\$0.00											0%
132		Install interior metal wall panels				\$0.00											
133		install under roof insulation				\$0.00											
134		Remove wood frame breezeway				\$0.00											
135		Add metal frame breezeway				\$0.00											
		Critical		Task Progress		Baseline		Summary		Inactive Task							
		Critical Split		Manual Task		Baseline Split		Manual Summary		Inactive Milestone							
		Critical Progress		Start-only		Baseline Milestone		Project Summary		Inactive Summary							
		Task		Finish-only		Milestone		External Tasks		Deadline							
		Split		Duration-only		Summary Progress		External Milestone									
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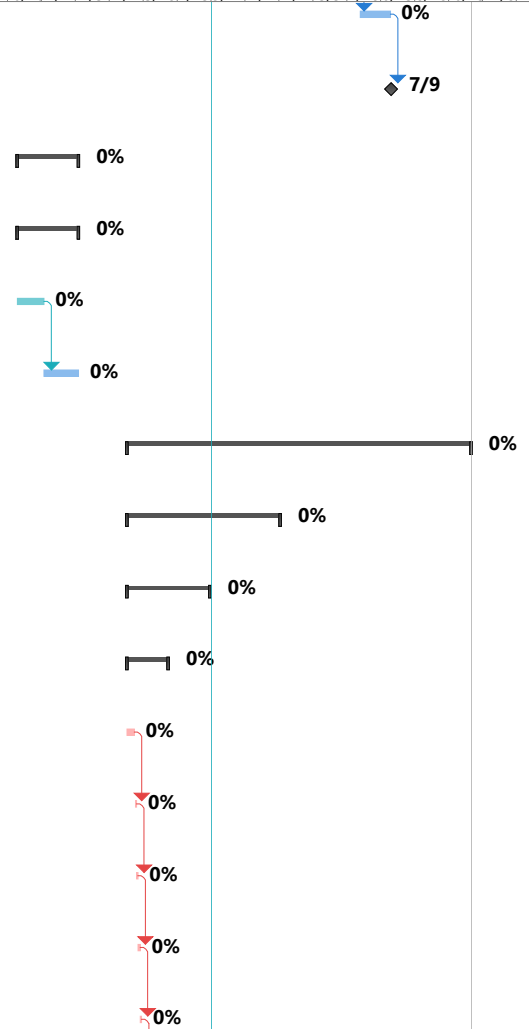
828 Studios Redevelopment Schedule.mpp

ID	Task Mode	Task Name	Duration	Start	Finish	Cost	May 1 5/1	September 6/26	January 10/10	May 1 11/2/5	September 10/28	January 11/11	May 1 1/7	September 4/28	January 11/10	May 1 2/2	September 12/8	January 13/30
136	★?	3ea demising walls in the building				\$0.00												
137	★?	10 ea Exterior man doors				\$0.00												
138	★?	6 ea 12' x 10' Overhead doors				\$0.00												
139	→	Mechanical	36 days?	Mon 3/25/24	Mon 5/13/24	\$0.00											0%	
140	→	HVAC - 75 TNS	36 days	Mon 3/25/24	Mon 5/13/24	\$0.00											0%	
141	★?	Gas (Heating)				\$0.00												
142	→	Electrical	36 days?	Mon 3/25/24	Mon 5/13/24	\$0.00											0%	
143	→	Transformer (TBD)	36 days	Mon 3/25/24	Mon 5/13/24	\$0.00											0%	
144	★?	Interior Electrical Panels				\$0.00												
145	★?	220V convenience power				\$0.00												
146	★?	Warehouse lighting				\$0.00												
147	★?	Emergency lighting ingress/egress				\$0.00												
148	★?	Exterior lighting				\$0.00												
149	→	Plumbing	136 days	Mon 1/1/24	Mon 7/8/24	\$0.00											0%	
150	★	Restrooms	25 days	Mon 1/1/24	Fri 2/2/24	\$0.00											0%	

Critical	Task Progress	Baseline	Summary	Inactive Task
Critical Split	Manual Task	Baseline Split	Manual Summary	Inactive Milestone
Critical Progress	Start-only	Baseline Milestone	Project Summary	Inactive Summary
Task	Finish-only	Milestone	External Tasks	Deadline
Split	Duration-only	Summary Progress	External Milestone	

828 Studios Redevelopment Schedule.mpp

ID	Task Mode	Task Name	Duration	Start	Finish	Cost	May 1 5/1	September 8 9/8	January 10 1/10	May 12 5/12	September 14 9/14	January 16 1/16	May 18 5/18	September 20 9/20	January 22 1/22	May 24 5/24	September 26 9/26	January 28 1/28	May 30 5/30
151		Fire sprinkler system	36 days	Mon 5/20/24	Mon 7/8/24	\$0.00													
152		Workshop A COA	1 day	Tue 7/9/24	Tue 7/9/24	\$0.00													
153		Production Office Buildings	60 days	Tue 11/1/22	Thu 2/9/23	\$91,750.00													
154		POB 1	60 days	Tue 11/1/22	Thu 2/9/23	\$91,750.00													
155		Exterior T.I. (TBD)	30 days	Tue 11/1/22	Wed 12/14/22	\$45,875.00													
156		Interior T.I. (TBD)	30 days	Thu 12/15/22	Thu 2/9/23	\$45,875.00													
157		NEW CONSTRUCTION	406 days	Mon 5/1/23	Mon 11/18/24	\$15,985,000.00													
158		New Stages 3 & 4	181 days	Mon 5/1/23	Mon 1/8/24	\$14,000,000.00													
159		Stage Structural Assembly	99 days	Mon 5/1/23	Thu 9/14/23	\$7,000,000.00													
160		Stage 3 Structural Assembly	50 days	Mon 5/1/23	Fri 7/7/23	\$3,500,000.00													
161		Base Plates	10 days	Mon 5/1/23	Fri 5/12/23	\$0.00													
162		Prep Modules 1-3	2 days	Mon 5/15/23	Tue 5/16/23	\$0.00													
163		Assembly Module 1	2 days	Wed 5/17/23	Thu 5/18/23	\$0.00													
164		Assembly Module 2	2 days	Fri 5/19/23	Mon 5/22/23	\$0.00													
165		Assembly Module 3	2 days	Tue 5/23/23	Wed 5/24/23	\$0.00													



Critical		Task Progress		Baseline		Summary		Inactive Task	
Critical Split		Manual Task		Baseline Split		Manual Summary		Inactive Milestone	
Critical Progress		Start-only		Baseline Milestone		Project Summary		Inactive Summary	
Task		Finish-only		Milestone		External Tasks		Deadline	
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828 Studios Redevelopment Schedule.mpp

ID	Task Mode	Task Name	Duration	Start	Finish	Cost	May 1 5/1	September 8/21	January 10/2	May 1 5/28	September 9/11	January 11/12	May 1 3/3	September 6/23	January 10/13	May 1 3/30
166		Prep Modules 4-5	2 days	Thu 5/25/23	Fri 5/26/23	\$0.00										
167		Assembly Module 4	2 days	Mon 5/29/23	Tue 5/30/23	\$0.00										
168		Assembly Module 5	2 days	Wed 5/31/23	Thu 6/1/23	\$0.00										
169		Assembly Single Frame	3 days	Fri 6/2/23	Tue 6/6/23	\$0.00										
170		Pulling Roof Module 1-5	1 day	Wed 6/7/23	Wed 6/7/23	\$0.00										
171		Stage 3 Module Lift	1 day	Thu 6/8/23	Thu 6/8/23	\$0.00										
172		Purlins, Cables, Braces	3 days	Fri 6/9/23	Tue 6/13/23	\$0.00										
173		Roof & Insulation & Tension Bars	5 days	Wed 6/14/23	Tue 6/20/23	\$0.00										
174		Gable End	3 days	Wed 6/21/23	Fri 6/23/23	\$0.00										
175		Gable Leg Sections	2 days	Mon 6/26/23	Tue 6/27/23	\$0.00										
176		Wall Panel Installation	8 days	Wed 6/28/23	Fri 7/7/23	\$0.00										
177		Corners & Gutters	3 days	Wed 6/28/23	Fri 6/30/23	\$0.00										
178		Weather Sealing	2 days	Mon 7/3/23	Tue 7/4/23	\$0.00										
179		Stage 4 Structural Assembly	49 days	Mon 7/10/23	Thu 9/14/23	\$3,500,000.00										
180		Base Plates	10 days	Mon 7/10/23	Fri 7/21/23	\$0.00										

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828 Studios Redevelopment Schedule.mpp																					
ID	Task Mode	Task Name	Duration	Start	Finish	Cost	May 1 5/1	6/26	8/21	September 10/2	January 11/2	May 14/2	September 17/23	January 11/12	May 13/3	September 4/28	January 18/10	May 11/12	September 13/30		
181		Prep modules 1-3	2 days	Mon 7/24/23	Tue 7/25/23	\$0.00															
182		Assembly Module 1	2 days	Wed 7/26/23	Thu 7/27/23	\$0.00															
183		Assembly Module 2	2 days	Fri 7/28/23	Mon 7/31/23	\$0.00															
184		Assembly Module 3	2 days	Tue 8/1/23	Wed 8/2/23	\$0.00															
185		Prep Modules 4-5	2 days	Thu 8/3/23	Fri 8/4/23	\$0.00															
186		Assembly Module 4	2 days	Mon 8/7/23	Tue 8/8/23	\$0.00															
187		Assembly module 5	2 days	Wed 8/9/23	Thu 8/10/23	\$0.00															
188		Pulling Roof Module 1-5	2 days	Fri 8/11/23	Mon 8/14/23	\$0.00															
189		Stage 4 Module Lift	2 days	Tue 8/15/23	Wed 8/16/23	\$0.00															
190		Purlins, Cables, Braces	3 days	Thu 8/17/23	Mon 8/21/23	\$0.00															
191		Roof Insulation & Tension Bars	5 days	Tue 8/22/23	Mon 8/28/23	\$0.00															
192		Gable Leg Sections	2 days	Tue 8/29/23	Wed 8/30/23	\$0.00															
193		Gable End	3 days	Thu 8/31/23	Mon 9/4/23	\$0.00															
194		Wall Panel Installation	8 days	Tue 9/5/23	Thu 9/14/23	\$0.00															
195		Corners & Gutters	3 days	Tue 9/5/23	Thu 9/7/23	\$0.00															
		Critical		Task Progress		Baseline		Summary		Inactive Task											
		Critical Split		Manual Task		Baseline Split		Manual Summary		Inactive Milestone											
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828 Studios Redevelopment Schedule.mpp

ID	Task Mode	Task Name	Duration	Start	Finish	Cost	May 1 5/1	September 6/26	January 10/21	May 1 11/2	September 10/23	January 11/1	May 1 1/7	September 4/28	January 10/18	May 1 12/8	September 10/2	January 13/30
196		Weather Sealing	2 days	Fri 9/8/23	Mon 9/11/23	\$0.00												
197		Stage Interior	52 days	Fri 9/15/23	Mon 11/27/23	\$3,500,000.00												
198		Stage 3 Interior	42 days	Fri 9/15/23	Mon 11/13/23	\$1,750,000.00												
199		Stage 3 Flooring	10 days	Fri 9/15/23	Thu 9/28/23	\$0.00												
200		Stage 3 Plywood	8 days	Fri 9/29/23	Tue 10/10/23	\$0.00												
201		Acoustic Wall Liner	10 days	Wed 10/11/23	Tue 10/24/23	\$0.00												
202		Staircases & Emergency Exit Ladders	3 days	Wed 10/25/23	Fri 10/27/23	\$0.00												
203		Rat Holes	2 days	Mon 10/30/23	Tue 10/31/23	\$0.00												
204		Elephant Door	3 days	Wed 11/1/23	Fri 11/3/23	\$0.00												
205		Airlock Vestibules	5 days	Mon 11/6/23	Fri 11/10/23	\$0.00												
206		Personnel Doors (Exterior)	3 days	Mon 11/6/23	Wed 11/8/23	\$0.00												
207		Cable Port Guillotines	2 days	Thu 11/9/23	Fri 11/10/23	\$0.00												
208		Elephant Door Balustrades	2 days	Mon 11/6/23	Tue 11/7/23	\$0.00												
209		Handrails	2 days	Mon 11/6/23	Tue 11/7/23	\$0.00												
210		Stage 3 Floor Painting	4 days	Wed 11/8/23	Mon 11/13/23	\$0.00												

Critical		Task Progress		Baseline		Summary		Inactive Task	
Critical Split		Manual Task		Baseline Split		Manual Summary		Inactive Milestone	
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Task		Finish-only		Milestone		External Tasks		Deadline	
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828 Studios Redevelopment Schedule.mpp

ID	Task Mode	Task Name	Duration	Start	Finish	Cost	May 1 5/1	September 8/21	September 10/1	January 11/2	May 1 12/5	September 7/23	September 11/1	January 11/12	May 1 1/7	September 4/28	September 6/23	January 18/10	January 11/12	May 1 2/2	September 3/30
211		Stage 4 Interior	42 days	Fri 9/29/23	Mon 11/27/23	\$1,750,000.00															
212		Stage 4 Flooring	10 days	Fri 9/29/23	Thu 10/12/23	\$0.00															
213		Stage 4 Plywood	3 days	Fri 10/13/23	Tue 10/17/23	\$0.00															
214		Acoustic Wall Liner	2 days	Wed 10/18/23	Thu 10/19/23	\$0.00															
215		Staircases & Emergency Exit Ladders	3 days	Fri 10/20/23	Tue 10/24/23	\$0.00															
216		Rat Holes	5 days	Wed 10/25/23	Tue 10/31/23	\$0.00															
217		Elephant Door	3 days	Wed 11/1/23	Fri 11/3/23	\$0.00															
218		Airlock Vestibules	2 days	Mon 11/6/23	Tue 11/7/23	\$0.00															
219		Personnel Doors (Exterior)	2 days	Wed 11/8/23	Thu 11/9/23	\$0.00															
220		Cable Port Guillotines	2 days	Fri 11/10/23	Mon 11/13/23	\$0.00															
221		Elephant Door Balustrades	4 days	Tue 11/14/23	Fri 11/17/23	\$0.00															
222		Handrails	2 days	Mon 11/20/23	Tue 11/21/23	\$0.00															
223		Stage 4 Floor Painting	4 days	Wed 11/22/23	Mon 11/27/23	\$0.00															
224		Stage Fit Out	54 days	Wed 10/25/23	Mon 1/8/24	\$3,500,000.00															
225		Stage 3 Fit Out	47 days	Wed 10/25/23	Thu 12/28/23	\$1,750,000.00															

Critical

Critical Split

Critical Progress

Task

Split

Task Progress

Manual Task

Start-only

Finish-only

Duration-only

Baseline

Baseline Split

Baseline Milestone

Milestone

Summary Progress

Summary

Manual Summary

Project Summary

External Tasks

External Milestone

Inactive Task

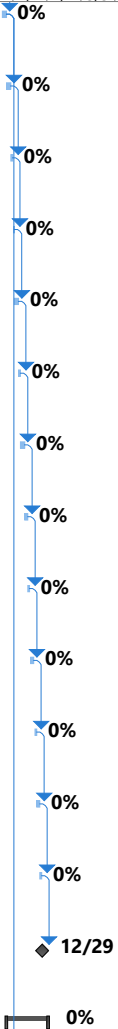
Inactive Milestone

Inactive Summary

Deadline

828 Studios Redevelopment Schedule.mpp

ID	Task Mode	Task Name	Duration	Start	Finish	Cost	May 1 5/1	September 8/21	January 10/2	May 11/2	September 17/11	January 11/12	May 11/7	September 18/11	January 11/12	May 11/3	September 18/11	January 11/12	May 11/3
226		House Lighting	5 days	Wed 10/25/23	Tue 10/31/23	\$0.00													
227		Bull Switches	5 days	Wed 11/1/23	Tue 11/7/23	\$0.00													
228		Heating Control	3 days	Wed 11/8/23	Fri 11/10/23	\$0.00													
229		Signage	1 day	Mon 11/13/23	Mon 11/13/23	\$0.00													
230		Electrical Infrastructure	5 days	Tue 11/14/23	Mon 11/20/23	\$0.00													
231		MV Cable Trench/Duct Installation	3 days	Tue 11/21/23	Thu 11/23/23	\$0.00													
232		Transformer Pad	5 days	Fri 11/24/23	Thu 11/30/23	\$0.00													
233		Transformer Installation	3 days	Fri 12/1/23	Tue 12/5/23	\$0.00													
234		MV Electrical Connection/Installation	3 days	Wed 12/6/23	Fri 12/8/23	\$0.00													
235		HVAC Installation	5 days	Mon 12/11/23	Fri 12/15/23	\$0.00													
236		Fire Detection System	3 days	Mon 12/18/23	Wed 12/20/23	\$0.00													
237		Red Light & Bell	3 days	Thu 12/21/23	Mon 12/25/23	\$0.00													
238		Mesh Installation	3 days	Tue 12/26/23	Thu 12/28/23	\$0.00													
239		Stage 3 COA	1 day	Fri 12/29/23	Fri 12/29/23	\$0.00													
240		Stage 4 Fit Out	49 days	Wed 11/1/23	Mon 1/8/24	\$1,750,000.00													



Critical

Critical Split

Critical Progress

Task

Split

Task Progress

Manual Task

Start-only

Finish-only

Duration-only

Baseline

Baseline Split

Baseline Milestone

Milestone

Summary Progress

Summary

Manual Summary

Project Summary

External Tasks

External Milestone

Inactive Task

Inactive Milestone

Inactive Summary

Deadline

828 Studios Redevelopment Schedule.mpp																				
ID	Task Mode	Task Name	Duration	Start	Finish	Cost	May 1 5/1	6/26	September 8/21	October 10/2	January 11/2/5	May 14/2	September 7/23	October 17/1	January 11/7	May 13/3	September 6/23	October 8/18	January 11/2	May 13/30
241		House Lighting	5 days	Wed 11/1/23	Tue 11/7/23	\$0.00									0%					
242		Bull Switches	5 days	Wed 11/8/23	Tue 11/14/23	\$0.00									0%					
243		Heating Control	3 days	Wed 11/15/23	Fri 11/17/23	\$0.00									0%					
244		Signage	1 day	Mon 11/20/23	Mon 11/20/23	\$0.00									0%					
245		Electrical Infrastructure	5 days	Tue 11/21/23	Mon 11/27/23	\$0.00									0%					
246		MV Cable Trench/Duct Installation	3 days	Tue 11/28/23	Thu 11/30/23	\$0.00									0%					
247		Transformer Pad	5 days	Fri 12/1/23	Thu 12/7/23	\$0.00									0%					
248		Transformer Installation	3 days	Fri 12/8/23	Tue 12/12/23	\$0.00									0%					
249		MV Electrical Connection/Installation	3 days	Wed 12/13/23	Fri 12/15/23	\$0.00									0%					
250		HVAC Installation	5 days	Mon 12/18/23	Fri 12/22/23	\$0.00									0%					
251		Fire Detection System	3 days	Mon 12/25/23	Wed 12/27/23	\$0.00									0%					
252		Red Light & Bell	3 days	Thu 12/28/23	Mon 1/1/24	\$0.00									0%					
253		Mesh Installation	3 days	Tue 1/2/24	Thu 1/4/24	\$0.00									0%					
254		Mesh Installation	1 day	Fri 1/5/24	Fri 1/5/24	\$0.00									0%					
255		Stage 4 COA	1 day	Mon 1/8/24	Mon 1/8/24	\$0.00									1/8					
		Critical		Task Progress		Baseline		Summary		Inactive Task										
		Critical Split		Manual Task		Baseline Split		Manual Summary		Inactive Milestone										
		Critical Progress		Start-only		Baseline Milestone		Project Summary		Inactive Summary										
		Task		Finish-only		Milestone		External Tasks		Deadline										
		Split		Duration-only		Summary Progress		External Milestone												
Page 17																				

828 Studios Redevelopment Schedule.mpp																								
ID	Task Mode	Task Name	Duration	Start	Finish	Cost	May 1 5/1	6/26	8/21	September 10/2	January 11/25	May 1 4/25	28/7	September 9/23	January 11/12	May 1 3/3	4/28	September 6/23	January 11/10	May 1 8/10	September 12/8	January 13/2	May 1 3/30	
256		New Production Office Buildings 2 & 3	265 days	Tue 9/12/23	Mon 9/16/24	\$1,280,000.00																		
257		POB 2	210 days	Tue 9/12/23	Mon 7/1/24	\$640,000.00																		
258		Floorplans (TBD)	30 days	Tue 9/12/23	Mon 10/23/23	\$0.00																		
259		MEP (TBD)	90 days	Tue 10/24/23	Mon 2/26/24	\$0.00																		
260		Construction (TBD)	90 days	Tue 2/27/24	Mon 7/1/24	\$0.00																		
261		IT / Telco	20 days	Tue 6/4/24	Mon 7/1/24	\$0.00																		
262		POB 3	235 days	Tue 10/24/23	Mon 9/16/24	\$640,000.00																		
263		Floorplans (TBD)	30 days	Tue 10/24/23	Mon 12/4/23	\$0.00																		
264		MEP (TBD)	90 days	Tue 1/9/24	Mon 5/13/24	\$0.00																		
265		Construction (TBD)	90 days	Tue 5/14/24	Mon 9/16/24	\$0.00																		
266		IT / Telco	20 days	Tue 8/20/24	Mon 9/16/24	\$0.00																		
267		New Creative Office Building	250 days	Tue 12/5/23	Mon 11/18/24	\$640,000.00																		
268		Floorplans (TBD)	30 days	Tue 12/5/23	Mon 1/15/24	\$0.00																		
269		MEP (TBD)	90 days	Tue 1/30/24	Mon 6/3/24	\$0.00																		
270		Construction (TBD)	120 days	Tue 6/4/24	Mon 11/18/24	\$0.00																		
		Critical		Task Progress		Baseline		Summary		Inactive Task														
		Critical Split		Manual Task		Baseline Split		Manual Summary		Inactive Milestone														
		Critical Progress		Start-only		Baseline Milestone		Project Summary		Inactive Summary														
		Task		Finish-only		Milestone		External Tasks		Deadline														
		Split		Duration-only		Summary Progress		External Milestone																
Page 18																								

828 Studios Redevelopment Schedule.mpp

ID	Task Mode	Task Name	Duration	Start	Finish	Cost	May 1 5/1	September 8/21	January 10/2	May 12/5	September 17/23	January 11/12	May 11/7	September 18/23	January 13/28	May 13/30
271		IT / Telco	20 days	Tue 10/22/24	Mon 11/18/24	\$0.00										0%
272		Guard Shacks	20 days	Tue 9/5/23	Mon 10/2/23	\$65,000.00										0%
273		Floorplans	5 days	Tue 9/5/23	Mon 9/11/23	\$0.00										0%
274		MEP	10 days	Tue 9/12/23	Mon 9/25/23	\$0.00										0%
275		Construction	5 days	Tue 9/26/23	Mon 10/2/23	\$65,000.00										0%

Critical		Task Progress		Baseline		Summary		Inactive Task	
Critical Split		Manual Task		Baseline Split		Manual Summary		Inactive Milestone	
Critical Progress		Start-only		Baseline Milestone		Project Summary		Inactive Summary	
Task		Finish-only		Milestone		External Tasks		Deadline	
Split		Duration-only		Summary Progress		External Milestone			

16 Conceptual Site Plans

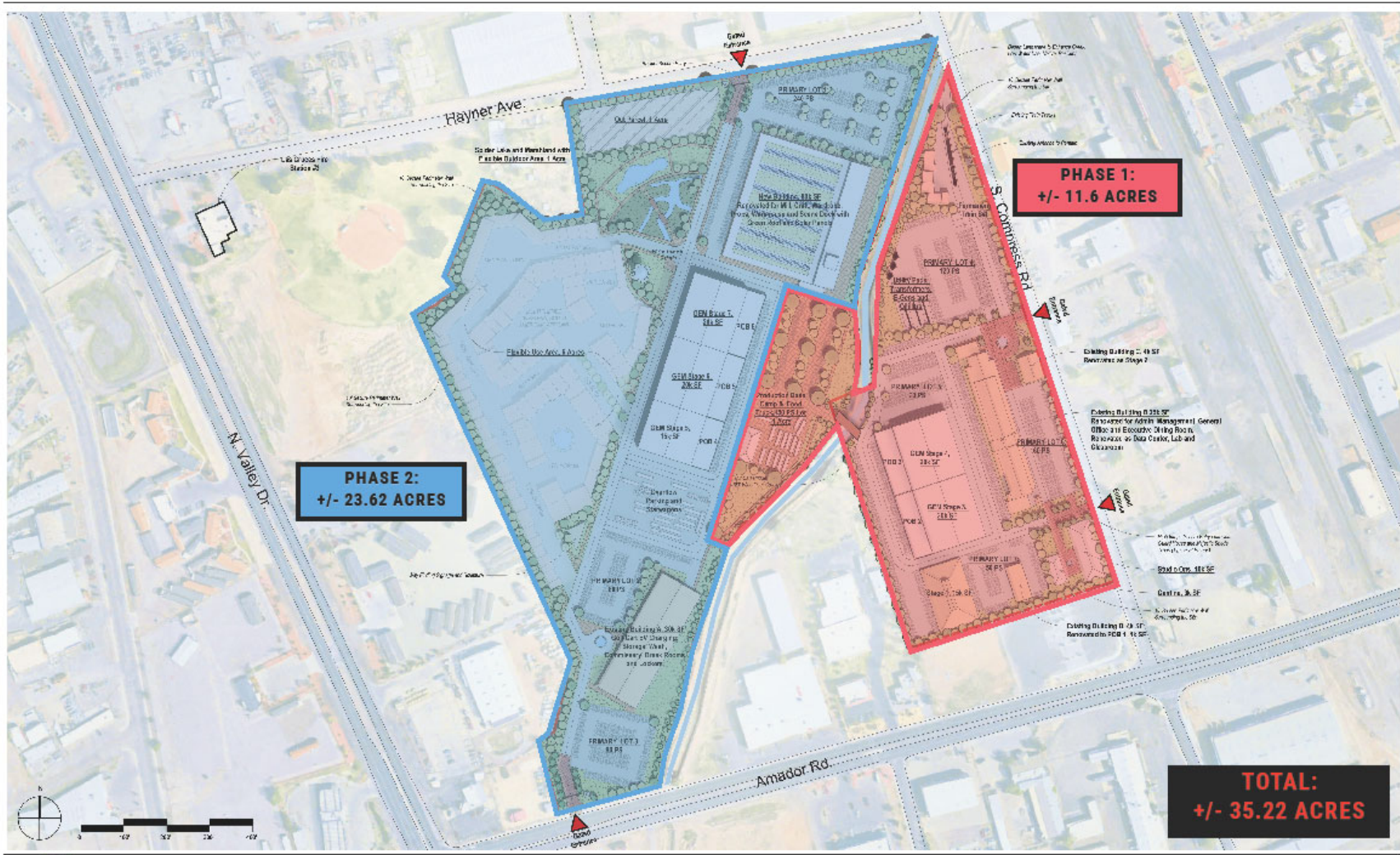
CONCEPTUAL SITE PLAN



CONCEPTUAL PERSPECTIVE



PHASING PLAN



- 18 Construction Drawings**
Placeholder pending architect agreement & scope.
Confirmation needed from GC re: 70 days ending 1/27/23 (Currently showing 70 days from 9/26/22 at a 5 day work week with two days off for Thanksgiving and two weeks off for Christmas/New Years)
- 19 Demo Permit**
Confirm if demo permit can be obtained prior to completion of DD's.

25 Traffic Circulation Plan

CIRCULATION PLAN



26 Permits

Permit cost based on Highland Enterprises summarized estimate and not yet broken out by category.

27 Grading Permit

All permits, starting with grading, reflected in a 30 day window after completion of CD's

- 82 Stage 1 COA**
Stage 1 Certificate Of Occupancy placeholder pending confirmation.
- 88 750 KVA Transformer 900 amp, 480V 3P**
Interior power distribution schedule currently reflected in Task #82 and not yet broken out individually.
- 106 Stage 2 COA**
Stage 2 Certificate Of Occupancy placeholder pending confirmation
- 107 Mechanical**
Stage 2 Mechanical assumed in Highland Stage 2 Renovation estimate located in Task #99 "Replace Roof & Walls".
- 110 Electrical**
Stage 2 Electrical assumed in Highland Stage 2 Renovation estimate located in Task #99 "Replace Roof & Walls".
- 111 250 KVA Transformer**
Interior electrical installation currently reflected in Task #100; not broken out by task numbers.
- 118 Plumbing**
Stage 2 Plumbing assumed in Highland Stage 2 Renovation estimate located in Task #99 "Replace Roof & Walls".
- 120 Fire Sprinkler System**
Stage 2 Fire Sprinkler System installation requirements TBD
- 126 Workshop A Renovation**
WS-A Renovation cost includes subcategories (Task #122-#133)
- 139 Mechanical**
Workshop A Mechanical assumed in Highland Workshop Renovation estimate located in Task #121 "Workshop A Renovation"
- 142 Electrical**
Workshop A Electrical assumed in Highland Workshop Renovation estimate located in Task #121 "Workshop A Renovation"
- 143 Transformer (TBD)**
Workshop interior electrical installation currently reflected in Task#131 and not broken out by task.
- 149 Plumbing**
Workshop A Plumbing assumed in Highland Workshop Renovation estimate located in Task #121 "Workshop A Renovation"
- 152 Workshop A COA**
Workshop A COA placeholder pending confirmation
- 153 Production Office Buildings**
POB 1 T.I.'s TBD
- 157 NEW CONSTRUCTION**
All new construction tasks TBD pending design.
- 257 POB 2**
POB cost and schedule placeholder pending design
- 262 POB 3**
POB 3 cost and schedule placeholder pending design
- 272 Guard Shacks**
Guard Shack schedule TBD



HIGHLAND ENTERPRISES, INC.

General Contractors • Lic. No. 4460
Labor Registration No. 0036820050601
P.O. BOX 2409 Las Cruces, NM 88004
Phone (575) 524-3551 Fax (575) 526-0835
Email – hei@highlandnm.com

MARK HETTINGA , PRESIDENT

Budgetary Estimate No. One Date September 8, 2022
Project 828 Studios Renovations Location 111 S. Compress Rd Las Cruces, NM 88005
To: 828 Studios

Budgetary Estimate

This is a budgetary estimate and is preliminary in nature. This estimate represents our best estimation of the project based on our interpretation the Customer's ideas, comments and available information. This is not a firm fixed price. A firm fixed price may be offered upon a fully developed set of plans that has been approved by the City of Las Cruces.

Scope of Work

This Scope of Work is limited to Phase 1 which pertains to the following:

- Removal of Trash and debris from 8 acre portion of site
- Removal of large piles of volcanic rock. Rock is to be placed on adjacent lot
- Removal of existing concrete structures
- Construction of Parking Lots and roadways as described
- Renovation of large and tall building to become Stage 1
- Renovation of long building to become Work Shop
- Renovation of metal building to become Stage 2
- Renovation of existing Administration building to become POB 1

Plan Development Requirements

- Architectural and Engineering fees for:
Demolition plans
Site Plan Floor Plans
Elevation Views
Structural Foundation plans
Structural Building Plans
Plumbing plans
HVAC plans
Electrical plans
Fire Protection plans
- Contractor Design/Build Fee
- Topographical Survey
- Geo Technical Study
- Storm Water Pollution Prevention Plan

General Requirements

- Bond (add 2% to estimate total if required)
- Building Permit fees
- Builder's Risk Insurance
- Temporary Facilities
- Temporary Utilities

Demolition / Site Clean Up

- Tree removal
- Removal of Existing stock piles of volcanic rock to Phase 2
- Removal of tires

Agenda Item #9.1.

- Removal of trash and debris
- Removal of RV trailer
- Removal of building contents Stage 1
- Removal of building contents Stage 2
- Removal of building contents Work Shop
- Clean and expose RR Tracks
- Demolition - Existing above grade concrete structures
- Demo Bagging equipment at Work Shop

Site Work

- Materials testing
- Access road to Stage 1 and Work Shop
- Construction of remaining site roadways (Phase 2)
- Asphalt Parking - Lot 4
- Asphalt Parking - Lot 5
- Asphalt Parking Work Shop
- Asphalt Parking - Lot 6
- Asphalt Parking - Stage 1 Lot
- Asphalt Parking - POB Lots 2&3
- Graveled area for Chiller, Satellite Dishes, Generators
- Cantina Slab
- Landscape Phase 1 (12,000 SF)
- Landscape Phase 2 (35,990 SF)
- Phase 1 - Underground Retention Ponds
- Phase 2 - Underground Retention Ponds

Renovation of Sound Stage 1

- Remove and replace 9,000 SF of existing floor
- Remove existing sheeting on roof and walls
- Add sub-framing as required to receive new exterior and interior panel products
- Replace exterior sheeting with 4" Kingspan Insulated panels
- Install 6" SIP panels, roof and walls, on interior of building
- Install Duct liner on roof and walls on interior of the building
- 1 ea - 18' wide by 12' tall, bi-parting, insulated door
- 3ea - Hollow metal man doors
- Plumbing - gas piping
- HVAC - 150 TNS heating and cooling, ventilation fans, gas
- Electrical - 750 KVA, 900 amp, 480V 3 phase service, distribution transformers and panel boards at 6 places around the building, high bay lighting, emergency lighting, ingress/egress, exterior wall pack lighting, general purpose 120V outlets through out
- Fire Sprinkler system

Renovate Work Shop - 350' x 72' x 12' Metal Building

- Remove existing roof and wall sheeting
- Install PBR 26 ga roof sheets
- Install/replace/repair sub-framing as required
- Install OSB/SIP panels at exterior walls
- Install metal wall panels on interior side of SIP panels
- Insulate roof with vinyl backed fiberglass insulation
- Remove existing wood framing structure (Breeze Way) and replace with metal building framing
- 3ea demising walls in the building
- 10 ea Exterior man doors
- 6 ea 12' x 10' Overhead doors
- 2ea - Construct Loading docks with concrete approach ramps, hand railing, dock levelers

Agenda Item #9.1.

- HVAC - 75 TNS
- Plumbing - Restrooms, gas
- Electrical - Distribution transformers and panel boards, warehouse lighting, emergency lighting ingress/egress, exterior wall pack lighting, convenient outlets, 220V outlets
- Fire Sprinkler system

Renovate Stage 2 - 3,750 SF

- Remove existing roof and wall sheeting
- Replace exterior sheeting with 4" Kingspan Insulated panels
- Install 6" SIP panels, roof and walls, on interior of building
- Install Duct liner on roof and walls on interior of the building
- 1 ea - 16' wide by 14' tall, bi-parting, insulated door
- 3ea - Hollow metal man doors
- HVAC - 20 TNS, ventilation fans
- Electrical - Distribution transformers and panel boards, warehouse lighting, emergency lighting ingress/egress, exterior wall pack lighting, convenient outlets, 220V outlets

Misc. Buildings

- Studio Ops Building (Generic SF Price \$160.00/SF)
- Renovate POB 1 - make repairs and minor modifications (Generic SF Price \$25.00/SF)
- Stages 3&4 POB 2 & 3 - ???
- 2 ea Pre-manufactured Guard House
- Proposed buildings at north end of RR tracks ???

Estimated Cost - Please Refer to Breakdown Sheet Attached

Exclusions / Assumptions:

- Assumes existing building foundations and slabs are suitable for intended purposes
- Assumes existing metal building frames, joist, rafters are structurally sufficient for intended use
- Excludes Development and Impact fees
- Excludes Traffic Studies
- Excludes Flood Plain Studies
- Excludes Site Survey (To be provided by Owner)
- Excludes Mobilization / Demobilization charges
- Excludes City induced improvements along Compress Rd. i.e. sidewalks, bike paths, traffic signage etc.
- Excludes underground unforeseen conditions - buried slabs, footings, basements, unknown utilities
- Excludes removal/abatement of any hazardous materials that may be found on site
- Excludes removal of existing utilities
- Excludes existing concrete slabs on site
- Excludes retaining walls near Workshop
- Excludes any utility extensions - Water, sewer, electrical, gas
- Excludes camera, surveillance systems, security systems, telephone systems, fiber optics
- Excludes repair or alteration of existing footings
- Excludes filling vent pipes with concrete

Respectfully submitted

HIGHLAND ENTERPRISES, INC.

By 

Phase 1 8 Acres	Qty	unit	Budget	Phase 1	Phase 2
PLAN DEVELOPMENT REQUIREMENTS					
Architectural Fees			\$ 515,000.00	\$ 515,000.00	
Contractor Design/Build Fee	1		\$ 125,000.00	\$ 125,000.00	
Topo Survey	1		\$ 9,100.00	\$ 9,100.00	
Geo Tech Report	1		\$ 8,000.00	\$ 8,000.00	
Storm Water Pollution Prevention Plan	1		\$ 7,000.00	\$ 7,000.00	
GENERAL REQUIREMENTS					
Bond			???	???	
Building Permit	1		\$ 103,500.00	\$ 103,500.00	
Development/ Impact Fees	1		???	???	
Insurance Builder's Risk	1		\$ 20,000.00	\$ 20,000.00	
Temporary Facilities	1		\$ 2,100.00	\$ 2,100.00	
Temporary Utilities	1		\$ 19,041.00	\$ 19,041.00	
DEMOLITION /SITE CLEAN UP					
Tree Removal	22	EA	\$ 52,096.00	\$ 52,096.00	
Removal of volcanic rock to Phase 2	2,490	CY	\$ 166,000.00	\$ 166,000.00	
Tire Removal	1	LS	\$ 1,500.00	\$ 1,500.00	
Misc Trash	1	LS	\$ 18,226.00	\$ 18,226.00	
RV Trailer	1	LS	\$ 2,700.00	\$ 2,700.00	
Stage 1 Clean Out	1	LS	\$ 8,650.00	\$ 8,650.00	
Stage 2 Clean Out	1	LS	\$ 37,100.00	\$ 37,100.00	
Work Shop Clean Out	1	LS	\$ 30,000.00	\$ 30,000.00	
Clean Gravel at RR Tracks	1	LS	\$ 22,601.00	\$ 22,601.00	
Demo above grade concrete Structures	1	LS	\$ 44,830.00	\$ 44,830.00	
Demo Bagging Equipment	1	LS	\$ 6,700.00	\$ 6,700.00	
SITE WORK					
Materials Testing	1		\$ 7,000.00	\$ 7,000.00	
Site Security Systems	1		???	???	
Utility Extension Water	1		???	???	
Utility Extension Sewer	1		???	???	
Utility Extension Gas	1		???	???	
Utility Extension Electric	1		???	???	
Utility Extension Fiber Optic	1		???	???	
Site Rough Grading	???	CY	???	???	???
Access Road ST1 & Work Shop	3,460	SY	\$ 304,790.00	\$ 304,790.00	
Remaining Access Roads	47,144	SY	\$ 203,000.00		\$ 203,000.00
Asphalt paved Parking Lot Parking Lot - Lot 4	3,280	SY	\$ 159,100.00		\$ 159,100.00
Asphalt paved Parking Lot - Lot 5	3,155	SY	\$ 167,015.00	\$ 167,015.00	
Asphalt paved Parking Lot - Work Shop	1,694	SY	\$ 93,144.00	\$ 93,144.00	
Asphalt paved Parking Lot - Lot 6	3,280	SY	\$ 172,715.00	\$ 172,715.00	
Asphalt paved Parking Lot - Stage 1 Lot	1,509	SY	\$ 83,328.00	\$ 83,328.00	\$ -
Asphalt Paved Parking Lot -POB Lots 2&3	2,162	SY	\$ 119,900.00		\$ 119,900.00
Graveled Lot for Chillers, Satellites, Generators	4,646	SY	\$ 33,250.00		\$ 33,250.00
Cantina Slab	950	SF	\$ 7,200.00		\$ 7,200.00
Landscape	47,990	SF	\$ 249,548.00	\$ 62,387.00	\$ 187,161.00
Area Adjacent to East Side to Stage 3&4	6,746	SF	???		???
Phase 1 Underground Storm Retention	2	EA	\$ 575,000.00	\$ 575,000.00	
Phase 2 Underground Storm Retention	2	EA	\$ 575,000.00		\$ 575,000.00

SOUND STAGE 1 RENOVATION					
Floor - Demo and Replace	9,000	SF	\$ 215,256.00	\$ 215,256.00	
Remove existing wall sheets, Replace with King Span Panels	32,000	SF	\$ 2,303,249.54	\$ 2,303,249.54	
Install SIPS Panels Interior Walls and Roof					
Install Duct Liner					
18' wide Bi-parting door	1	EA			
Hollow Metal Man Doors	3	EA			
Plumbing	15,600	SF	\$ 20,000.00	\$ 20,000.00	
HVAC 150 TNS	15,600	SF	\$ 624,000.00	\$ 624,000.00	
Electrical 750 KVA, 900 amp, 3Ph Service	15,600	SF	\$ 615,100.00	\$ 615,100.00	
Fire Sprinkler System w/ booster pump	15,600	SF	\$ 546,000.00	\$ 546,000.00	

WORK SHOP RENOVATION					
Work Shop Bldg 350' x 72' x 12	25,200	SF	\$ 1,638,000.00	\$ 1,638,000.00	
Loading Dock	2	EA	\$ 208,000.00	\$ 208,000.00	

STAGE 2 RENOVATION					
Stage 2 Bldg 50'x75'x14'	3,750	SF	\$ 420,000.00	\$ 420,000.00	

MISC. BUILDINGS					
Studio Ops Bldg	4,000	SF	\$ 640,000.00		\$ 640,000.00
POB 1 Building Renovate	3,670	SF	\$ 91,750.00	\$ 91,750.00	
Stages 3,4 POB 2,3	62,962	SF	???		???
Guard Shacks	2	EA	\$ 65,000.00	\$ 65,000.00	
Proposed Train Set Buildings	4,901	SF	???		???

Total Budget So Far	Phase 1	Phase 2 So Far
\$ 11,335,489.54	\$ 9,410,878.54	\$ 1,924,611.00

8.1875% NMGR Tax

\$ 770,515.68

\$ 10,181,394.22 Phase 1 w/ tax

828 Productions Financial History Description

828 Productions, LLC is a start up with no prior financial data. The business plan and projections submitted in this application are the financial information that is currently available.



LEDA Application

Job Creation Additional Information

The current LEDA Application for 828 Productions is pertaining only to the work being proposed for 828 Studios NM. Future expansions to 828 Productions will include the following areas:

- Film Financing
- Production Accounting
- Production Services
- Postproduction Services

Additional models are being developed for these business areas and will be included in any future LEDA funding applications.

828 Productions LLC				Number of Jobs Created			Payroll Calculations**		
Job Type/Dept and Title:	*Jobs Filled:	Estimated Pay Scale	At Start Up	Beginning of Year 2	Beginning of Year 3		Yr 1	Yr 2	Yr 3
Studio	Director, Studio Operations	L \$ 150,000.00	1				\$ 150,000.00	\$ -	\$ -
Studio	Asst to Director of Studio Operations	L \$ 75,000.00	1				\$ 75,000.00	\$ -	\$ -
Studio	Manger, Studio Operation	L \$ 70,000.00	1				\$ 70,000.00	\$ -	\$ -
Studio	Manager, Accounting	L \$ 125,000.00	1				\$ 125,000.00	\$ -	\$ -
Studio	Coordinator, Studio Facilities	L \$ 65,000.00	1				\$ 65,000.00	\$ -	\$ -
Studio	Studio Electrician	L \$ 100,000.00	1				\$ 100,000.00	\$ -	\$ -
Studio	Studio Electrician	L \$ 100,000.00	1				\$ 100,000.00	\$ -	\$ -
Studio	Maintenance Worker	L \$ 65,000.00	1				\$ 65,000.00	\$ -	\$ -
Studio	Maintenance Worker	L \$ 65,000.00	1				\$ 65,000.00	\$ -	\$ -
Studio	Stage Department Manager	L \$ 100,000.00	1				\$ 100,000.00	\$ -	\$ -
Studio	Stage Manager	L \$ 65,000.00	1				\$ 65,000.00	\$ -	\$ -
Studio	Stage Hand	L \$ 50,000.00	1				\$ 50,000.00	\$ -	\$ -
Studio	Stage Hand	L \$ 50,000.00		1			\$ -	\$ 50,000.00	\$ -
Studio	Stage Hand	L \$ 50,000.00			1		\$ -	\$ -	\$ 50,000.00
Studio	Catering Manager	L \$ 60,000.00	1				\$ 60,000.00	\$ -	\$ -
Studio	UPM	L \$ 60,000.00	1				\$ 60,000.00	\$ -	\$ -
Studio	Set Designer	L \$ 65,000.00	1				\$ 65,000.00	\$ -	\$ -
Studio	Property Manager	L \$ 50,000.00	1				\$ 50,000.00	\$ -	\$ -
Studio	Transporation and Logistics Manger	L \$ 60,000.00	1				\$ 60,000.00	\$ -	\$ -
Studio	Transporatation Asst	L \$ 40,000.00	1				\$ 40,000.00	\$ -	\$ -
Studio	Transporatation Asst	L \$ 40,000.00		1			\$ -	\$ 40,000.00	\$ -
Studio	Grip	L \$ 60,000.00	1				\$ 60,000.00	\$ -	\$ -
Studio	Grip	L \$ 60,000.00	0	1			\$ -	\$ 60,000.00	\$ -
Studio	Lighting Foreman	L \$ 60,000.00	1				\$ 60,000.00	\$ -	\$ -
Studio	Mill Supervisor	L \$ 75,000.00	1				\$ 75,000.00	\$ -	\$ -
Studio	Mill Assistant	L \$ 30,000.00	1				\$ 30,000.00	\$ -	\$ -
Studio	Painter	L \$ 30,000.00	1				\$ 30,000.00	\$ -	\$ -
Studio	Construction Grip	L \$ 45,000.00	1				\$ 45,000.00	\$ -	\$ -
Studio	IT Support	L \$ 75,000.00	1				\$ 75,000.00	\$ -	\$ -
Studio	Security Superisior	L \$ 60,000.00	1				\$ 60,000.00	\$ -	\$ -
Studio	Security Guard	L \$ 40,000.00	1				\$ 40,000.00	\$ -	\$ -
Studio	Security Guard	L \$ 40,000.00	1				\$ 40,000.00	\$ -	\$ -
Studio	Security Guard	L \$ 40,000.00	1				\$ 40,000.00	\$ -	\$ -
Studio	Security Guard	L \$ 40,000.00	1				\$ 40,000.00	\$ -	\$ -
Studio	Security Guard	L \$ 40,000.00	1				\$ 40,000.00	\$ -	\$ -
Studio	Security Guard	L \$ 40,000.00		1			\$ -	\$ 40,000.00	\$ -
Studio	Security Guard	L \$ 40,000.00		1			\$ -	\$ 40,000.00	\$ -
Studio	Security Guard	L \$ 40,000.00		1			\$ -	\$ 40,000.00	\$ -
Studio	Security Guard	L \$ 40,000.00		1			\$ -	\$ 40,000.00	\$ -
Studio	Security Guard	L \$ 40,000.00		1			\$ -	\$ 40,000.00	\$ -
Studio	Security Guard	L \$ 40,000.00			1		\$ -	\$ -	\$ 40,000.00
Studio	Security Guard	L \$ 40,000.00			1		\$ -	\$ -	\$ 40,000.00
Studio	Security Guard	L \$ 40,000.00			1		\$ -	\$ -	\$ 40,000.00
Studio	Security Guard	L \$ 40,000.00			1		\$ -	\$ -	\$ 40,000.00
828 Productions	CEO	L \$ 300,000.00	1				\$ 300,000.00	\$ -	\$ -
828 Productions	Project Coordinator	L \$ 50,000.00	1				\$ 50,000.00	\$ -	\$ -
828 Productions	Project Manager	L \$ 75,000.00	1				\$ 75,000.00	\$ -	\$ -

828 Productions LLC				Number of Jobs Created			Payroll Calculations**		
Job Type/Dept and Title:	*Jobs Filled:	Estimated Pay Scale	At Start Up	Beginning of Year 2	Beginning of Year 3		Yr 1	Yr 2	Yr 3
828 Productions	Project Manager	L \$ 75,000.00	1				\$ 75,000.00	\$ -	\$ -
828 Productions	EVP, Sales and Distribution	L \$ 150,000.00	1				\$ 150,000.00	\$ -	\$ -
828 Productions	Asst to EVP Sales and Distribution	L \$ 75,000.00	1				\$ 75,000.00	\$ -	\$ -
828 Productions	EVP, Physical Production	L \$ 150,000.00	1				\$ 150,000.00	\$ -	\$ -
828 Productions	Asst to EVP Physical Production	L \$ 75,000.00	1				\$ 75,000.00	\$ -	\$ -
828 Productions	Director, Creative Services? DM	L \$ 125,000.00	1				\$ 125,000.00	\$ -	\$ -
828 Productions	Office Manager	L \$ 75,000.00	1				\$ 75,000.00	\$ -	\$ -
828 Productions	Office Assistant	L \$ 40,000.00	1				\$ 40,000.00	\$ -	\$ -
828 Productions	Director of Human Resources	L \$ 75,000.00	1				\$ 75,000.00	\$ -	\$ -
828 Productions	EVP of Production Accounting	L \$ 150,000.00	1				\$ 150,000.00	\$ -	\$ -
828 Productions	VP of Production Accounting	L \$ 75,000.00	1				\$ 75,000.00	\$ -	\$ -
828 Productions	Production Accountant	L \$ 60,000.00	1				\$ 60,000.00	\$ -	\$ -
828 Productions	Production Accountant	L \$ 60,000.00	1				\$ 60,000.00	\$ -	\$ -
828 Productions	Production Accountant	L \$ 60,000.00	1				\$ 60,000.00	\$ -	\$ -
828 Productions	Production Accountant	L \$ 60,000.00		1			\$ -	\$ 60,000.00	\$ -
828 Productions	Production Accountant	L \$ 60,000.00		1			\$ -	\$ 60,000.00	\$ -
828 Productions	Production Accountant	L \$ 60,000.00			1		\$ -	\$ -	\$ 60,000.00
828 Productions	Production Accounting Asst.	L \$ 40,000.00	1				\$ 40,000.00	\$ -	\$ -
828 Productions	Production Accounting Asst.	L \$ 40,000.00	1				\$ 40,000.00	\$ -	\$ -
828 Productions	Production Accounting Asst.	L \$ 40,000.00	1				\$ 40,000.00	\$ -	\$ -
828 Productions	Production Accounting Asst.	L \$ 40,000.00		1			\$ -	\$ 40,000.00	\$ -
828 Productions	Production Accounting Asst.	L \$ 40,000.00		1			\$ -	\$ 40,000.00	\$ -
828 Productions	Production Accounting Asst.	L \$ 40,000.00			1		\$ -	\$ -	\$ 40,000.00
828 Productions	Legal Counsel	L \$ 300,000.00		1			\$ -	\$ 300,000.00	\$ -
828 Productions	Paralegal	L \$ 100,000.00		1			\$ -	\$ 100,000.00	\$ -
828 VFX Facility	VFX Producer	L \$ 200,000.00		1			\$ -	\$ 200,000.00	\$ -
828 VFX Facility	VFX Supervisor	L \$ 150,000.00		1			\$ -	\$ 150,000.00	\$ -
828 VFX Facility	VFX Controller	L \$ 150,000.00			1		\$ -	\$ -	\$ 150,000.00
828 VFX Facility	Technical Director	L \$ 150,000.00		1			\$ -	\$ 150,000.00	\$ -
828 VFX Facility	Lead Animator	L \$ 100,000.00		1			\$ -	\$ 100,000.00	\$ -
828 VFX Facility	Animator	L \$ 100,000.00		1			\$ -	\$ 100,000.00	\$ -
828 VFX Facility	Lighting and Rendering Lead	L \$ 90,000.00		1			\$ -	\$ 90,000.00	\$ -
828 VFX Facility	VFX Assistant	L \$ 40,000.00		1			\$ -	\$ 40,000.00	\$ -
828 VFX Facility	VFX Assistant	L \$ 40,000.00		1			\$ -	\$ 40,000.00	\$ -
828 VFX Facility	Art Dept Assistant	L \$ 40,000.00	1	0			\$ 40,000.00	\$ -	\$ -
828 VFX Facility	Office Manager	L \$ 60,000.00	1				\$ 60,000.00	\$ -	\$ -
828 Post Production	VP Post Production	L \$ 150,000.00	1				\$ 150,000.00	\$ -	\$ -
828 Post Production	Post Production Supervisor	L \$ 100,000.00	1				\$ 100,000.00	\$ -	\$ -
828 Post Production	Post Production Supervisor	L \$ 100,000.00		1			\$ -	\$ 100,000.00	\$ -
828 Post Production	Editor	L \$ 90,000.00	1				\$ 90,000.00	\$ -	\$ -
828 Post Production	Editor	L \$ 90,000.00		1			\$ -	\$ 90,000.00	\$ -
828 Post Production	Asst. Editor	L \$ 75,000.00		1			\$ -	\$ 75,000.00	\$ -
828 Post Production	Asst. Editor	L \$ 75,000.00			1		\$ -	\$ -	\$ 75,000.00
828 Post Production	Colorist	L \$ 75,000.00	1				\$ 75,000.00	\$ -	\$ -
828 Post Production	Colorist	L \$ 75,000.00		1			\$ -	\$ 75,000.00	\$ -
828 Post Production	Sound Designer	L \$ 75,000.00	1				\$ 75,000.00	\$ -	\$ -
828 Post Production	Sound Designer	L \$ 75,000.00		1			\$ -	\$ 75,000.00	\$ -
828 Post Production	Music Supervisor	L \$ 75,000.00	1				\$ 75,000.00	\$ -	\$ -

Total Estimated Payroll At year 3	\$	7,505,000.00
Average Payscale	\$	75,050.00

** Projections are based on 3 years per the requirements of the online application, but will be accomplished over a 5-7 year span as directed by NMEDD.

***NEW MEXICO ECONOMIC DEVELOPMENT DEPARTMENT
AUTHORIZATION FOR EXAMINATION AND RELEASE OF
INFORMATION**

Todd Lundbohm hereby grants permission to the New Mexico Economic Development Department to conduct a review, full disclosure, and release of any and all information authorized pursuant to federal and state law. The purpose for obtaining and examining the information is to construct a record of the company's personal and professional history, including credit history, to ensure it meet the requirements that the New Mexico Economic Development Department has established for potential recipients of State funds. The company understands an investigation will be conducted by the New Mexico Economic Development Department, the New Mexico Department of Public Safety, or their contractors, and the results of the investigation will only be supplied to the New Mexico Economic Development Department.

Todd Lundbohm, hereby grants the New Mexico Economic Development Department permission to obtain any information in its background pertaining to any credit (to include obtaining a copy of a commercial credit report), education, bankruptcy, investigation, arrest and/or conviction of it or its principals in any criminal or civil matter. The company also authorizes an employee of the New Mexico Economic Development Department, as its authorized representative, to obtain from the New Mexico Taxation and Revenue Department and/or the Department of Workforce Solutions any tax information that is in any way related to a company Todd Lundbohm owns or has invested in. Todd Lundbohm, hereby directs you to release such information upon the request of this bearer. Todd Lundbohm, hereby releases you as a custodian of such records for any criminal justice, law enforcement or court agency, including its officers and employees, or related personnel, both individually and collectively, from any and all liability for damages of whatever kind, that may at any time result to the New Mexico Economic Development Department or the State of New Mexico because of compliance with this authorization and request to release information; or any attempt to comply with it.

1. The information reviewed, disclosed, and/or released may be used by the New Mexico Economic Development Department for any lawful purpose and/or to determine the company's suitability to receive funds from the State of New Mexico.
2. Todd Lundbohm hereby releases the providers and users of the information collected pursuant to this authorization from any liability under state or federal privacy laws and further release the New Mexico Economic Development Department, its contractors, agents, and/or employees from any liability which may be incurred as a result of the collection and use of information.

3. Todd Lundbohm, understands that it may revoke this authorization in writing at any time.

FULL NAME: Todd Lundbohm

SIGNATURE: 

TITLE: CEO

COMPANY: 828 Productions llc

The above named certifies that they are authorized to commit to this release on behalf of the company identified.

Please provide below information if company is a sole proprietorship:

SSN: _____
DOB: _____

DATE: 9/29/2022

*** This Document is only valid if notarized**

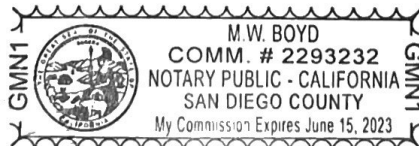
A Notary Public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached and not the truthfulness, accuracy, or validity of that document.

Scribed and sworn to me on this 29th day of September
20 22 of San Diego County, New Mexico

Signed 

My Commission expires: 6-15-2023

Notary Public



DRAFT 2/3/2017

pg. - 2 -



LEDA Application

NM Quarterly Wage Report

The current LEDA Application does not include a quarterly wage report due to 828 Productions being a start up company. Wage details will be provided with any future LEDA applications as the organization adds jobs.

Agenda Item #9.1.



Michelle Lujan Grisham • Governor
Alicia J. Keyes • Cabinet Secretary

Exhibit C – LEDA Application

Affirmation of officer of Company

Declaration of 828 Productions LLC **Officer**

I, Todd Lundbohm, declare as follows:

I am CEO for 828 Productions LLC and I have been employed in this capacity since 6/15/2020. Except where otherwise noted, I have personal knowledge of the facts set forth in this declaration.

Date: 9/24/2022

I declare under penalty of perjury that the foregoing is true and correct.

DocuSigned by:
Todd Lundbohm
89EB88C4B4E340D...

Name Todd Lundbohm

Job Title CEO

Name of Company 828 Productions LLC



EDD

ECONOMIC
DEVELOPMENT
DEPARTMENT

3/30/2022

FISCAL IMPACT ANALYSIS AND ECONOMIC IMPACT OF THE EXPANSION OF 828 PRODUCTIONS

Prepared by:

New Mexico Economic Development Department
Joseph Montoya Building
1100 S. St. Francis Drive
Santa Fe, New Mexico 87505





Purpose and Limitations:

This report and analysis, provided by the New Mexico Economic Development Department, relies on prospective estimates of business activity. These estimates, which are provided by the company, may not be realized due to unforeseen events that are outside the control of the company and unknown to the New Mexico Economic Development Department.

The New Mexico Economic Development Department made reasonable efforts to ensure that the estimates provided by the company, are realistic estimates of future activity.

The model was created by the New Mexico Economic Development Economists and used assumptions to generate the final report. The report and analysis provided by the New Mexico Economic Development Department is not a guarantee that any of the estimates or results contained in this report will actually be achieved.

Introduction:

This report and analysis presents the results of an economic impact analysis performed using a model developed by the New Mexico Economic Development Department. The report estimates the impact that a potential project may have on the state and local economies and estimates the costs and benefits for the state and local economies over a 10-year period. The report and analysis uses RIMS II Multipliers produced by the U.S. Bureau of Economic Analysis (BEA).

Most projects produce a growth in population and/or a growth in the workforce in a City, County and the State of New Mexico. All growth comes at a cost, the additional economic activity and population growth stimulated by the project will generate additional costs in terms of providing basic infrastructure (roads and utilities) and public services (including public safety and schools). For example, if the applicant hires employees from outside the State, County and City, those workers who end up relocating their residence to within one or all of those areas, the population for which the government must provide services also increases. The costs associated with the expansion are broken down into two categories: 1) New residents to the State, County and City. 2) New Mexican residents hired to work for the company. The analysis assumes that all workers will live in the area of the expansion.

Description of the Company:

0

Description of the Project:

828 Productions is looking to develop multiple stages and postproduction facilities in the Las Cruces area. This will be a combination of productions and permanent full-time positions dedicated to post and pre- production.

Total Impacts



Fiscal Impact of Existing and Expanded Operations Over the Next Ten Years

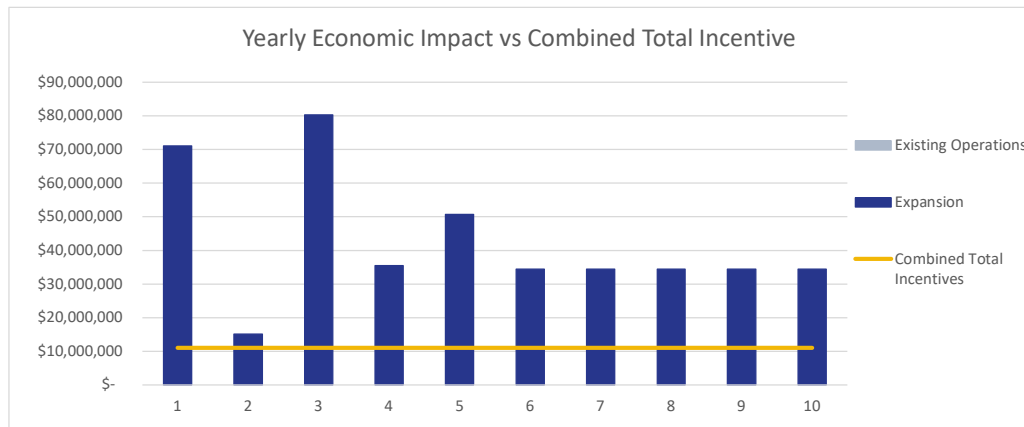
Cumulative Net Benefits					
	Existing Operations	Expansion	Existing & Expanded Operations	Present Value of Net Benefits*	
State of New Mexico	\$ -	\$ 18,050,424	\$ 18,050,424	\$	15,061,099
County	\$ -	\$ 7,642,060	\$ 7,642,060	\$	6,243,473
City	\$ -	\$ 10,567,772	\$ 10,567,772	\$	8,899,565
School District	\$ -	\$ 4,202,609	\$ 4,202,609	\$	3,306,051
Special Taxing District	\$ -	\$ 830,883	\$ 830,883	\$	653,628
Total	\$ -	\$ 41,293,749	\$ 41,293,749	\$	34,163,816

* The Present Value of Net Benefits expresses the future stream of net benefits received over several years as a single value in today's dollars. Today's dollar and a dollar to be received at differing times in the future are not comparable because of the time value of money. The time value of money is the interest rate or each taxing entity's discount rate. This analysis uses a discount rate of 5% to make the dollars comparable.

** In the cumulative net benefits of the existing and expanded operations for the State of New Mexico, corporate income tax has been removed from the existing operations total to avoid double counting.

Total Economic Impact

	Total
Estimated Economic Impact Over 10 Years:	\$ 424,743,368
Combined Total Incentive Over 10 Years:	\$ 10,994,818
Economic Impact Rate of Return:	3,763%

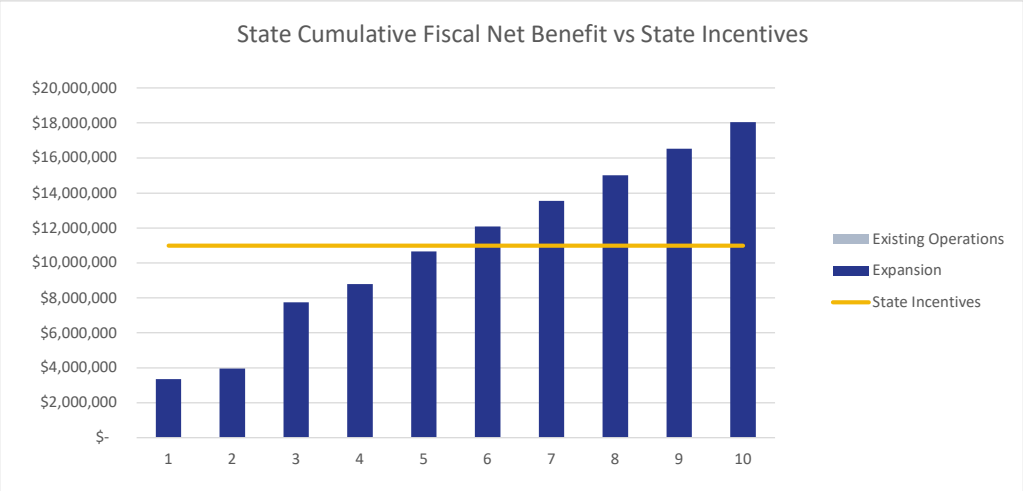


Workers and New Residents over 10 years

	Direct	Indirect and Induced
Number of Jobs Created:	335	177
Estimated Number of Construction Workers:	1002	
Estimated Number of New Residents to the State:	0	
Estimated Number of New Residents to the County:	0	
Estimated Number of New Residents to the City:	0	

State Impacts





Incentives

Total State Incentive:	\$	10,994,818
State Incentive Per Job:	\$	32,820

Combined Payback and Return

State Payback Period Combined:	5.24	Years
State Rate of Return Combined:	37%	

Expansion Only Payback and Return

State Payback Period Expansion:	5.24	Years
State Rate of Return Expansion:	37%	

State Net Benefits Of Current Operations

Year	Benefits		Costs		Net Benefits		Cumulative Net Benefits
1	\$	-	\$	-	\$	-	\$ -
2	\$	-	\$	-	\$	-	\$ -
3	\$	-	\$	-	\$	-	\$ -
4	\$	-	\$	-	\$	-	\$ -
5	\$	-	\$	-	\$	-	\$ -
6	\$	-	\$	-	\$	-	\$ -
7	\$	-	\$	-	\$	-	\$ -
8	\$	-	\$	-	\$	-	\$ -
9	\$	-	\$	-	\$	-	\$ -
10	\$	-	\$	-	\$	-	\$ -

State Net Benefits Of Expansion

Year	Benefits		Costs	Net Benefits		Cumulative Net Benefits
1	\$	3,348,162	\$ -	\$	3,348,162	\$ 3,348,162
2	\$	608,048	\$ -	\$	608,048	\$ 3,956,211
3	\$	3,791,510	\$ -	\$	3,791,510	\$ 7,747,721
4	\$	1,041,353	\$ -	\$	1,041,353	\$ 8,789,073
5	\$	1,861,537	\$ -	\$	1,861,537	\$ 10,650,611
6	\$	1,436,182	\$ -	\$	1,436,182	\$ 12,086,792
7	\$	1,457,746	\$ -	\$	1,457,746	\$ 13,544,538
8	\$	1,479,634	\$ -	\$	1,479,634	\$ 15,024,172
9	\$	1,501,851	\$ -	\$	1,501,851	\$ 16,526,023
10	\$	1,524,401	\$ -	\$	1,524,401	\$ 18,050,424

State Combined Net Benefits

Year	Benefits		Costs	Net Benefits		Cumulative Net Benefits
1	\$	3,348,162	\$ -	\$	3,348,162	\$ 3,348,162
2	\$	608,048	\$ -	\$	608,048	\$ 3,956,211
3	\$	3,791,510	\$ -	\$	3,791,510	\$ 7,747,721
4	\$	1,041,353	\$ -	\$	1,041,353	\$ 8,789,073
5	\$	1,861,537	\$ -	\$	1,861,537	\$ 10,650,611
6	\$	1,436,182	\$ -	\$	1,436,182	\$ 12,086,792
7	\$	1,457,746	\$ -	\$	1,457,746	\$ 13,544,538
8	\$	1,479,634	\$ -	\$	1,479,634	\$ 15,024,172
9	\$	1,501,851	\$ -	\$	1,501,851	\$ 16,526,023
10	\$	1,524,401	\$ -	\$	1,524,401	\$ 18,050,424

State Breakdown of Combined Benefits, Costs, and Net Benefits Over the Next 10 Years

Taxes and Revenue

Gross Receipt Taxes	\$	8,355,193
Personal Income Taxes	\$	9,695,231
Corporate Income Taxes	\$	-
Misc. Taxes and Revenue	\$	-
Subtotal of Benefits	\$	18,050,424

Costs

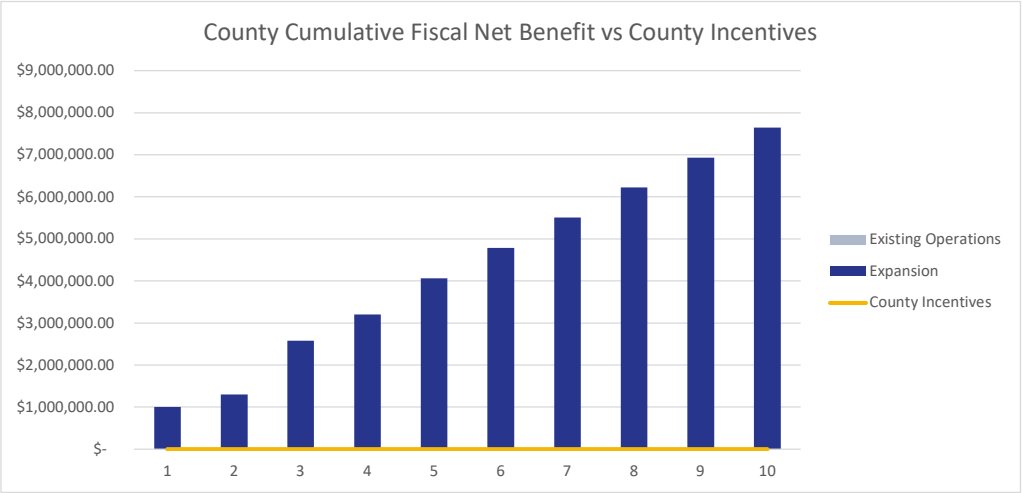
Costs	\$	-
Subtotal of Costs	\$	-

Net Benefits

Net Benefits	\$	18,050,424
Present Value	\$	15,061,099

County Impacts





Incentives

Total County Incentive:	\$	-
County Incentive Per Job:	\$	-

Combined Payback and Return

County Payback Period Combined:	-	Years
County Rate of Return Combined:	N/A	

Expansion Only Payback and Return

County Payback Period Expansion:	-	Years
County Rate of Return Expansion:	N/A	

County Net Benefits Of Current Operations

Year	Benefits	Costs	Net Benefits	Cumulative Net Benefits
1	\$ -	\$ -	\$ -	\$ -
2	\$ -	\$ -	\$ -	\$ -
3	\$ -	\$ -	\$ -	\$ -
4	\$ -	\$ -	\$ -	\$ -
5	\$ -	\$ -	\$ -	\$ -
6	\$ -	\$ -	\$ -	\$ -
7	\$ -	\$ -	\$ -	\$ -
8	\$ -	\$ -	\$ -	\$ -
9	\$ -	\$ -	\$ -	\$ -
10	\$ -	\$ -	\$ -	\$ -

County Net Benefits Of Expansion

Year	Benefits		Costs	Net Benefits		Cumulative Net Benefits
1	\$	1,000,293	\$ -	\$	1,000,293	\$ 1,000,293
2	\$	300,654	\$ -	\$	300,654	\$ 1,300,946
3	\$	1,280,261	\$ -	\$	1,280,261	\$ 2,581,207
4	\$	619,670	\$ -	\$	619,670	\$ 3,200,877
5	\$	860,723	\$ -	\$	860,723	\$ 4,061,600
6	\$	725,341	\$ -	\$	725,341	\$ 4,786,941
7	\$	720,495	\$ -	\$	720,495	\$ 5,507,436
8	\$	715,868	\$ -	\$	715,868	\$ 6,223,304
9	\$	711,465	\$ -	\$	711,465	\$ 6,934,769
10	\$	707,291	\$ -	\$	707,291	\$ 7,642,060

County Combined Net Benefits

Year	Benefits		Costs	Net Benefits		Cumulative Net Benefits
1	\$	1,000,293	\$ -	\$	1,000,293	\$ 1,000,293
2	\$	300,654	\$ -	\$	300,654	\$ 1,300,946
3	\$	1,280,261	\$ -	\$	1,280,261	\$ 2,581,207
4	\$	619,670	\$ -	\$	619,670	\$ 3,200,877
5	\$	860,723	\$ -	\$	860,723	\$ 4,061,600
6	\$	725,341	\$ -	\$	725,341	\$ 4,786,941
7	\$	720,495	\$ -	\$	720,495	\$ 5,507,436
8	\$	715,868	\$ -	\$	715,868	\$ 6,223,304
9	\$	711,465	\$ -	\$	711,465	\$ 6,934,769
10	\$	707,291	\$ -	\$	707,291	\$ 7,642,060

County Breakdown of Combined Benefits, Costs, and Net Benefits Over the Next 10 Years

Taxes and Revenue

Gross Receipt Taxes	\$	2,677,947
Misc. Taxes and Revenue	\$	-
Property Taxes	\$	4,964,113
Subtotal of Benefits	\$	7,642,060

Costs

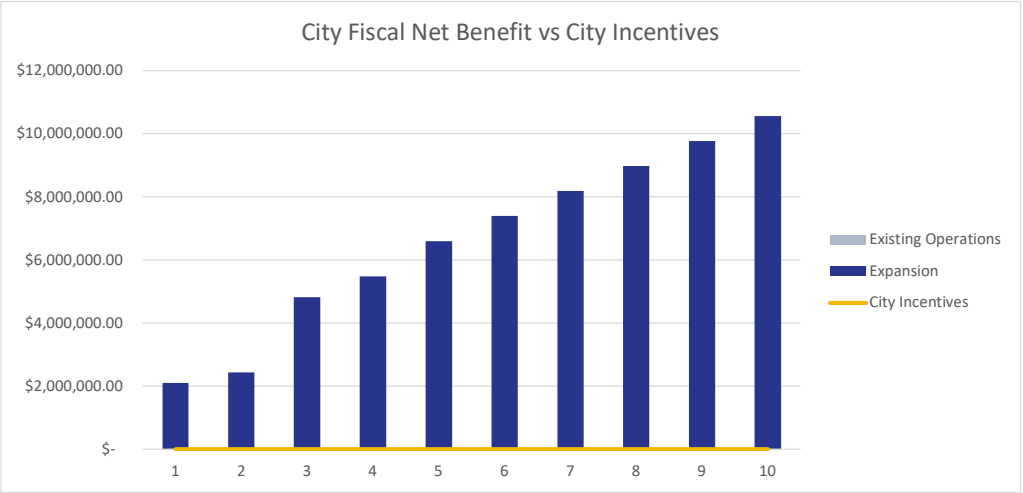
Costs	\$	-
Subtotal of Costs	\$	-

Net Benefits

Net Benefits	\$	7,642,060
Present Value	\$	6,243,473

City Impacts





Incentives

Total City Incentive:	\$	-
City Incentive Per Job:	\$	-

Combined Payback and Return

City Payback Period Combined:	-	Years
City Rate of Return Combined:	N/A	

Expansion Only Payback and Return

City Payback Period Expansion:	-	Years
City Rate of Return Expansion:	N/A	

City Net Benefits Of Current Operations

Year	Benefits		Costs		Net Benefits	Cumulative Net Benefits
1	\$	-	\$	-	\$	\$
2	\$	-	\$	-	\$	\$
3	\$	-	\$	-	\$	\$
4	\$	-	\$	-	\$	\$
5	\$	-	\$	-	\$	\$
6	\$	-	\$	-	\$	\$
7	\$	-	\$	-	\$	\$
8	\$	-	\$	-	\$	\$
9	\$	-	\$	-	\$	\$
10	\$	-	\$	-	\$	\$

City Net Benefits Of Expansion

Year	Benefits	Costs	Net Benefits	Cumulative Net Benefits
1	\$ 2,101,596	\$ -	\$ 2,101,596	\$ 2,101,596
2	\$ 332,213	\$ -	\$ 332,213	\$ 2,433,809
3	\$ 2,389,140	\$ -	\$ 2,389,140	\$ 4,822,949
4	\$ 647,923	\$ -	\$ 647,923	\$ 5,470,872
5	\$ 1,124,271	\$ -	\$ 1,124,271	\$ 6,595,143
6	\$ 794,255	\$ -	\$ 794,255	\$ 7,389,398
7	\$ 794,166	\$ -	\$ 794,166	\$ 8,183,565
8	\$ 794,300	\$ -	\$ 794,300	\$ 8,977,864
9	\$ 794,659	\$ -	\$ 794,659	\$ 9,772,523
10	\$ 795,249	\$ -	\$ 795,249	\$ 10,567,772

City Combined Net Benefits

Year	Benefits	Costs	Net Benefits	Cumulative Net Benefits
1	\$ 2,101,596	\$ -	\$ 2,101,596	\$ 2,101,596
2	\$ 332,213	\$ -	\$ 332,213	\$ 2,433,809
3	\$ 2,389,140	\$ -	\$ 2,389,140	\$ 4,822,949
4	\$ 647,923	\$ -	\$ 647,923	\$ 5,470,872
5	\$ 1,124,271	\$ -	\$ 1,124,271	\$ 6,595,143
6	\$ 794,255	\$ -	\$ 794,255	\$ 7,389,398
7	\$ 794,166	\$ -	\$ 794,166	\$ 8,183,565
8	\$ 794,300	\$ -	\$ 794,300	\$ 8,977,864
9	\$ 794,659	\$ -	\$ 794,659	\$ 9,772,523
10	\$ 795,249	\$ -	\$ 795,249	\$ 10,567,772

City Breakdown of Combined Benefits, Costs, and Net Benefits Over the Next 10 Years

Taxes and Revenue

Gross Receipt Taxes	\$ 6,775,205
Misc. Taxes and Revenue	\$ -
Property Taxes	\$ 3,792,568
Subtotal of Benefits	\$ 10,567,772

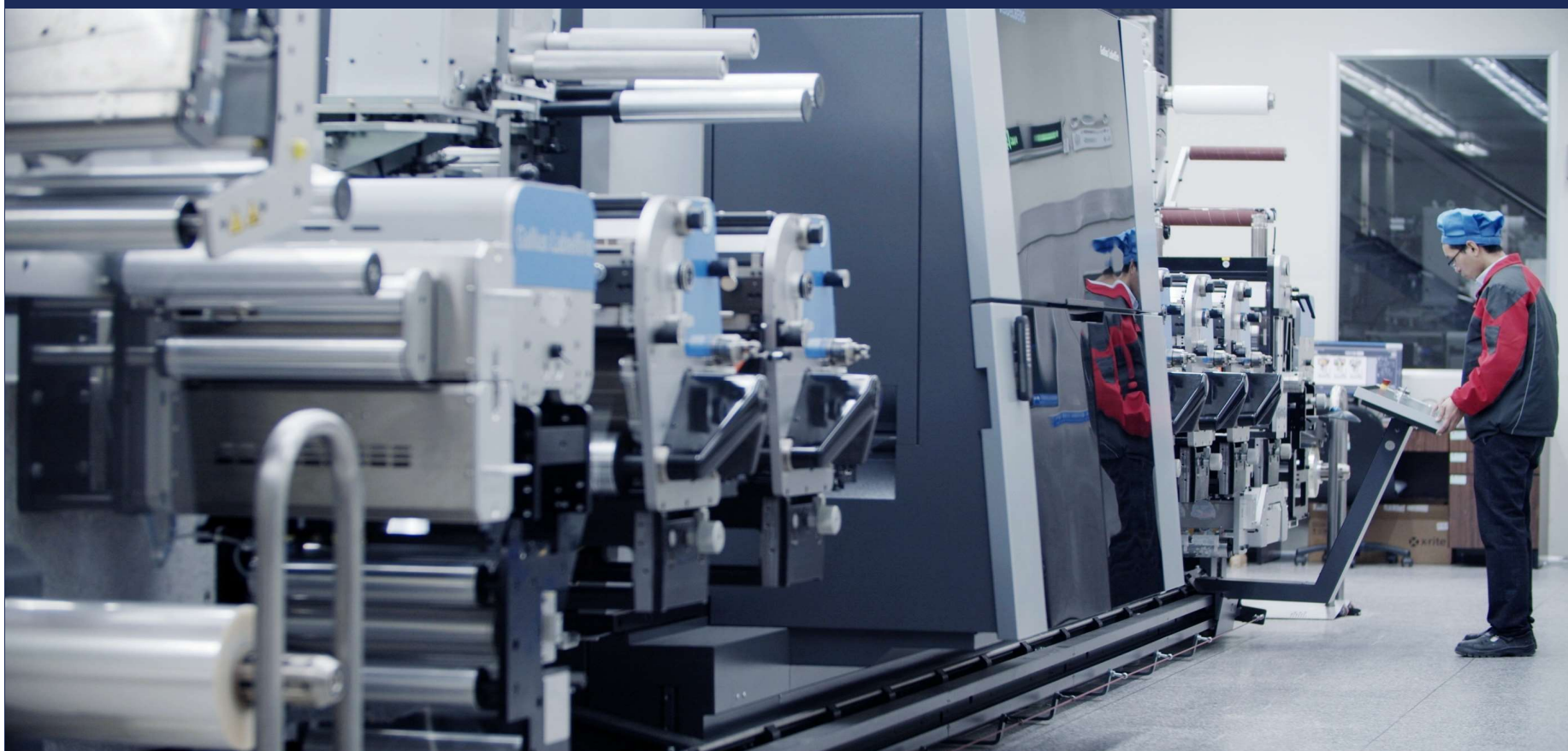
Costs

Costs	\$ -
Subtotal of Costs	\$ -

Net Benefits

Net Benefits	\$ 10,567,772
Present Value	\$ 8,899,565

Special Taxing District and Public Schools



Special Taxing District

Special Taxing District Net Benefits of Current Operations

Year	Benefits		Costs		Net Benefits		Cumulative Net Benefits
1	\$	-	\$	-	\$	-	\$ -
2	\$	-	\$	-	\$	-	\$ -
3	\$	-	\$	-	\$	-	\$ -
4	\$	-	\$	-	\$	-	\$ -
5	\$	-	\$	-	\$	-	\$ -
6	\$	-	\$	-	\$	-	\$ -
7	\$	-	\$	-	\$	-	\$ -
8	\$	-	\$	-	\$	-	\$ -
9	\$	-	\$	-	\$	-	\$ -
10	\$	-	\$	-	\$	-	\$ -

Special District Net Benefits of Expansion

Year	Benefits		Costs		Net Benefits		Cumulative Net Benefits
1	\$	40,673	\$	-	\$	40,673	\$ 40,673
2	\$	40,607	\$	-	\$	40,607	\$ 81,280
3	\$	80,554	\$	-	\$	80,554	\$ 161,834
4	\$	87,181	\$	-	\$	87,181	\$ 249,014
5	\$	99,835	\$	-	\$	99,835	\$ 348,849
6	\$	98,650	\$	-	\$	98,650	\$ 447,500
7	\$	97,497	\$	-	\$	97,497	\$ 544,996
8	\$	96,375	\$	-	\$	96,375	\$ 641,371
9	\$	95,285	\$	-	\$	95,285	\$ 736,656
10	\$	94,228	\$	-	\$	94,228	\$ 830,883

Special District Combined Net Benefits

Year	Benefits		Costs		Net Benefits		Cumulative Net Benefits
1	\$	40,673	\$	-	\$	40,673	\$ 40,673
2	\$	40,607	\$	-	\$	40,607	\$ 81,280
3	\$	80,554	\$	-	\$	80,554	\$ 161,834
4	\$	87,181	\$	-	\$	87,181	\$ 249,014
5	\$	99,835	\$	-	\$	99,835	\$ 348,849
6	\$	98,650	\$	-	\$	98,650	\$ 447,500
7	\$	97,497	\$	-	\$	97,497	\$ 544,996
8	\$	96,375	\$	-	\$	96,375	\$ 641,371
9	\$	95,285	\$	-	\$	95,285	\$ 736,656
10	\$	94,228	\$	-	\$	94,228	\$ 830,883

Public Schools

Public Schools Net Benefits of Current Operations

Year	Benefits		Costs		Net Benefits		Cumulative Net Benefits
1	\$	-	\$	-	\$	-	\$ -
2	\$	-	\$	-	\$	-	\$ -
3	\$	-	\$	-	\$	-	\$ -
4	\$	-	\$	-	\$	-	\$ -
5	\$	-	\$	-	\$	-	\$ -
6	\$	-	\$	-	\$	-	\$ -
7	\$	-	\$	-	\$	-	\$ -
8	\$	-	\$	-	\$	-	\$ -
9	\$	-	\$	-	\$	-	\$ -
10	\$	-	\$	-	\$	-	\$ -

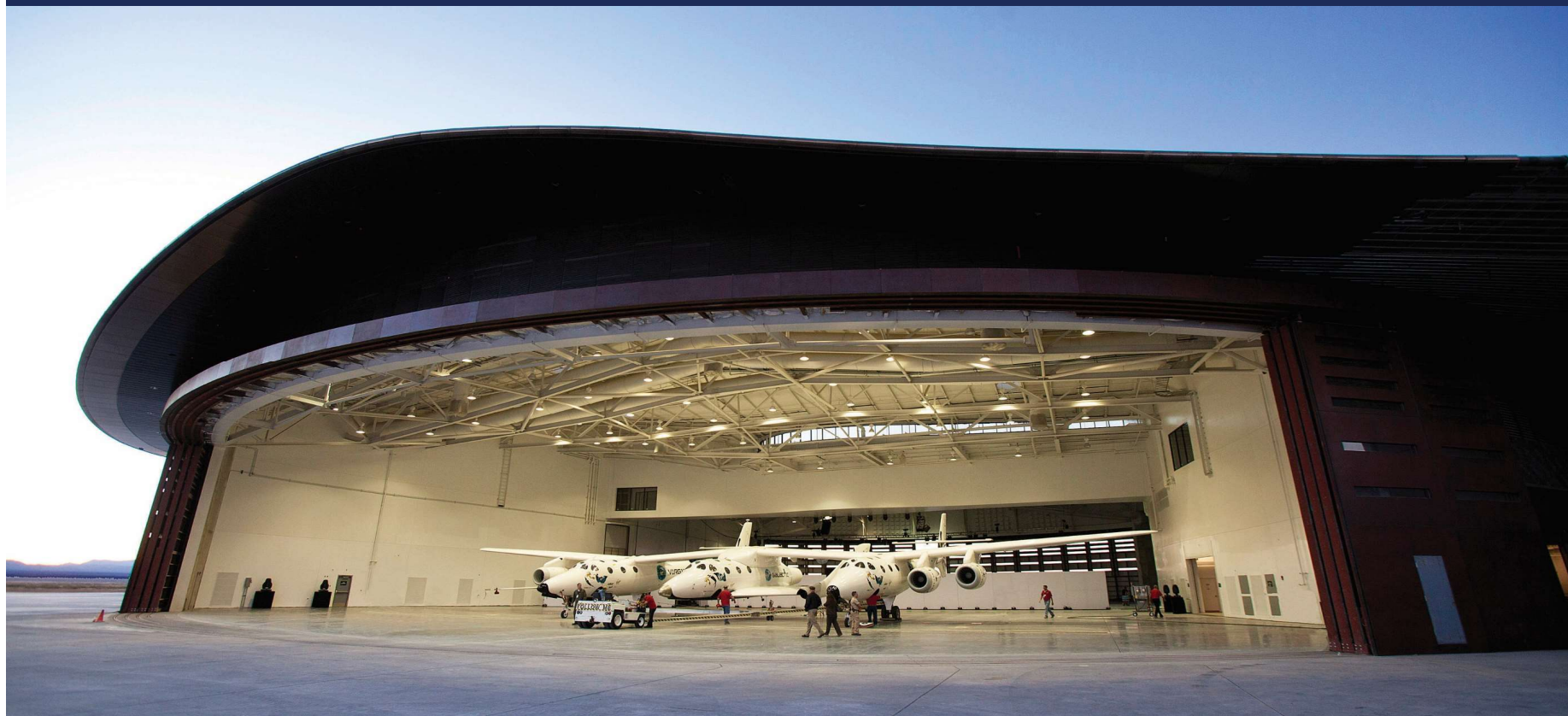
Public Schools Net Benefits of Expansion

Year	Benefits		Costs		Net Benefits		Cumulative Net Benefits
1	\$	205,726	\$	-	\$	205,726	\$ 205,726
2	\$	205,389	\$	-	\$	205,389	\$ 411,115
3	\$	407,440	\$	-	\$	407,440	\$ 818,555
4	\$	440,960	\$	-	\$	440,960	\$ 1,259,515
5	\$	504,965	\$	-	\$	504,965	\$ 1,764,480
6	\$	498,973	\$	-	\$	498,973	\$ 2,263,453
7	\$	493,138	\$	-	\$	493,138	\$ 2,756,592
8	\$	487,463	\$	-	\$	487,463	\$ 3,244,054
9	\$	481,950	\$	-	\$	481,950	\$ 3,726,004
10	\$	476,604	\$	-	\$	476,604	\$ 4,202,609

Public Schools Combined Net Benefits

Year	Benefits		Costs		Net Benefits		Cumulative Net Benefits
1	\$	205,726	\$	-	\$	205,726	\$ 205,726
2	\$	205,389	\$	-	\$	205,389	\$ 411,115
3	\$	407,440	\$	-	\$	407,440	\$ 818,555
4	\$	440,960	\$	-	\$	440,960	\$ 1,259,515
5	\$	504,965	\$	-	\$	504,965	\$ 1,764,480
6	\$	498,973	\$	-	\$	498,973	\$ 2,263,453
7	\$	493,138	\$	-	\$	493,138	\$ 2,756,592
8	\$	487,463	\$	-	\$	487,463	\$ 3,244,054
9	\$	481,950	\$	-	\$	481,950	\$ 3,726,004
10	\$	476,604	\$	-	\$	476,604	\$ 4,202,609

Property Tax Exemptions and Industrial Revenue Bonds



Property Tax Exemptions and Industrial Revenue Bonds

The City and/or the County is considering abating taxes on the Project's property. Below is a table that identifies the types of property that are under consideration for property tax abatement:

Land:	No
Building and Property Improvements:	No
Furniture, Fixtures and Equipment:	No

Property Tax Percentage Exemptions On Land and Building

County	City	Schools	Special Taxing District
0%	0%	0%	0%

Property Tax Percentage Exemptions On Furniture, Fixtures and Equipment

County	City	Schools	Special Taxing District
0%	0%	0%	0%

Value of Exemption Through 10 Years:	\$	-	\$	-	\$	-	\$	-
*Value of Payment in Lieu of Taxes Through 10 Years:	\$	-	\$	-	\$	-	\$	-

*The model assumes that the payment in lieu of taxes will be administered to the either the county or city, and the local government will disperse the amounts to the appropriate districts.

Percentage of Gross Receipt Taxes Foregone on Newly Purchased Furniture, Fixtures and Equipment Over 10 Years

Year	State	County	City
1	0%	0%	0%
2	0%	0%	0%
3	0%	0%	0%
4	0%	0%	0%
5	0%	0%	0%
6	0%	0%	0%
7	0%	0%	0%
8	0%	0%	0%
9	0%	0%	0%
10	0%	0%	0%
Value of Exemption Through 10 Years:	\$ -	\$ -	\$ -