



City of Las Cruces

City Council Action and Executive Summary

**3014; Council
Bill 23-008**

Type of Action:

☐ Resolution

☒ Ordinance

☐ TIDD Resolution

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

1st Reading: November 7, 2022

Adopted: November 21, 2022

Drafter: Katherine Harrison-Rogers

Department: Community Development

Program: Planning

Line of Business: Community Planning

Title: AN ORDINANCE AMENDING SECTION 38-32D. DEVELOPMENT STANDARDS-OFFICE, COMMERCIAL, AND INDUSTRIAL ZONING DISTRICTS OF THE LAS CRUCES MUNICIPAL CODE (LCMC) FOR THE PURPOSE OF REINSTATING AN ACCIDENTAL OMISSION OF AN EXISTING DEVELOPMENT STANDARDS TABLE DURING THE ADOPTION OF ORDINANCE 2986. SUBMITTED BY THE CITY OF LAS CRUCES.

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

PURPOSE(S) OF ACTION:

Las Cruces Municipal Code Amendment

BACKGROUND / KEY ISSUES / CONTRIBUTING FACTORS:

After the adoption of amendments to Chapter 38, Zoning, of the Las Cruces Municipal Code (LCMC) on September 7, 2021, via Ordinance 2986, to incorporate regulations related to cannabis-related uses, staff discovered that Section 38-32D. Development Standards-Office, Commercial, and Industrial Zoning Districts were inadvertently omitted. This table outlines the development standards such as setbacks and height limits for Office, Commercial, and Industrial Zones. This omission was in error and this section should be reintroduced to the LCMC. The table to be reinstated can be found in Exhibit "A".

On August 23, 2022, the P&Z, per Section 38-10 B.2.b. of the 2001 Zoning Code, as amended, recommended approval of the proposed code amendment request by a vote of 6-0-0 (one Commissioner seat vacant). Please refer to Attachment "A" for a copy of the P&Z staff report and Attachment "B" for detailed minutes of the discussion. While the P&Z also considered and recommended additional changes to cannabis-related provisions, these are not included as they were heard and denied at City Council on October 3, 2022.

Upon recommendation by the P&Z, the City Council is required to review and take final action on zoning code amendments per Section 38-10 B.2. b. and 38-13 A. of the LCMC. The City Council will consider the recommendation of the P&Z and will decide whether the requested zoning code amendments are appropriate. If deemed suitable based on the evidence presented, the City Council will make a final determination on the request. The City Council may modify or reject the recommendation. Any modifications to the ordinance as written must be specifically articulated during the motion.

SUPPORT INFORMATION:

[Exhibit "A", Section 38-32D. Development Standards - Office, Commercial, and Industrial Zoning Districts](#)

[Attachment "A", P&Z Staff Report](#)

[Attachment "B", P&Z Minutes dated 08-23-22](#)

PLAN(S):

Department Strategic Business Plan, Elevate Las Cruces

COMMITTEE/BOARD REVIEW:

P&Z

DOES THIS AMEND THE BUDGET?:

☐ Yes

☒ No

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

☐ Yes

☒ No

Does this action align with Elevate Las Cruces?

☐ Yes

☒ No

OPTIONS / ALTERNATIVES:

1. Vote "Yes"; this will approve the Ordinance and affirm the P&Z recommendation to reinstate section 38-32D. The LCMC will be amended to reflect the changes.
2. Vote "No"; this will deny the Ordinance and will reject the recommendation made by the P&Z. The current LCMC will remain unchanged.
3. Vote to "Amend"; this allows the City Council to modify the Ordinance as deemed appropriate.
4. Vote to "Table"; this allows the City Council to table/postpone the Ordinance and direct staff accordingly.

ORDINANCE 3014; COUNCIL BILL 23-008

AN ORDINANCE AMENDING SECTION 38-32D. DEVELOPMENT STANDARDS- OFFICE, COMMERCIAL, AND INDUSTRIAL ZONING DISTRICTS OF THE LAS CRUCES MUNICIPAL CODE (LCMC) FOR THE PURPOSE OF REINSTATING AN ACCIDENTAL OMISSION OF AN EXISTING DEVELOPMENT STANDARDS TABLE DURING THE ADOPTION OF ORDINANCE 2986. SUBMITTED BY THE CITY OF LAS CRUCES.

The City Council is informed that:

WHEREAS, the City of Las Cruces adopted zoning regulations related to cannabis uses on September 7, 2021 via Ordinance 2986; and

WHEREAS, Section 38-32D Development Standards- Office, Commercial, and Industrial Zoning Districts was inadvertently removed during the adoption of that Ordinance; and

WHEREAS, this table outlines development standards such as setbacks and height limits for Office, Commercial, and Industrial Zones; and

WHEREAS, no modifications to cannabis regulations are proposed; and

WHEREAS, the Planning and Zoning Commission, after conducting a public hearing on August 23, 2022, recommended approval of the proposed code amendment by a vote of 6-0-0 (one Commission seat vacant).

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

(I)

THAT Chapter 38, Section 38-32D of the Las Cruces Municipal Code be reinstated as reflected in Exhibit "A", attached hereto and made part of this Ordinance.

(II)

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

DONE AND APPROVED this 21 day of November 2022

APPROVED

Mayor

ATTEST:

City Clerk

Moved by: Becki Graham

Seconded by: Tessa Abeyta

AYES Kasandra Gandara, Ken Miyagishima, Yvonne Flores, Johana Bencomo, Becki Graham,
Becky Corran, Tessa Abeyta

NAYS

Sec. 38-32D DEVELOPMENT STANDARDS – OFFICE, COMMERCIAL AND INDUSTRIAL ZONING DISTRICTS: Development standards identified in Matrix 1 are in addition to the following:

STANDARD	O-1	O-2	C-1	C-2	C-3*	M-T	M1 / M2	M-3
Lot/parcel/tract area - Minimum (sq ft) - Maximum (sq ft)	5,000 32,670	5,000 NA	5,000 32,670	10,000 43,560	21,780 NA	5,000 87,120	15,000 NA	25,000 NA
Min. parcel dimensions - Depth/Width (feet)	70/60	70/60	70/60	70/60	70/60	70/60	70/60	70/60
Min. Bldg. Setback - Front Yard (feet) - Rear Yard (feet) 1 - Side Yard (feet) 1 - Side, Second St.	20 15 5 15	15 15 or 0 ** 5 or 0 ** 15	20 15 5 15	15 15 or 0 ** 5 or 0 ** 15	15 15 or 0 ** 5 or 0 ** 15	15 15 or 0 ** 5 or 0 ** 15	15 15 or 0 ** 20 or 0 ** 15	15 15 or 0 ** 20 or 0 ** 15
Maximum Building Gross Floor Area Square Footage	2,500 (2)	NA	2,500 (Individual Use or Center) (2)	NA				
Max. Height **(feet)	35	60	35	45	60	60	60	60
Recommended Roadway Access	NA	Major Local	NA	Major Local	Minor Arterial or any intersection with a Major Arterial	Access to or located on a Collector	Access to or located on a Collector	Access to or located on a Arterial

* See Recreational Vehicle Park Sec. 38-57. NOTE: Recreational Vehicle Park minimum size is two (2) acres.

** See the Exceptions and Modifications Sec. 38-62.

*** See the Antennas, Towers, Communication Structures, and Other Vertical Structures, Sec. 38-59.

1. Requirements of the Building Permit Code related to fire resistant construction shall apply in the case of no setback.
2. A Special Use Permit, Sec. 38-54, is required for square footage in excess of the maximum stated. The Special Use Permit, however, may only be used to grant a single business/use (non-center) additional square footage not to exceed 2,000 square feet for C-1 and 6,000 square feet for C-2.

Other Regulations: The regulations in this Section list unique conditions for land uses and development standards in these zoning districts. Other regulations, e.g., parking, signs, found in other sections of this Code also apply. Sites within special zoning districts, e.g., overlay zones, may be subject to different regulations.



City of Las Cruces
MOUNTAINS OF OPPORTUNITY

Planning & Zoning Commission 8/23/2022
Cannabis Zoning Amendments

STAFF CONTACT: Katherine Harrison-Rogers, (575) 528-3049,
krogers@las-cruces.org

DISTRICT: Citywide

REQUEST: Code Amendments to modify cannabis regulations for the purpose of eliminating the 300-foot buffer between retailers and also from retailers to single-family residential zones.

RECOMMENDATION: Approval

SUMMARY OF REQUEST: The City is proposing amendments to the zoning code to modify the cannabis regulations for the purpose of eliminating the 300-foot buffer requirement between individual cannabis retailers/microbusinesses and eliminating the 300-foot buffer between cannabis retailers/microbusinesses and single-family zoning districts. The following sections are subject to amendments:

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

SUMMARY OF RECOMMENDATION: Staff is recommending **APPROVAL** based on the findings listed below:

- The State of New Mexico Cannabis Regulation Act legalizes recreational cannabis, timelines for the production, manufacturing, sale, and use of cannabis, and permits local jurisdictions to regulate the time, use and manner of cannabis uses.
- Based upon staff's analysis of the proposed zoning code amendments, the amendments meet the intent of Elevate Las Cruces Comprehensive Plan; are akin to existing uses and anticipated impacts currently in the zoning code; meets the purpose and intent outlined in Section 38-2 of the 2001 Zoning Code, as amended; and meets the purpose of the Las Cruces Municipal Code Section 2-382.
- The land use impacts of cannabis retail businesses as compared to other types of retail businesses is de minimis.
- Several commercial corridors within the City abut single family residential zones, unduly restricting the location of cannabis retailers.

PROPOSAL

CANNABIS ZONING RECOMMENDATIONS:

The Cannabis Regulation Act (New Mexico House Bill 2) was approved by the State in the Spring of 2021. The act legalized the recreational use of cannabis and grants the local jurisdictions the authority to regulate the time, place, and manner (including density) of commercial cannabis facilities. Local jurisdictions cannot prevent these types of uses which include the cultivation, manufacturing, packaging, research, testing, sale, and transport of cannabis. According to the New Mexico Regulation and Licensing Department, jurisdictions are required to treat these businesses as they would any other business, including signage. The State is responsible for the licensing and enforcement related to state regulations, including security plans, background checks, water usage and rights, waste disposal, pesticide and chemical use and management, and annual reporting, among others.

In the Fall of 2021, the City of Las Cruces established zoning regulations for cannabis uses which also comply with the State's regulations. The amendments included several definitions including *Cannabis Industry*, *Cannabis Research Laboratory*, *Cannabis Retailer*, *Community Garden*, *Horticulture*, and *Cannabis Microbusiness*. Retail uses (cannabis retailer) and cannabis microbusinesses were added to commercial zones (C-1, C-2, C-3) with conditions, production and manufacturing uses (cannabis industry) was added to industrial zones (M-1/M22, M-3) with conditions, cannabis research laboratories was added to industrial zones with conditions (MT, M-1/M22, M-3), and small cannabis integrated businesses (cannabis microbusiness) was added as allowed with a special use permit in the single-family agricultural zones (EE, REM), similar to existing allowances for small breweries and wineries.

The conditions or special provisions associated with those uses listed above include:

- all uses must be 300 feet from a school or daycare, the greatest allowance permitted by the state (commercial trade schools and schools serving adult populations are exempt);
- retail uses and microbusinesses must be 300 feet from single-family zones and no closer than 300 feet from one another, unless a special use permit is obtained;
- no on-site consumption can occur in the C-1 district; and
- in addition to a special use permit for the cannabis microbusiness in the EE and REM zones, the business must be ancillary to a single-family residence, must be fully enclosed in an accessory structure, must be 100 feet away from adjacent residences, and must only sell products produced on site.

Over the course of the past year, several cannabis related businesses have established themselves within the City. For a detailed list of these businesses, see Attachment 2. Staff worked closely with this emerging industry to assist in both building code and zoning code matters. One of the most frequent complaints from prospective businesses was that it is challenging to find a suitable location based on the established distancing requirements, especially from a single-family residential zoning district. Many of the available commercial zones are directly adjacent to single family residential zoning districts. The Planning and Zoning Commission has heard five (5) Special Use Permits requesting to deviate from these required buffers, all of which have been approved. Further, there are several more under review and forthcoming to the P&Z.

Staff is recommending that the buffer distances between retailers and the buffer distances between cannabis businesses and single-family zoning districts be eliminated. There is little evidence that these restrictions are necessary based on the impacts from these businesses. These uses appear to be no more intense than that of any other retail establishment within the City. The amendments can be found in Attachment 1 and include:

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

Please note that Sec. 38-32 Office, Commercial, and Industrial Zoning Districts is being amended only to reinsert the development standards table that was inadvertently removed during the initial adoption of these amendments. This section does not contain cannabis amendments.

ZONING DECISION CRITERIA AND POLICIES

POLICY	DOES IT COMPLY?
<u>Character and Compatibility</u>	Yes
<u>Elevate Las Cruces Comprehensive Plan</u>	Yes
<u>Criteria for Decisions: Article 2, Section 38-10 (K) of the 2001 Zoning Code</u>	Yes

CHARACTER AND COMPATIBILITY:

Staff reviewed use categories currently outlined in the zoning code to determine the uses most akin to cannabis uses. For cannabis retail sales with no consumption, similar uses would be a pharmacy, package liquor, or specialty retail. For those cannabis retail sales with on-site consumption, the most similar use would be a bar/tavern or brewery/winery. None of these existing use categories have distancing requirements in the zoning code and there is no evidence that cannabis retail establishments or microbusinesses create greater impact than their comparable uses.

COMPLIANCE WITH ELEVATE LAS CRUCES COMPREHENSIVE PLAN:

Elevate Las Cruces has policy and actions related to improving the permitting and registration process for businesses as well as establishing regulations to support their potential for economic prosperity. These include:

- Goal CP-2 Economic Equity: Generate employment opportunities that create economic security for all residents.
- CP-3 Entrepreneurship: Create a nurturing regulatory environment that generates entrepreneurship and small business investment.
 - Cp-3.2: streamline the process to register and open a business in las cruces.
 - CP-3.2.1: Make information regarding city business registration, state and federal licensing and operating requirements, and other business assistance resources readily available.
 - CP-3.2.2: Continue to evaluate and improve total review times for processing commercial building permits and business registrations.
 - CP-3.2.3: Provide step-by-step guidelines for negotiating the permitting process.
 - CP-3.2.4: Use the city as a hub for new businesses to be connected to resources within the community for business technical assistance, financing opportunities, permitting, etc. When starting a new business.

While these goals, policies, and actions support continued evaluation and modifications to the City's processes, the elimination of buffers related to cannabis uses in existing zoning categories in the zoning code neither conflicts with nor is specifically supported by Elevate Las Cruces. The place types shown in the Future Development map do provide guidance on the types of zones and broad uses should be allowed. The cannabis uses are akin to uses found throughout the existing zoning districts, consistent with Elevate's place type zoning district recommendations.

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.

City Staff did not identify any issues associated with the proposed amendments as the uses and their anticipated impacts are akin to those already listed throughout the zoning code.

ATTACHMENTS:

1. Chapter 38 – Zoning Code Redlines
2. Cannabis Business Registrations

Sec. 38-32. Office, Commercial, and Industrial Zoning Districts**A. OFFICE ZONING DISTRICTS****1. PURPOSE:**

The Office Category serves as a transition between commercial and residential uses. It includes business, personal and professional services that can function without generating large volumes of vehicular traffic. The category is divided into two zoning districts: Neighborhood and Professional. The Neighborhood District (O-1) provides zoning for small-scale type offices. These are typically low-intensity uses and may easily locate near residential areas due to their unobtrusive nature. The Professional District (O-2) provides zoning for those office uses that operate at a higher intensity. Both districts are required to provide buffering (only open space and drainage areas are permitted within these buffer zones) and landscaping when located adjacent to residential uses. Office uses, in these instances, may provide residents an opportunity to work close to home, furthering the City's mixed land use policy.

2. ZONING DISTRICT DESCRIPTIONS:

O-1 - OFFICE, NEIGHBORHOOD - LIMITED RETAIL SERVICE: These office uses are low-intensity, small-scale, and provide service activities (e.g., architect, attorney, and engineering consultant). No goods or merchandise are prepared or sold on the premises with the exception of those activities that serve the primary use. Access to streets that are a major local or higher designation is recommended.

LAND USES ALLOWED

RESIDENTIAL-RELATED LAND USES (See Section 38-33B) (NOTE: Also see Staff Interpretation No. 07-001 (Z) at the end of this Section.)

Accessory Uses and Structures
Greenhouse (Non-Commercial), Garden Shed or Tool Shed
Recreational Court, Tennis, etc., Private

INSTITUTIONAL LAND USES (See Section 38-33D)

Child Care Center or Preschool

SERVICE LAND USES (See Section 38-33F)

Accounting, Auditing & Bookkeeping
Architectural, Engineering, Planning & Surveying Services
Business Offices
Consulting
Credit Reporting & Collection
Desktop Publishing & Graphic Design
Institutional Office: Public, Private, Educational, Religious, & Philanthropic
Insurance
Legal Services
Lessons (Art, Dance, Music, etc.)
Mailing & Stenographic Services
Motion Picture Production
Noncommercial Research Organization

Photography Studio
Real estate
Tax Preparation

LAND USES ALLOWED WITH CONDITIONS

RESIDENTIAL LAND USES (See Section 38-33A and Section 38-53)

Bed and Breakfast
Detached, Site-Built, Single Family Dwelling Unit
Dwelling Use (Non primary)
Manufactured Dwelling Unit

RESIDENTIAL-RELATED LAND USES (See Section 38-33B and Section 38-53)

Home Occupation
Kennel/Cattery (Private Residential)
Storage of recreational vehicles and motor vehicle appurtenances
Swimming Pool, Private
Temporary Uses

INSTITUTIONAL LAND USES (See Section 38-33D and Section 38-53)

Religious Institution/Columbarium

RECREATIONAL LAND USES (See Section 38-33E and Section 38-53)

Park

SERVICE LAND USES (See Section 38-33F and Section 38-53)

Art Studio

TRANSPORTATION, WHOLESALE TRADE, WAREHOUSING & BULK STORAGE LAND USES

(See Section 38-33H and Section 38-53)

Above Ground Storage Tanks for Flammable and Combustible Liquids and LP Gas
Storage/Display of merchandise for sale (except manufactured buildings, mobile homes & operable cars, trucks, motorcycles and RVs)
Storage, warehousing accessory to Office, Retail Service or Industry

MANUFACTURING & RELATED LAND USES (See Section 38-33I and Section 38-53)

Construction Yard or Building(s), Temporary

UTILITY LAND USES (See Section 38-33J, Section 38-53 and Section 38-59)

Antenna, Towers, Communication Structures, and Other Vertical Structures
Face Mount (Attached to Primary Use)
Public/Private Utility Installation

LAND USES ALLOWED REQUIRING A SPECIAL USE PERMIT

UTILITY LAND USES (See Section 38-33J, Section 38-54, and Section 38-59)

Antenna, Towers, Communication Structures, and Other Vertical Structures

O-2 - OFFICE, PROFESSIONAL - LIMITED RETAIL SERVICE: Larger scale, higher intensity business and professional service activities (e.g., doctor's office, hair salon) are included in this zoning district. No goods or merchandise are prepared or sold on the premises, with the exception of those activities that serve the primary use. Access to streets that are a collector or higher designation is recommended.

LAND USES ALLOWED

RESIDENTIAL-RELATED LAND USES (See Section 38-33B)

- Accessory Uses and Structures
- Greenhouse (Non-Commercial), Garden Shed or Tool Shed
- Recreational Court, Tennis, etc., Private

INSTITUTIONAL LAND USES (See Section 38-33D)

- Child Care Center or Preschool
- Community Buildings - Uses
- Convention Center/Exhibition Hall
- Library/Museum

RECREATIONAL LAND USES (See Section 38-33E)

- Recreational Courts, e.g., Tennis (Public)

SERVICE LAND USES (See Section 38-33F)

- Accounting, Auditing & Bookkeeping
- Architectural, Engineering, Planning & Surveying Services
- Bank, Bonding & Financial institution Facility (NO Drive Thru)
- Barber/Beauty/Hair Salon & Related Personal Care
- Business Offices
- Consulting
- Counseling Services
- Credit Reporting & Collection
- Desktop Publishing & Graphic Design
- Funeral Home
- Institutional Office: Public, Private, Educational, Religious, & Philanthropic
- Insurance
- Laboratory
- Legal Services
- Lessons (Art, Dance, Music, etc.)
- Mailing & Stenographic Services
- Medical/Dental Office
- Motion Picture Production
- Noncommercial Research Organization
- Photography Studio
- Real estate
- Tax Preparation

TRANSPORTATION, WHOLESALE TRADE, WAREHOUSING & BULK STORAGE LAND USES

(See Section 38-33H and Section 38-53)

- Parking Facilities, Commercial (Garages & Private Parking Lots)

LAND USES ALLOWED WITH CONDITIONS

RESIDENTIAL LAND USES (See Section 38-33A and Section 38-53)

- Bed and Breakfast
- Detached, Site-Built, Single Family Dwelling Unit
- Dwelling Use (Non primary)
- Manufactured Dwelling Unit

RESIDENTIAL-RELATED LAND USES (See Section 38-33B and Section 38-53)

- Home Occupation
- Kennel/Cattery (Private Residential)
- Storage of recreational vehicles and motor vehicle appurtenances
- Swimming Pool, Private
- Temporary Uses

INSTITUTIONAL LAND USES (See Section 38-33D and Section 38-53)

- Religious Institution/Columbarium
- School (K-12) Public, Private, Parochial
- School, College or University
- School, Commercial, Trade or Technical

RECREATIONAL LAND USES (See Section 38-33E and Section 38-53)

- Park
- Swimming Pool, Commercial or Public

SERVICE LAND USES (See Section 38-33F and Section 38-53)

- Art Studio
- Bank, Bonding & Financial Institution/Facility (Drive thru including ATM and other electronic banking)
- Pharmacy

TRANSPORTATION, WHOLESALE TRADE, WAREHOUSING & BULK STORAGE LAND USES

(See Section 38-33H and Section 38-53)

- Above Ground Storage Tanks for Flammable and Combustible Liquids and LP Gas
- Storage/Display of merchandise for sale (except manufactured buildings, mobile homes & operable cars, trucks, motorcycles and RVs)
- Storage, warehousing accessory to Office, Retail Service or Industry

MANUFACTURING & RELATED LAND USES (See Section 38-33I and Section 38-53)

- Construction Yard or Building(s), Temporary

UTILITY LAND USES (See Section 38-33J, Section 38-53 and Section 38-59)

- Antenna, Towers, Communication Structures, and Other Vertical Structures
- Face Mount (Attached to Primary Use)
- Public/Private Utility Installation

LAND USES ALLOWED REQUIRING A SPECIAL USE PERMIT

TRANSPORTATION, WHOLESALE TRADE, WAREHOUSING & BULK STORAGE LAND USES

(See Section 38-33H and Section 38-53)

- Heliport/Helistop

UTILITY LAND USES (See Section 38-33J, Section 38-54, and Section 38-59)

- Antenna, Towers, Communication Structures, and Other Vertical Structures

B. COMMERCIAL ZONING DISTRICTS

1. PURPOSE:

The Commercial Category represents a broad grouping of commercial zoning districts which are based on use, intensity, scale, and compatibility with the natural and urban environment. Commercial developments are intended to be clustered around nodes or centers whenever possible as a means of discouraging strip development.

2. ZONING DISTRICT DESCRIPTIONS:

C-1 - COMMERCIAL LOW INTENSITY: The C-1 district facilitates and encourages development of those uses that generate small-scale retail and service activities within a neighborhood area.

LAND USES ALLOWED

RESIDENTIAL-RELATED LAND USES (See Section 38-33B)

- Accessory Uses and Structures
- Greenhouse (Non-Commercial), Garden Shed or Tool Shed
- Recreational Court, Tennis, etc., Private

INSTITUTIONAL LAND USES (See Section 38-33D)

- Child Care Center or Preschool
- Community buildings uses
- Convention Center/Exhibition Hall
- Library/Museum

RECREATIONAL LAND USES (See Section 38-33E)

- Recreational Courts, e.g. Tennis (public)

SERVICE LAND USES (See Section 38-33F)

- Accounting, Auditing & Bookkeeping
- Architectural, Engineering, Planning & Surveying Services
- Art Studio
- Bank, Bonding & Financial Institution/Facility (No Drive Thru)
- Barber/Beauty/Hair Salon & Related Personal Care
- Business Offices
- Consulting
- Counseling Services
- Credit Reporting & Collection
- Desktop Publishing & Graphic Design
- Funeral Home
- Institutional Office: Public, Private, Educational, Religious, & Philanthropic
- Insurance
- Laboratory
- Legal Services
- Lessons (Art, Dance, Music, etc.)
- Mailing & Stenographic Services
- Medical/Dental Office
- Motion Picture Production
- Noncommercial Research Organization
- Photography Studio
- Real estate
- Tax Preparation

RETAIL LAND USES (See Section 38-33G)

- Cleaning & Maid Services
- Clothing Store
- Delicatessen, Produce/Meat Market
- Grocery Store
- Home Furnishings
- Laundry/Dry Cleaning Services
- Specialty Foods (Bakeries, Confectionaries, etc.)
- Specialty Store (Books, Music, Toys, Sports Equip, Stationery, etc.)
- Variety Store

TRANSPORTATION, WHOLESALE TRADE, WAREHOUSING & BULK STORAGE LAND USES
(See Section 38-33H and Section 38-53)

Parking Facilities, Commercial (Garages & Private Parking Lots)

LAND USES ALLOWED WITH CONDITIONS

RESIDENTIAL LAND USES (See Section 38-33A and Section 38-53)

Bed and Breakfast
Detached, Site-Built, Single Family Dwelling Unit
Dwelling Use (Non primary)
Manufactured Dwelling Unit

RESIDENTIAL-RELATED LAND USES (See Section 38-33B and Section 38-53)

Home Occupation
Kennel/Cattery (Private Residential)
Storage of recreational vehicles and motor vehicle appurtenances
Swimming Pool, Private
Temporary Uses

INSTITUTIONAL LAND USES (See Section 38-33D and Section 38-53)

Religious Institution/Columbarium
School (K-12), Public, Private, Parochial
School, College or University
School, Trade or Technical

RECREATIONAL LAND USES (See Section 38-33E and Section 38-53)

Park
Swimming Pool, Commercial or Public

SERVICE LAND USES (See Section 38-33F and Section 38-53)

Bank, Bonding, and Financial Institutions/facility (drive-thru including ATM and other electronic banking)
Pharmacy

RETAIL LAND USES (See Section 38-33G and Section 38-53)

Café, Cafeteria, Coffee Shop, Restaurant, etc.
Cannabis Microbusiness
Cannabis Retailer – No On-Site Consumption
Hardware Store
Seasonal Sales – Non-Temporary (Fireworks, Agriculture Products, Snowcone Stand, etc.)
Small Item Repair Shop
Temporary (Non-Seasonal)
Upholstery Shop

TRANSPORTATION, WHOLESALE TRADE, WAREHOUSING & BULK STORAGE LAND USES
(See Section 38-33H and Section 38-53)

Above Ground Storage Tanks for Flammable and Combustible Liquids and LP Gas
Storage/Display of merchandise for sale (except manufactured buildings, mobile homes & operable cars, trucks, motorcycles and RVs)
Storage, warehousing accessory to Office, Retail, Service or Industry

MANUFACTURING & RELATED LAND USES (See Section 38-33I and Section 38-53)

Construction Yard or Building(s), Temporary
Cottage Industry – Retail or Service

UTILITY LAND USES (See Section 38-33J, Section 38-53 and Section 38-59)

Antenna, Towers, Communication Structures, and Other Vertical Structures
Face Mount (Attached to Primary Use)
Public/Private Utility Installation

LAND USES ALLOWED REQUIRING A SPECIAL USE PERMIT

UTILITY LAND USES (See Section 38-33J, Section 38-54, and Section 38-59)

Antenna, Towers, Communication Structures, and Other Vertical Structures

TRANSPORTATION, WHOLESALE TRADE, WAREHOUSING & BULK STORAGE LAND USES

(See Section 38-33H and Section 38-53)

Heliport/Helistop

C-2 - COMMERCIAL MEDIUM INTENSITY: The C-2 district facilitates and encourages development of those uses which provide retail and service activities as a convenience to adjacent neighborhoods and whose use generally serves a population of 5,000 to 30,000.

LAND USES ALLOWED

RESIDENTIAL-RELATED LAND USES (See Section 38-33B)

Accessory Uses and Structures

Greenhouse (Non-Commercial), Garden Shed or Tool Shed

Recreational Court, Tennis, etc., Private

AGRICULTURE & EQUESTRIAN (See Section 38-33C)

Veterinary Facility

INSTITUTIONAL LAND USES (See Section 38-33D)

Child Care Center or Preschool

Community Buildings - Uses

Hospital

Library/Museum

RECREATIONAL LAND USES (See Section 38-33E)

Arcade/Game Room

Batting Cages

Billiard/Pool Hall

Bowling Alley

Country Club

Golf Course

Golf Course, Miniature

Golf Driving Range

Health/Exercise Club/Gymnasium/Sports Instruction

Racetrack, Mini, e.g., go-carts

Recreational Courts, e.g., Tennis (Public)

Skating Rink

Zoo/Botanical Park

SERVICE LAND USES (See Section 38-33F)

Accounting, Auditing & Bookkeeping

Architectural, Engineering, Planning & Surveying Services

Art Studio

Bank, Bonding & Financial Institution/Facility (No Drive Thru)

Barber/Beauty/Hair Salon & Related Personal Care

Business Offices

Consulting

Counseling Services

Funeral Home

Credit Reporting & Collection

Desktop Publishing & Graphic Design

Hotel/Motel

Institutional Office: Public, Private, Educational, Religious, & Philanthropic
Insurance
Laboratory
Legal Services
Lessons (Art, Dance, Music, etc.)
Mailing & Stenographic Services
Medical/Dental Office
Motion Picture Production
Noncommercial Research Organization
Pharmacy
Photography Studio
Real estate
Tax Preparation

RETAIL LAND USES (See Section 38-33G)

Auto/Truck Parts Store
Auto/Truck Self-Service/Automated or Full Service Wash/Wax/Detailing
Auto/Truck/Motorcycle Dealers
Auto/Truck/Trailer Rental
Bar, Pub, Tavern (No Dancing)
Building Material
Café, Cafeteria, Coffee Shop, Restaurant, etc.
Carpet/Window Treatments
Cleaning & Maid Services
Clothing Store
Convenience Store
Delicatessen, Produce/Meat Market
Department Store
Equipment Rental
Furniture Store
Garden Supply
Gas Station
Grocery Store
Hardware Store
Health Care Clinic (Non-Hospital)
Home Furnishings
Laundry/Dry Cleaning Services
Newspaper Distribution
Pawn Shop
Private Club or Lodge
Plant Nursery
Radio/TV Studio/Station
Small Item Repair Shop
Specialty Foods (Bakeries, Confectionaries, etc.)
Specialty Store (Books, Music, Toys, Sports Equip, Stationery, etc.)
Telephone & Communication Ctr.
Theater
Tire Sales/Repair
Upholstery Shop
Variety Store
Video Tape Rental/Sales

TRANSPORTATION, WHOLESALE TRADE, WAREHOUSING & BULK STORAGE LAND USES
(See Section 38-33H)

Cab Stand
Mini-Storage Units
Parking Facilities, Commercial (Garages & Private Parking Lots)

MANUFACTURING & RELATED LAND USES (See Section 38-33I)

Crematorium

LAND USES ALLOWED WITH CONDITIONS

RESIDENTIAL LAND USES (See Section 38-33A and Section 38-53)

Apartments (Any configuration/grouping and may include condominiums, Must comply with R-4 development standards, including minimum density of 10 dwelling units per acre and maximum density of 40 dwelling units per acre.)
Assisted Living or Retirement Facility (Any configuration/grouping and may include condominiums, must comply with R-4 development standards, including minimum density of 10 dwelling units per acre and maximum density of 40 dwelling units per acre.)
Nursing Home (Any configuration/grouping and may include condominiums, must comply with R-4 development standards, including minimum density of 10 dwelling units per acre and maximum density of 40 dwelling units per acre.)
Bed and Breakfast
Detached, Site-Built, Single Family Dwelling Unit
Dwelling Use (Non primary)
Manufactured Dwelling Unit

RESIDENTIAL-RELATED LAND USES (See Section 38-33B and Section 38-53)

Home Occupation
Kennel/Cattery (Private Residential)
Storage of recreational vehicles and motor vehicle appurtenances
Swimming Pool, Private
Temporary Uses

INSTITUTIONAL LAND USES (See Section 38-33D and Section 38-53)

Religious Institution/Columbarium
School, (K-12) Public, Private, Parochial
School, College or University
School, Commercial, Trade or Technical

RECREATIONAL LAND USES (See Section 38-33E and Section 38-53)

Amusement Park (Temporary)
Park
Swimming Pool, Commercial or Public

SERVICE LAND USES (See Section 38-33F and Section 38-53)

Bank, Bonding & Financial Institution/Facility (Drive thru including ATM & other electronic banking)

RETAIL LAND USES (See Section 38-33G and Section 38-53)

Auto/Truck Repair & Service
Cannabis Microbusiness
Cannabis Retailer
Firewood Sales
Kennel/Cattery, Commercial
Large Equipment Repair & Service (Non-Vehicular)
Petroleum/Propane Sales
Seasonal Sales – Non-Temporary (Fireworks, Agriculture Products, Snowcone Stand, etc.)
Telemarketing/Mail Order/Call Center
Temporary Use, (Non-Seasonal)

TRANSPORTATION, WHOLESALE TRADE, WAREHOUSING & BULK STORAGE LAND USES (See Section 38-33H and Section 38-53)

Above Ground Storage Tanks for Flammable and Combustible Liquids and LP Gas
Storage/Display of merchandise for sale (except manufactured buildings, mobile homes & operable cars, trucks, motorcycles and RVs)
Storage outside of buildings of materials, equipment, and supplies not for sale
Storage, warehousing accessory to Office, Retail, Service or Industry

MANUFACTURING & RELATED LAND USES (See Section 38-33I and Section 38-53)

Construction Yard or Building(s), Temporary
Cottage Industry – Retail or Service

UTILITY LAND USES (See Section 38-33J, Section 38-53 and Section 38-59)
Antenna, Towers, Communication Structures, and Other Vertical Structures
Face Mount (Attached to Primary Use)
Public/Private Utility Installation

LAND USES ALLOWED REQUIRING A SPECIAL USE PERMIT

TRANSPORTATION, WHOLESALE TRADE, WAREHOUSING & BULK STORAGE LAND USES
(See Section 38-33H and Section 38-54)
Airport, Privately or Publicly Owned
Heliport/Helistop

UTILITY LAND USES (See Section 38-33J, Section 38-54, and Section 38-59)
Antenna, Towers, Communication Structures, and Other Vertical Structures

C-3 - COMMERCIAL HIGH INTENSITY: 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, whose use generally serves a population of over 15,000.

LAND USES ALLOWED

RESIDENTIAL-RELATED LAND USES (See Section 38-33B)
Accessory Uses and Structures
Greenhouse (Non-Commercial), Garden Shed or Tool Shed
Recreational Court, Tennis, etc., Private

AGRICULTURE & EQUESTRIAN (See Section 38-33C)
Veterinary Facility

INSTITUTIONAL LAND USES (See Section 38-33D)
Child Care Center or Preschool
Community Buildings - Uses
Convention Center/Exhibition Hall
Hospital
Library/Museum

RECREATIONAL LAND USES (See Section 38-33E)
Arcade/Game Room
Batting Cages
Billiard/Pool Hall
Bowling Alley
Country Club
Golf Course
Golf Course, Miniature
Golf Driving Range
Health/Exercise Club/Gymnasium/Sports Instruction
Racetrack, Mini, e.g., go-carts
Recreational Courts, e.g., Tennis (Public)
Skating Rink
Zoo/Botanical Park

SERVICE LAND USES (See Section 38-33F)
Accounting, Auditing & Bookkeeping
Architectural, Engineering, Planning & Surveying Services
Art Studio

Bank, Bonding & Financial Institution/Facility (No Drive Thru)
Barber/Beauty/Hair Salon & Related Personal Care
Business Offices
Consulting
Counseling Services
Funeral Home
Credit Reporting & Collection
Desktop Publishing & Graphic Design
Hotel/Motel
Institutional Office: Public, Private, Educational, Religious, & Philanthropic
Insurance
Laboratory
Legal Services
Lessons (Art, Dance, Music, etc.)
Mailing & Stenographic Services
Medical/Dental Office
Motion Picture Production
Noncommercial Research Organization
Pharmacy
Photography Studio
Real estate
Tax Preparation

RETAIL LAND USES (See Section 38-33G)

Auto/Truck Parts Store
Auto/Truck Self-Service/Automated or Full Service Wash/Wax/Detailing
Auto/Truck/Motorcycle Dealers
Auto/Truck/Trailer Rental
Bar/Night Club (Dancing)
Bar, Pub, Tavern (No Dancing)
Building Material
Café, Cafeteria, Coffee Shop, Restaurant, etc.
Carpet/Window Treatments
Cleaning & Maid Services
Clothing Store
Convenience Store
Delicatessen, Produce/Meat Market
Department Store
Equipment Rental
Furniture Store
Garden Supply
Gas Station
Grocery Store
Hardware Store
Health Care Clinic (Non-Hospital)
Home Furnishings
Laundry/Dry Cleaning Services
Manufactured Housing/Buildings Dealers (Similar large item sales)
Newspaper Distribution
Pawn Shop
Private Club or Lodge
Plant Nursery
Radio/TV Studio/Station
Small Item Repair Shop
Specialty Foods (Bakeries, Confectionaries, etc.)
Specialty Store (Books, Music, Toys, Sports Equip, Stationery, etc.)
Telephone & Communication Ctr.
Theater
Theater, Drive in
Tire Sales/Repair

Upholstery Shop
Variety Store
Video Tape Rental/Sales

TRANSPORTATION, WHOLESALE TRADE, WAREHOUSING & BULK STORAGE LAND USES
(See Section 38-33H)

Bus Terminal
Cab Stand
Mini-Storage Units
Parking Facilities, Commercial (Garages & Private Parking Lots)

MANUFACTURING & RELATED LAND USES (See Section 38-33I)
Crematorium

LAND USES ALLOWED WITH CONDITIONS

RESIDENTIAL LAND USES (See Section 38-33A and Section 38-53)

Apartments (Any configuration/grouping and may include condominiums. Must comply with R-4 development standards, including minimum density of 10 dwelling units per acre and maximum density of 40 dwelling units per acre.)
Assisted Living or Retirement Facility (Any configuration/grouping and may include condominiums, must comply with R-4 development standards, including minimum density of 10 dwelling units per acre and maximum density of 40 dwelling units per acre.)
Nursing Home (Any configuration/grouping and may include condominiums, must comply with R-4 development standards, including minimum density of 10 dwelling units per acre and maximum density of 40 dwelling units per acre.)
Detached, Site-Built, Single Family Dwelling Unit
Dwelling Use (Non primary)
Manufactured Dwelling Unit
Bed and Breakfast
Recreational Vehicle Park

RESIDENTIAL-RELATED LAND USES (See Section 38-33B and Section 38-53)

Home Occupation
Kennel/Cattery (Private Residential)
Storage of recreational vehicles and motor vehicle appurtenances
Swimming Pool, Private
Temporary Uses

INSTITUTIONAL LAND USES (See Section 38-33D and Section 38-53)

Religious Institution/Columbarium
School, (K-12) Public, Private, Parochial
School, College or University
School, Commercial, Trade or Technical

RECREATIONAL LAND USES (See Section 38-33E and Section 38-53)

Amusement Park (Temporary)
Archery Range – Indoor
Firing Range - Indoor
Park
Sports Arena/Field/Course, Commercial
Swimming Pool, Commercial or Public

SERVICE LAND USES (See Section 38-33F and Section 38-53)

Bank, Bonding & Financial Institution/Facility (Drive- thru including ATM & other electronic banking)

RETAIL LAND USES (See Section 38-33G and Section 38-53)

Auto/Truck Repair & Service
Cannabis Microbusiness
Cannabis Retailer

Firewood Sales
Flea Market
Kennel/Cattery, Commercial
Large Equipment Repair & Service (Non-Vehicular)
Large Equipment Repair & Service (Vehicular)
Petroleum/Propane Sales
Seasonal Sales – Non-Temporary (Fireworks, Agriculture Products, Snowcone Stand, etc.)
Specialty Retailer – Primary business is the sale of tourism products that may include the sale of fireworks
Telemarketing/Mail Order/Call Center
Temporary Use, (Non-Seasonal)

TRANSPORTATION, WHOLESALE TRADE, WAREHOUSING & BULK STORAGE LAND USES

(See Section 38-33H and Section 38-53)

Above Ground Storage Tanks for Flammable and Combustible Liquids and LP Gas
Storage/Display of merchandise for sale (except manufactured buildings, mobile homes & operable cars, trucks, motorcycles and RVs)
Storage outside of buildings of materials, equipment, and supplies not for sale
Storage, warehousing accessory to Office, Retail Service or Industry

MANUFACTURING & RELATED LAND USES (See Section 38-33I and Section 38-53)

Body Shops & Vehicle Painting Establishments
Construction Yard or Building(s), Temporary
Cottage Industry – Retail or Service

UTILITY LAND USES (See Section 38-33J, Section 38-53 and Section 38-59)

Antenna, Towers, Communication Structures, and Other Vertical Structures
Face Mount (Attached to Primary Use)
Public/Private Utility Installation

LAND USES ALLOWED REQUIRING A SPECIAL USE PERMIT

RESIDENTIAL LAND USES (See Section 38-33A and Section 38-54)

Campground

AGRICULTURE & EQUESTRIAN LAND USES (See Section 38-33C and Section 38-54)

Racetrack, Animal
Rodeo Arena

RECREATIONAL LAND USES (See Section 38-33E and Section 38-54)

Amusement Park – Permanent
Archery Range – Outdoors
Firing range – Outdoors
Sports Complex

TRANSPORTATION, WHOLESALE TRADE, WAREHOUSING & BULK STORAGE LAND USES

(See Section 38-33H and Section 38-54)

Airport, Privately or Publicly Owned
Heliport/Helistop

UTILITY LAND USES (See Section 38-33J, Section 38-54, and Section 38-59)

Antenna, Towers, Communication Structures, and Other Vertical Structures

C. INDUSTRIAL ZONING DISTRICTS

1. PURPOSE:

The Industrial category provides the necessary guidance to permit all types of industrial uses within the City of Las Cruces. The Industrial category describes the industrial

zoning districts and further defines the development requirements, design standards, uses allowed, and performance and mitigation techniques required in order to permit such industries that are in conformance with the Las Cruces Comprehensive Plan.

Industrial uses shall have direct access to a collector or higher designated roadway unless located in industrial parks. Internal streets within industrial parks may be constructed to standards lower than a collector as allowed within the City Design Standards. Industrial uses and parks should be developed so as to have minimal negative impact on adjacent uses.

2. ZONING DISTRICT DESCRIPTIONS:

M-T - INDUSTRIAL TECHNOLOGY: The M-T district is intended to provide for industrial uses that specifically focus on high technology, research, warehousing and large-scale storage facilities and limited manufacturing or processing when ancillary to research and other high technology operations in a generally clean, quiet, and safe environment with minimal negative impacts on the surrounding environment and uses. Commercial and service uses are also introduced as a means of providing support and convenience to the intended land uses associated with this zoning district. (Also see Staff Interpretation 07-002, at the end of Section 38-53 Conditional Uses.)

LAND USES ALLOWED

RESIDENTIAL-RELATED LAND USES (See Section 38-33B)

- Accessory Uses and Structures
- Greenhouse (Non-Commercial), Garden Shed or Tool Shed
- Recreational Court, Tennis, etc., Private

AGRICULTURE & EQUESTRIAN (See Section 38-33C)

- Veterinary Facility

INSTITUTIONAL LAND USES (See Section 38-33D)

- Community Buildings - Uses
- Convention Center/Exhibition Hall
- Detention Facility
- Library/Museum

RECREATIONAL LAND USES (See Section 38-D)

- Golf Course
- Golf Driving Range
- Health/Exercise Club/Gymnasium/Sports Instruction
- Recreational Courts, e.g. Tennis, Public or Private

SERVICE LAND USES (See Section 38-33F)

- Accounting, Auditing & Bookkeeping
- Architectural, Engineering, Planning & Surveying Services
- Bank, Bonding & Financial Institution/Facility (No Drive Thru)
- Barber/Beauty/Hair Salon & Related Personal Care
- Business Offices
- Consulting
- Counseling
- Desktop Publishing & Graphic Design
- Funeral Home
- Hotel/Motel
- Institutional Office: Public, Private, Educational, Religious, & Philanthropic
- Insurance

Laboratory
Legal Services
Mailing & Stenographic Services
Medical/Dental Office
Motion Picture Production
Research Organization, Commercial or Noncommercial
Pharmacy
Tax Preparation

RETAIL LAND USES (See Section 38-33G)

Café, Cafeteria, Coffee Shop, Restaurant, etc.
Carpet/Window Treatments
Cleaning & Maid Services
Clothing Store
Convenience Store
Delicatessen, Produce/Meat Market
Department Store
Gas Station
Health Care Clinic (Non-Hospital)
Laundry/Dry Cleaning Services
Radio/TV Studio/Station
Specialty Foods (Bakeries, Confectionaries, etc.)
Specialty Store (Books, Music, Toys, Sports Equip, Stationery, etc.)
Telephone & Communication

TRANSPORTATION, WHOLESALE TRADE, WAREHOUSING & BULK STORAGE LAND USES
(See Section 38-33H)

Cab Stand
Ministorage Units
Parking Facilities, Commercial (Garages & Private Parking Lots)

MANUFACTURING & RELATED LAND USES (See Section 38-33I)

Jewelry, Silverware, & Plated Ware
Laboratories (Medical/Dental/R & D)
Motion Picture Production Theater/Studio
Musical Instruments
Printing & Publishing
Signs & Advertising

LAND USES ALLOWED WITH CONDITIONS

RESIDENTIAL LAND USES (See Section 38-33A and Section 38-53)

Detached, Site-Built, Single Family Dwelling Unit
Dwelling Use (Non primary)
Manufactured Dwelling Unit
Recreational Vehicle Park

RESIDENTIAL-RELATED LAND USES (See Section 38-33B and Section 38-53)

Home Occupation
Kennel/Cattery (Private Residential)
Storage of recreational vehicles and motor vehicle appurtenances
Swimming Pool, Private
Temporary Uses

AGRICULTURE & EQUESTRIAN LAND USES (See Section 38-33C and Section 38-53)

Brewery/Winery

INSTITUTIONAL LAND USES (See Section 38-33D and Section 38-53)

Child Care or Preschool
School, College or University
School, Commercial, Trade or Technical

RECREATIONAL LAND USES (See Section 38-33E and Section 38-53)

- Amusement Park (Temporary)
- Park
- Swimming Pool, Commercial or Public

TRANSPORTATION, WHOLESALE TRADE, WAREHOUSING & BULK STORAGE LAND USES

(See Section 38-33H and Section 38-53)

- Above Ground Storage Tanks for Flammable and Combustible Liquids and LP Gas
- Storage/Display of merchandise for sale (except manufactured buildings, mobile homes & operable cars, trucks, motorcycles and RVs)
- Storage outside of buildings of materials, equipment, and supplies not for sale
- Storage, warehousing accessory to Office, Retail Service or Industry
- Wholesale Trade, any product

MANUFACTURING & RELATED LAND USES (See Section 38-33I and Section 38-53)

- Apparel & Other Textile Products -Clothing
- Brooms, Brushes & Vacuums
- Cannabis Research Laboratory
- Chemical & Allied Products
- Construction Yard or Building(s), Temporary
- Cottage Industry – Retail or Service
- Dyeing & Engraving Establishments
- Electrical & Electronic Equip. (Computers)
- Fabricated Metal Products
- Food & Kindred Products
- Furniture & Fixtures
- Glass Cutting & Finishing
- Leather Products
- Lumber & Wood Products (Sawmill/Planing)
- Machinery, except electrical
- Manufactured Buildings
- Metal Work & Machine Shop
- Needles, Pins & Fasteners
- Paper & Allied Products
- Petroleum & Coal Products
- Primary Metal Industries
- Rubber & Plastic Products
- Stone, Glass & Clay Products
- Storage Boxes
- Textile Mill Products (Carpets, Rugs, Hosiery, Threads)
- Tobacco Manufacturing
- Toys, & Sporting Goods, Dolls, Games
- Transportation Equipment
- Writing Utensils (pens/pencils/inked ribbons)

UTILITY LAND USES (See Section 38-33J, Section 38-53 and Section 38-59)

- Antenna, Towers, Communication Structures, and Other Vertical Structures
- Face Mount (Attached to Primary Use)
- Public/Private Utility Installation
- Recycling Centers
- Waste Transfer Stations/Sewage Treatment Plants

LAND USES ALLOWED REQUIRING A SPECIAL USE PERMIT

RETAIL LAND USES (See Section 38-33G and Section 38-54)

- Adult Book/Video Store & Entertainment Establishment

TRANSPORTATION, WHOLESALE TRADE, WAREHOUSING & BULK STORAGE LAND USES

(See Section 38-33H and Section 38-54)

Airport, Privately or Publicly Owned

Heliport/Helistop

UTILITY LAND USES (See Section 38-33J, Section 38-54, and Section 38-59)

Antenna, Towers, Communication Structures, and Other Vertical Structures

M1/M2 - INDUSTRIAL STANDARD: The M1/M2 district is intended to provide for industrial uses that consist of full-scale fabrication, manufacturing, packaging and processing of products that can be conducted in a generally clean, quiet, and safe environment with minimal negative impacts on the surrounding environment and uses. (Also see Staff Interpretation 07-002, at the end of Section 38-53 Conditional Uses.)

LAND USES ALLOWED

RESIDENTIAL-RELATED LAND USES (See Section 38-33B)

- Accessory Uses and Structures
- Greenhouse (Non-Commercial), Garden Shed or Tool Shed
- Recreational Court, Tennis, etc., Private

AGRICULTURE & EQUESTRIAN LAND USES (See Section 38-33C)

- Brewery/Winery

INSTITUTIONAL LAND USES (See Section 38-33D)

- Community Buildings - Uses
- Detention Facility
- Library/Museum

RECREATIONAL LAND USES (See Section 38-33E)

- Racetrack, Mini, e.g., go-carts

RETAIL LAND USES (See Section 38-33G)

- Auto/Truck Self-Service /Automated or Full Service Wash/Wax/Detailing
- Bar, Pub, Tavern (No Dancing)
- Café, Cafeteria, Coffee Shop, Restaurant, etc.
- Cleaning & Maid Services
- Clothing Store
- Convenience Store
- Delicatessen, Produce/Meat Market
- Gas Station
- Hardware Store
- Health Care Clinic (Non-Hospital)
- Laundry/Dry Cleaning Services
- Plant Nursery
- Radio/TV Studio/Station
- Small Item Repair
- Specialty Foods (Bakeries, Confectionaries, etc.)
- Specialty Store (Books, Music, Toys, Sports Equip, Stationery, etc.)
- Theater, Drive-in
- Tire Sales/Repair
- Upholstery Shop

SERVICE LAND USES (See Section 38-33F)

- Accounting, Auditing & Bookkeeping
- Architectural, Engineering, Planning & Surveying Services,
- Art Studio
- Bank, Bonding & Financial Institution/Facility (No Drive Thru)
- Barber/Beauty/Hair Salon & Related Personal Care
- Business Offices
- Consulting
- Counseling
- Desktop Publishing & Graphic Design

Funeral Home
Hotel/Motel
Institutional Office: Public, Private, Educational, Religious, & Philanthropic
Insurance
Laboratory
Legal Services
Mailing & Stenographic Services
Medical/Dental Office
Motion Picture Production
Research Organization, Commercial or Noncommercial
Pharmacy
Tax Preparation

TRANSPORTATION, WHOLESALE TRADE, WAREHOUSING & BULK STORAGE LAND USES (See Section 38-33H)

Distribution Centers
Freight House/Truck Terminal
Interstate Warehouse/Bulk Storage Facilities
Ministorage Units
Parking Facilities, Commercial (Garages & Private Parking Lots)
Railroad Terminal/Depot
Trucking Companies
Wholesale Trade, any product

MANUFACTURING & RELATED LAND USES (See Section 38-33I)

Apparel & Other Textile Products –Clothing
Body Shops & Vehicle Painting Establishments
Brooms, Brushes & Vacuums
Chemical & Allied Products
Construction Yard or Building(s), Temporary
Cottage Industry – Retail or Service
Crematorium
Dyeing & Engraving Establishments
Electrical & Electronic Equip. (Computers)
Extraction of Raw Materials
Fabricated Metal Products
Food & Kindred Products
Furniture & Fixtures
Frozen Food Lockers
Glass Cutting & Finishing
Jewelry, Silverware, & Plated Ware
Laboratories (Medical/Dental/R & D)
Leather Products
Lumber & Wood Products (Sawmill/Planing)
Machinery, except electrical
Manufactured Buildings
Metal Work & Machine Shop
Motion Picture Production Theater/Studio
Musical Instruments
Needles, Pins & Fasteners
Paper & Allied Products
Petroleum & Coal Products
Primary Metal Industries
Printing & Publishing
Retail Trade, Business Service Establishment or Offices, any type
Rubber & Plastic Products
Signs & Advertising
Stone, Glass & Clay Products
Storage Boxes

Textile Mill Products (Carpets, Rugs, Hosiery, Threads)
Tire Manufactures & Recyclers
Tobacco Manufacturing
Toys, & Sporting Goods, Dolls, Games
Transportation Equipment
Upholstery Shop (Vehicle & Furniture)
Writing Utensils (pens/pencils/inked ribbons)

UTILITY LAND USES (See Section 38-33J)
Recycling Centers

LAND USES ALLOWED WITH CONDITIONS

RESIDENTIAL LAND USES (See Section 38-33A and Section 38-53)
Detached, Site-Built, Single Family Dwelling Unit
Dwelling Use (Non primary)
Manufactured Dwelling Unit

RESIDENTIAL-RELATED LAND USES (See Section 38-33B and Section 38-53)
Home Occupation
Kennel/Cattery (Private Residential)
Storage of recreational vehicles and motor vehicle appurtenances
Swimming Pool, Private
Temporary Uses

INSTITUTIONAL LAND USES (See Section 38-33D and Section 38-53)
Child Care or Preschool
School, College or University
School, Commercial, Trade or Technical

RECREATIONAL LAND USES (See Section 38-33E and Section 38-53)
Amusement Park (Temporary)
Archery Range – Indoor
Firing Range - Indoor
Park
Swimming Pool, Commercial or Public

RETAIL LAND USES (See Section 38-33G and Section 38-53)
Auto/Truck Repair & Service
Cannabis Retailer (Accessory to Cannabis Industry)
Large Equipment Repair & Service (Non-Vehicular)
Large Equipment Repair & Service (Vehicular)
Petroleum/Propane Sales

TRANSPORTATION, WHOLESALE TRADE, WAREHOUSING & BULK STORAGE LAND USES
(See Section 38-33H and Section 38-53)

Above Ground Storage Tanks for Flammable and Combustible Liquids and LP Gas
Storage of dismantled or wrecked vehicles & products
Storage/Display of merchandise for sale (except manufactured buildings, mobile homes & operable cars, trucks, motorcycles and RVs)
Storage outside of buildings of materials, equipment, and supplies not for sale
Storage, warehousing accessory to Office, Retail Service or Industry

MANUFACTURING & RELATED LAND USES (See Section 38-33I and Section 38-53)
Body Shops & Vehicle Painting Establishments
Cannabis Industry
Cannabis Research Laboratory
Construction Yard or Building(s), Temporary

Contractor's Yard (Building/Electrical/Mechanical/Roads/Utilities)
Cottage Industry – Retail or Service
Retail Trade, Business Service Establishment or Offices, any type
Vehicle Repair (Auto/Truck/Heavy Equipment/Motorcycle/Boat/Recreational Vehicle)
Wrecker Services

UTILITY LAND USES (See Section 38-33J, Section 38-53 and Section 38-59)
Antenna, Towers, Communication Structures, and Other Vertical Structures
Face Mount (Attached to Primary Use)
Public/Private Utility Installation

LAND USES ALLOWED REQUIRING A SPECIAL USE PERMIT

AGRICULTURE & EQUESTRIAN LAND USES (See section 38-33C and Section 38-54)

Racetrack, Animal
Rodeo Arena

RECREATIONAL LAND USES (See section 38-33e and Section 38-54)

Amusement Park – Permanent
Archery Range – Outdoor
Firing Range – Outdoor
Racetrack, Auto/Truck
Sports Complex

RETAIL LAND USES (See Section 38-33G and Section 38-54)

Adult Book/Video Store & Entertainment Establishment

TRANSPORTATION, WHOLESALE TRADE, WAREHOUSING & BULK STORAGE LAND USES
(See Section 38-33H and Section 38-54)

Airport, Privately or Publicly Owned
Heliport/Helistop

UTILITY LAND USES (See Section 38-33J, Section 38-54, and Section 38-59)

Antenna, Towers, Communication Structures, and Other Vertical Structures
Waste Transfer Stations/Sewage Treatment Plants

M-3 - INDUSTRIAL HEAVY: The M-3 district is intended to provide for industrial uses that consist of high-intensity industrial and manufacturing uses having physical and operational characteristics that may be offensive and/or hazardous to the surrounding community.

LAND USES ALLOWED

RESIDENTIAL-RELATED LAND USES (See Section 38-33B)

Accessory Uses and Structures
Greenhouse (Non-Commercial), Garden Shed or Tool Shed
Recreational Court, Tennis, etc., Private

AGRICULTURE & EQUESTRIAN LAND USES (See Section 38-33C)

Brewery/Winery

INSTITUTIONAL LAND USES (See Section 38-33D)

Community Buildings - Uses
Detention Facility

RECREATIONAL LAND USES (See Section 38-33E)

Racetrack, Mini, e.g., go-carts

RETAIL LAND USES (See Section 38-33G)

- Auto/Truck Self-Service /Automated or Full Service Wash/Detailing/Detailing
- Gas Station
- Theater, Drive in

TRANSPORTATION, WHOLESALE TRADE, WAREHOUSING & BULK STORAGE LAND USES

(See Section 38-33H)

- Distribution Centers
- Freighthouse/Truck Terminal
- Interstate Warehouse/Bulk Storage Facilities
- Ministorage Units
- Parking Facilities, Commercial (Garages & Private Parking Lots)
- Railroad Terminal/Depot
- Trucking Companies
- Wholesale Trade, any product

MANUFACTURING & RELATED LAND USES (See Section 38-33I)

- Acid & Battery Manufacture
- Apparel & Other Textile Products – Clothing
- Body Shops & Vehicle Painting Establishments
- Brooms, Brushes & Vacuums
- Chemical & Allied Products
- Construction Yard or Building(s), Temporary
- Cottage Industry – Retail or Service
- Crematorium
- Dyeing & Engraving Establishments
- Electrical & Electronic Equip. (Computers)
- Extraction of Raw Materials
- Fabricated Metal Products
- Food & Kindred Products
- Furniture & Fixtures
- Frozen Food Lockers
- Glass Cutting & Finishing
- Jewelry, Silverware, & Plated Ware
- Laboratories (Medical/Dental/R & D)
- Leather Products
- Lumber & Wood Products (Sawmill/Planing)
- Machinery, except electrical
- Manufactured Buildings
- Metal Work & Machine Shop
- Motion Picture Production Theater/Studio
- Musical Instruments
- Needles, Pins & Fasteners
- Paper & Allied Products
- Petroleum & Coal Products
- Primary Metal Industries
- Printing & Publishing
- Retail Trade, Business Service Establishment or Offices, any type
- Rubber & Plastic Products
- Signs & Advertising
- Slaughterhouse
- Stone, Glass & Clay Products
- Storage Boxes
- Textile Mill Products (Carpets, Rugs, Hosiery, Threads)
- Tire Manufactures & Recyclers
- Tobacco Manufacturing
- Toys, & Sporting Goods, Dolls, Games
- Transportation Equipment

Upholstery Shop (Vehicle & Furniture)
Writing Utensils (pens/pencils/inked ribbons)

UTILITY LAND USES (See Section 38-33J)
Recycling Centers

LAND USES ALLOWED WITH CONDITIONS

RESIDENTIAL LAND USES (See Section 38-33A and Section 38-53)
Detached, Site-Built, Single Family Dwelling Unit
Dwelling Use (Non primary)
Manufactured Dwelling Unit

RESIDENTIAL-RELATED LAND USES (See Section 38-33B and Section 38-53)
Home Occupation
Kennel/Cattery (Private Residential)
Storage of recreational vehicles and motor vehicle appurtenances
Swimming Pool, Private
Temporary Uses

INSTITUTIONAL LAND USES (See Section 38-33D and Section 38-53)
Child Care or Preschool
School, Commercial, Trade or Technical

RECREATIONAL LAND USES (See Section 38-33E and Section 38-53)
Amusement Park (Temporary)
Archery Range – Indoor
Firing Range - Indoor
Park

RETAIL LAND USES (See Section 38-33G and Section 38-53)
Large Equipment Repair & Service (Non-Vehicular)
Large Equipment Repair & Service (Vehicular)
Petroleum/Propane Sales

TRANSPORTATION, WHOLESALE TRADE, WAREHOUSING & BULK STORAGE LAND USES
(See Section 38-33H and Section 38-53)
Above Ground Storage Tanks for Flammable and Combustible Liquids and LP Gas
Storage of dismantled or wrecked vehicles & products
Storage/Display of merchandise for sale (except manufactured buildings, mobile homes & operable cars, trucks, motorcycles and RVs)
Storage outside of buildings of materials, equipment, and supplies not for sale
Storage, warehousing accessory to Office, Retail Service or Industry

MANUFACTURING & RELATED LAND USES (See Section 38-33I and Section 38-53)
Body Shops & Vehicle Painting Establishments
Cannabis Industry
Cannabis Research Laboratory
Contractor's Yard (Building/Electrical/Mechanical/Roads/Utilities)
Vehicle Repair (Auto/Truck/Heavy Equipment/Motorcycle/Boat/Recreational Vehicle)
Wrecker Services

UTILITY LAND USES (See Section 38-33J, Section 38-53 and Section 38-59)
Antenna, Towers, Communication Structures, and Other Vertical Structures
Face Mount (Attached to Primary Use)
Public/Private Utility Installation

LAND USES ALLOWED REQUIRING A SPECIAL USE PERMIT

AGRICULTURE & EQUESTRIAN LAND USES (See section 38-33C and Section 38-54)

- Racetrack, Animal
- Rodeo Arena

RECREATIONAL LAND USES (See section 38-33e and Section 38-54)

- Amusement Park – Permanent
- Archery Range – Outdoor
- Firing Range – Outdoor
- Racetrack, Auto/Truck
- Sports Complex

RETAIL LAND USES (See Section 38-33G and Section 38-54)

- Adult Book/Video Store & Entertainment Establishment

TRANSPORTATION, WHOLESALE TRADE, WAREHOUSING & BULK STORAGE LAND USES

(See Section 38-33H and Section 38-54)

- Airport, Privately or Publicly Owned
- Heliport/Helistop

UTILITY LAND USES (See Section 38-33J, Section 38-54, and Section 38-59)

- Antenna, Towers, Communication Structures, and Other Vertical Structures
- Waste Transfer Stations/Sewage Treatment Plants

Sec. 38-32D DEVELOPMENT STANDARDS – OFFICE, COMMERCIAL AND INDUSTRIAL ZONING DISTRICTS: Development standards identified in Matrix 1 are in addition to the following:

STANDARD	O-1	O-2	C-1	C-2	C-3*	M-T	M1 / M2	M-3
Lot/parcel/tract area - Minimum (sq ft) - Maximum (sq ft)	5,000 32,670	5,000 NA	5,000 32,670	10,000 43,560	21,780 NA	5,000 87,120	15,000 NA	25,000 NA
Min. parcel dimensions - Depth/Width (feet)	70/60	70/60	70/60	70/60	70/60	70/60	70/60	70/60
Min. Bldg. Setback - Front Yard (feet) - Rear Yard (feet) 1 - Side Yard (feet) 1 - Side, Second St.	20 15 5 15	15 15 or 0 ** 5 or 0 ** 15	20 15 5 15	15 15 or 0 ** 5 or 0 ** 15	15 15 or 0 ** 5 or 0 ** 15	15 15 or 0 ** 5 or 0 ** 15	15 15 or 0 ** 20 or 0 ** 15	15 15 or 0 ** 20 or 0 ** 15
Maximum Building Gross Floor Area Square Footage	2,500 (2)	NA	2,500 (Individual Use or Center) (2)	NA				
Max. Height **(feet)	35	60	35	45	60	60	60	60
Recommended Roadway Access	NA	Major Local	NA	Major Local	Minor Arterial or any intersection with a Major Arterial	Access to or located on a Collector	Access to or located on a Collector	Access to or located on a Arterial

* See Recreational Vehicle Park Sec. 38-57. NOTE: Recreational Vehicle Park minimum size is two (2) acres.

** See the Exceptions and Modifications Sec. 38-62.

*** See the Antennas, Towers, Communication Structures, and Other Vertical Structures, Sec. 38-59.

1. Requirements of the Building Permit Code related to fire resistant construction shall apply in the case of no setback.
2. A Special Use Permit, Sec. 38-54, is required for square footage in excess of the maximum stated. The Special Use Permit, however, may only be used to grant a single business/use (non-center) additional square footage not to exceed 2,000 square feet for C-1 and 6,000 square feet for C-2.

Other Regulations: The regulations in this Section list unique conditions for land uses and development standards in these zoning districts. Other regulations, e.g., parking, signs, found in other sections of this Code also apply. Sites within special zoning districts, e.g., overlay zones, may be subject to different regulations.

Sec. 38-54. Special Use Permits

A GENERAL PROVISIONS AND PROCEDURES. A Special Use is a use that is not permitted by right in a zoning district. A Special Use requires review and approval by the Planning and Zoning Commission to determine impacts on the surrounding area. The procedures for such approval are as follows:

1. PRE-APPLICATION PROCEDURES. Any proposed Special Use Permit shall first be reviewed at a pre-application meeting scheduled and held by the Community Development staff. The pre-application process shall be subject to the provisions provided for in Section 38-10 C. This meeting does not require a written application or fee. The results of this meeting shall not obligate the Planning and Zoning Commission or City Council.
2. APPLICATION PROCEDURES. An official application, including the Development Statement, for a Special Use Permit shall be obtained from the Community Development Department. Application requirements shall include, but not be limited to:
 - a. A letter of intent stating the following:
 - 1) A statement of the purpose and use of the property,
 - 2) All property improvements to be made, and
 - 3) A development schedule indicating the approximate dates at which construction or phases of construction will begin and end.
 - b. An accurate and complete boundary survey shall be made of the land to be developed. Property lines shall be shown giving the bearings in degrees, minutes and seconds. Distances shall be shown in feet and hundredths. Curved boundaries or lines on the survey shall provide sufficient data to enable the re-establishment of curves on the property. The location and description of all monuments set or found shall be included where applicable. If only part of the property is to be used for the Special Use, the limits or boundary of the Special Use shall be described in addition to the entire property.
 - c. Site Plans. The site plans shall be at a scale that adequately represents the information as determined by the Community Development Director or designee. The plans shall be prepared on sheets of paper that are at least 8 1/2" x 11" in size. Copies provided shall be legible and of a good quality, with no limit to the number of sheets used. The plans shall indicate the following:
 - 1) Title of site plan.
 - 2) Total acreage of site.
 - 3) Date of preparation, north arrow, written and graphic scale.
 - 4) Identification of site by lot, block, subdivision, if applicable.
 - 5) A statement of ownership, signed by the property owner, that

- complies with Section 38-10.C.8).
- 6) Name and address of property owner.
 - 7) Name and address of applicant, if applicable.
 - 8) Name and address of consulting firm or representative, if applicable.
 - 9) Location and type of all land uses.
 - 10) All site improvements with all setbacks indicated.
 - 11) Dimensions of all buildings.
 - 12) Existing and proposed vehicular circulation systems, including parking areas, storage areas, service areas, loading areas, and major points of access, including street pavement width and right-of-way.
 - 13) A landscaping plan, to include the location, size, common name, and biological name of all landscaping materials.
 - 14) Where applicable, pedestrian and bicycle circulation system, and its relation to surrounding circulation.
 - 15) Where applicable, location and arrangement of all open space, common recreational space, and private open space.
- d. Architectural renderings or artistic drawings. The drawings shall be prepared on sheets of paper that are at least 8½" x 11" in size. Copies provided shall be legible and of a good quality, with no limit to the number of sheets used. The drawings shall illustrate the following:
- 1) All new development illustrating all exterior building materials and colors.
 - 2) All new development illustrating relationships to neighboring uses, including site lighting.
 - 3) Sign location, materials, color, size, shape, and lighting.

A drainage facilities plan, environmental impact statement and/or other items not listed above may be required by the Community Development Director or designee, or the Planning and Zoning Commission.

Application materials which are illegible and/or otherwise of a low quality will not be accepted.

A portion of the submittal requirements may not be required in all cases. Upon receipt of a written request justifying the deletion of required information, the Community Development Director or designee may waive any submittal requirement. The Planning and Zoning Commission may require additional items and resulting information in addition to the submittal requirements as per this section. Additional items and/or information requested by staff may include, but not be limited to, the need for early notification to a neighborhood group(s) and/or defined noticed area. Additional requests shall be justified in writing. The City Council may require additional information before acting on an appeal.

Special Use Permit applications processed via the IDP for residential uses may exclude the landscaping plan and schedule as part of the submittal. All landscaping

requirements of the City Design Standards shall be complied with at time of construction.

- e. Copy of early notification letter to neighborhood group(s) and/or defined noticed area and copy of minutes (summary or verbatim) from any required meeting pursuant to Section 38-10 C. 1. (d) (v).
3. PUBLIC HEARING AND NOTICE PROCEDURE. A public hearing shall be held by the Planning and Zoning Commission for all Special Use Permits in accordance with the provisions of Section 38-10 of this Code.
4. REVIEW AND APPROVAL PROCEDURES. The Planning and Zoning Commission may deny a Special Use Permit request or may grant final approval including the minimum conditions listed in Paragraph 38-54B. Also, approval may be granted with additional conditions imposed which are deemed necessary to implement the Comprehensive Plan and Plan elements and to insure that the purpose and intent of this Code are met to protect and provide safeguards for persons and property in the vicinity. Appeal of a Planning and Zoning Commission decision may be made to the City Council in accord with the provision of Section 38-13.
5. TIME LIMITATIONS, REVOCATIONS, AND DEVELOPMENT STANDARDS. In addition to the imposition of conditions, the Planning and Zoning Commission may impose a time limitation on the Special Use Permit. If a Special Use is discontinued for a period of one (1) year, said permit shall automatically be revoked. If a certificate of occupancy and/or a business registration is not issued for the property with the Special Use Permit within two years from the date of Planning and Zoning Commission approval, or if appealed, City Council approval, the Special Use Permit shall be revoked automatically. All improvements shall be in accord with the development standards within the district, except as otherwise authorized by the Special Use Permit. There shall be no major revisions in the approved Special Use site plan, except as approved by the Planning and Zoning Commission, or if appealed, approved by City Council.

Any major revision proposed to the Special Use Permit and site plan shall require resubmittal of the Special Use Permit and site plan in their entirety. Minor revisions are those changes that are not major and may be approved by the Community Development Director or designee. Major revisions to the Special Use Permit and site plan shall include, but are not limited to:

- a. Any change in land use,
- b. Fifteen (15) percent cumulative increase in land use or building square footage,
- c. Fifteen (15) percent cumulative increase in vehicular traffic on any roadway segment or intersection,
- d. Any increase or decrease in size of the Special Use area,
- e. Any reduction in screening, bufferyards and setbacks at the Special Use boundary line,

- f. Fifteen (15) percent cumulative increase in the buildable area for structures including signs, and
 - g. Reduction or elimination of time limitations.
 - h. Renewal of the Special Use Permit.
6. RECORDING OF THE SPECIAL USE PERMIT. After approval, the Special Use Permit shall be issued by the Community Development Director or designee and shall include all information, conditions, reference to site plans, and other provisions of the Special Use. The Special Use Permit shall be filed in the Dona Ana County property records. The Special Use Permit shall not become effective until adequate evidence of filing in County records has been provided to the Community Development Director or designee. Approval of a Special Use Permit is not a zoning district change.
- B. SPECIAL USES ENUMERATED. The following are special uses that may be approved by the Planning and Zoning Commission in accord with the provisions and conditions of this Section. The Planning and Zoning Commission may, at its discretion, impose additional conditions when deemed necessary. Such uses may be approved only within the districts stipulated.

Sec. 38-33G Adult Bookstore/Video Store or Adult Amusement Establishment (M1/M2, and M-3). These uses shall be permitted provided:

- 1. Such uses are located at a minimum of 1,000 feet from a property line of a:
 - a. school;
 - b. church;
 - c. nursery/day care;
 - d. public park or recreational facility; and
 - e. residential zoning district;
- 2. These uses shall be permitted provided such uses are located at a minimum of 500 feet from the property line of a liquor establishment. The distance shall be measured from the Adult Bookstore/Video Store or the Adult Amusement Establishment to the property line of the liquor establishment; and
- 3. The operator of an Adult Bookstore/Video Store or Adult Amusement Establishment shall affix a sign to the exterior wall nearest the primary entrance to the structure in which such enterprise is located. Such signs shall be 36" x 18", shall have red lettering (letters shall be 2" in width and 3" in height) on a white background and it shall state as follows:

WARNING:

**ADULT BOOKSTORE/VIDEO STORE.
THE BUSINESS WITHIN IS SEXUALLY ORIENTED.**

or

WARNING:

**ADULT AMUSEMENT ESTABLISHMENT.
THE BUSINESS WITHIN IS SEXUALLY ORIENTED.**

4. Distance measurements shall include streets, alleys, channels, canals, other public rights-of-way and railroad right-of-way.

Sec. 38-33H Airport, Privately and Publicly Owned (C-2, C-3, M1/M2 and M-3). The Las Cruces International Airport (LCIA) property is zoned M-3(Conditional). The condition is that land uses will be in accordance with current City-Federal (Federal Aviation Administration) agreements and the adopted LCIA Master Plan. Parking, drainage, landscaping and other development standards are determined by the City Council through Chapter 7.5 of the Municipal Code, as amended, and Resolution 98-371, as amended. The LCIA Master Plan substitutes for a Special Use Permit. No special use permit is required.

Properties within 20,000 feet of an active runway at any airport will not be allowed to conduct land uses that would violate Federal Airspace Protection Regulations, including 14 CFR (Code of Federal Regulations), Part 77.

All other airports shall comply with 14 CFR, Part 77. Development standards, e.g., parking requirements, required runway paving standards, land uses will be determined as part of the Special Use Permit (SUP) review process. A Noise Exposure Study shall be submitted with the SUP application.

Sec. 38-33J Antennas, Towers, Communication Structures and Other Vertical Structures (All zoning districts). See Section 38-59.

Sec. 38-33E Amusement Park (Permanent)(EE, RE, REM, C-3, MT, M1/M2 and M-3). See Section 38-33E.

Sec. 38-33E Archery and Firing Range, Outdoor (OS-R, C-3, M1/M2, and M-3). See Section 38-33E.

Sec. 38-33G Auto/Truck Full or Self-Service/Automated Wash/Wax/Detailing (CBD). See Section 38-43.

Sec. 38-33G Auto/Truck Repair & Service (CBD). See Section 38-43.

Sec. 38-33A Boarding House (CBD). See Section 38-43.

Sec. 38-33C Brewery and Winery(EE and REM).

Sec. 38-43 Building Height over 50 feet (CBD).

Sec. 38-33A Campground (C-3, and M1/M2). See Section 38-57.

Sec. 38-33C Cannabis Microbusiness (EE and REM). Such uses shall be accessory to a primary residence and shall be located in a fully enclosed accessory structure located no less than 100 feet from adjacent residences excluding any residence on the same property on which the cannabis microbusiness is proposed. Cannabis products for retail sale shall be derived from those cultivated on-site. Parking minimums shall be based on the specific use(s) as outlined in Sec. 38-33.

~~Sec 38-33G Cannabis Retailer (C-1, C-2 and C-3). Allows decreased minimum distance requirement from a residential zone and/or from another cannabis retailer.~~

Sec. 38-33D Cemetery/Columbarium (EE, RE, REM, R-1c, R-1a, R-1b, R-1cM, R-1aM and R-1bM). Any cemetery site shall contain at least five (5) acres and shall be located on a major local or higher designated roadway. A Columbarium shall be located on a major local or higher designated roadway with the lot size meeting the zoning district minimum lot size.

Sec. 38-33D Group Child Care Home (EE, RE, REM, R-1c, R-1a, R-1b, R-1cM, R-1aM, R-1bM and R-2).

Sec. 38-33E Country Club, Golf Course and/or Driving Range (EE, RE, REM, R-1c, R-1a, R-1b, R-1cM, R-1aM, R-1bM, R-2, R-3, R-4, and OS-R). There shall be screening and buffering on property lines abutting residential areas and no structures shall be within fifty (50) feet of a residential property line. The parking areas for these uses shall have access to a collector or higher designated roadway. Country clubs within the OS-R zone shall be designed in concert with a golf course or similar large open area.

Sec. 38-33I Extraction of Raw Materials (Not to include Manufacture, Processing or Treatment) (EE, RE, and REM). Such uses shall be a minimum of four hundred (400) feet from a residential district boundary or from an existing residential property. Uses shall not create a significance nuisance due to noise, odor, pollution, traffic or other similar problems. See Section 38-33I.

Sec. 38-33G Gas Station (CBD). See Section 38-43.

Sec. 38-33A Halfway House (EE, RE, REM, R-1c, R-1a, R-1b, R-1cM, R-1aM, R-1bM, R-2, R-3 and R-4).

Sec. 38-33H Heliport/Helistop (EE, REM, R-4, O-2, C-2, C-3, M1/M2 and M-3). Use shall be in accordance with federal Airspace Protection Regulations, including 14 CFR, Part 77.

Sec. 38-33C Racetrack, Animal/Rodeo Arena (EE, RE-Mobile, C-3, M1/M2 and M-3)

Sec. 38-33E Racetrack, Auto/Truck (M-3).

Sec. 38-32D Single Business/Use (Non-Center) - Increased Square Footage Above Maximum (C-1 and C-2). Additional square footage not to exceed 2,000 may be granted in the C-1 district. Additional square footage not to exceed 6,000 may be granted in the C-2 district.

Sec. 38-33E Sports Complex/Stadium: Baseball, Football, Soccer, Softball, Track, etc. (EE, REM, C-3, M1/M2, and M-3). Parking and structures shall be located a minimum of three hundred (300) feet from any residential zoning district boundary.

Sec. 38-33J Waste Transfer Stations/Sewage Treatment Plants (M1/M2 and M-3). Use shall be located at least 300 feet from any residential zoning district boundary.

Sec. 38-55. RESERVED

Sec. 38-53. Conditional Uses

The following land uses are permitted in the zoning districts listed by complying with the specific conditions described. Other conditions and requirements, e.g., parking, walls and fences, that apply to all land uses are found in other sections of this Code. There also may be requirements in the Municipal Code with which specific land uses must comply.

Sec. 38-33H Above Ground Storage Tanks for Flammable and Combustible Liquids and Liquid Petroleum (LP) Gas (All zoning districts). Tanks shall be permitted only when meeting Uniform Fire Code requirements as adopted by the City of Las Cruces, when receiving approval from the Las Cruces Fire Department, or when receiving approval from the State of New Mexico LP Gas Bureau. This provision also applies to Contractor's Yard installations.

Sec. 38-33A Accessory Dwelling Unit (EE, RE, REM, R-1c, R-1a, R-1b, R-1cM, R-1aM, and R-1bM). (See Guest Dwelling in this section.) This use is intended to allow flexibility in existing and proposed housing designs in order to better accommodate family living arrangements which often result due to growing economic and social demands and/or impacts. Accessory dwelling unit means a self-contained living quarter containing independent kitchen (cooking/culinary) facilities attached to and under the same roof as the main dwelling, created by:

1. The conversion of an existing single-family dwelling, or
2. The addition to an existing single-family dwelling, or
3. The incorporation of applicable areas into a new single-family dwelling design which is subsequently constructed.

This use shall be permitted provided:

- a) Owner of record shall reside in either the main or accessory dwelling unit for a minimum of six (6) months of each calendar year. Instances where non-residency occurs in excess of six months due to a legitimate illness or accident requiring hospitalization or special care shall be exempt from this provision; and
- b) No more than one accessory dwelling unit shall exist per single-family dwelling/lot; and
- c) Accessory dwelling units shall be created solely to accommodate those related to the family. Actual occupancy is subject to Item a) above; and
- d) A maximum permitted increase to the size of an existing dwelling for purposes of an accessory unit shall be 30% of the heated/cooled floor area. No more than 30% of the heated/cooled floor area for new construction may be allocated for the accessory dwelling unit; and

- e) Exclusive of the applicant's proposal, no more than 10% of single-family dwellings, in zoning districts that permit single-family dwellings, within a 500 foot radius of the applicant's property (measurement shall be from property line to property line exclusive of rights-of-way) shall have accessory dwelling units. If there are no appropriately zoned properties within the radius measured, the proposal shall be considered as meeting the 10% requirement; and
- f) The lot/parcel proposed for such use shall meet the minimum area requirements of the zoning district; and
- g) Every effort shall be made to avoid additional entrances or other visible changes on the facade of the house facing the street. Modifications or initial designs shall to the extent possible, conform to the overall design of the house. Exterior materials used for the accessory unit shall, to the extent possible, be of a compatible color, texture, and type; and
- h) Accessory dwelling units shall retain direct internal access to the main dwelling in a manner that will allow easy reconversion back as part of the single-family unit (single kitchen). Accessory dwelling units created through an addition or designated as such in new construction, shall be connected to the main dwelling by a common wall(s). A minimum of four (4) feet, including a doorway at least three (3) feet wide, of the accessory unit's common wall(s) length shall be used in the connection. Direct internal access to the accessory living areas shall exist through functional/integral living areas such as a living room, family room, main hallway, etc. Ancillary hallways, garages, laundry rooms, or similar areas shall not serve as the sole connecting facility; and
- i) Landscaping shall be used, to the extent possible, to minimize the impact to adjacent properties; and
- j) Accessory dwelling unit shall conform to Section 38-53, Off-Street Parking requirements; and
- k) The accessory dwelling unit use shall be discontinued on the grounds of non-compliance with any applicable conditions, codes, or ordinances and thereby, require reconversion back as a single-family dwelling. A change in ownership of property where an accessory dwelling unit exists for a person(s) who is/are no longer a family member of the accessory dwelling unit occupant or a change in the intended accessory dwelling unit occupancy status shall cause said use to immediately become void. In such instances, it shall be the responsibility of the new/present owner to either apply for continued accessory unit use or reconvert the structure back to a single-family unit as required pursuant to all applicable regulations.

Sec. 38-33A Apartment (R-4). The residential uses identified may be used; however, in their use the minimum density threshold shall be met.

Sec. 38-33F Bank, Bonding & Financial Institution/Facility (Drive Thru including ATM & other electronic banking drive thru) (O-2, C-2, and C-3). Stacking lanes shall be provided and designed to insure that no bank or ATM traffic backs into the street giving access to the bank. Banks or ATMs shall have access to a major local or higher designated roadway. For stacking lane requirements, see Section 38-58.

Sec. 38-33A Bed and Breakfast (EE, RE, REM, R-1c, R-1a, R-1b, R-1cM, R-1aM, R-1bM, R-2, R-3, R-4, O-1, O-2, C-1 and C-2). This land use shall have direct access to at least a major local-designated roadway. In the EE, RE, REM, R-1c, R-1a, R-1b, R-1cM, R-1aM, R-1bM, R-2, R-3, O-1 and C-1 zoning districts, the number of rooms is limited to eight (8). In the R-4, O-2 and C-2 zoning districts, the number of rooms is limited to fifteen (15). In application of Matrix 1, overall design of buildings and/or site design shall be consistent with the residential neighborhood, architecturally compatible with existing buildings or be architecturally compatible with building types normally found in the zoning district in which it is located. All parking shall be screened from view along any street.

Sec. 38-33G Cannabis Retailer (C-1, C-2, C-3). Cannabis establishments shall comply with all State of New Mexico regulatory and licensing requirements. Cannabis retailers shall be located 300 feet from a school or daycare, excepting commercial schools and schools of higher learning serving those 18 years and older. ~~Further, no cannabis retailer in C-1, C-2 or C-3 zoning districts shall be located closer than 300 feet to a single-family residential zone and shall not be closer than 300 feet to another cannabis retailer unless a special-use permit is obtained per Sec. 33-54.~~ On-site consumption of cannabis is limited to indoors and is entirely prohibited in the C-1 zoning district.

Sec. 38-33G Cannabis Retailer (M-1/M-2). Cannabis establishments shall comply with all State of New Mexico regulatory and licensing requirements. A cannabis retailer in the M-1/M-2 zoning district is only permissible as accessory to a cannabis industry and is limited to 5,000 square feet of retail sales space or retail sales space limited to 49% of the total building square footage, whichever is less. On-site consumption of cannabis is limited to indoors.

Sec. 38-33D Cemetery/Columbarium (R-2, R-3, R-4). Any cemetery site shall contain at least five (5) acres and shall be located on a major local or higher designated roadway. A Columbarium shall be located on a major local or higher designated roadway with the lot size meeting the zoning district minimum lot size.

Sec. 38-33D Child Care or Preschool (EE, RE, REM, R-1c, R-1a, R-1b, R-1cM, R-1aM, R-1bM, R-2, MT, M1/M2 and M-3). Child Care Center, Group Child Care Home, Family Child Care Home, preschool, nursery school, day nursery, kindergarten and similar uses shall be in accord with State licensing requirements. Care of thirteen (13) or more children at one time is prohibited in the residential zoning districts listed. When provided in industrial zoning districts, Child Care Center shall be accessory to industrial uses and shall be within buildings of one of the industrial uses served. See Section 38-52, Home Occupation Business Registration, for babysitting

service/child care when twelve (12) or fewer children are cared for.

Sec. 38-33D Community Buildings - Uses: Public or Private (EE, RE, REM, R-1c, R-1a, R-1b, R-1cM, R-1aM, R-1bM, R-2, R-3, and OS-R). These uses shall be located on a collector or higher designated roadway. Structures or parking located within twenty-five (25) feet of a residential zoning district shall provide an opaque buffer consisting of landscape and walls or fences. Dumpsters or other garbage collection facilities shall not be located within twenty-five (25) feet of property used for residential purposes.

Sec. 38-33I Construction Yard or Building(s) (Temporary) (All zoning districts). Such yard or building(s), including a mobile home or recreational vehicle for a temporary residence or construction office, or any other facilities or arrangement approved by the Community Development Director or designee shall be removed upon completion of construction and in compliance with the Chapter 30 of the Municipal Code. Construction yards and buildings or any other facilities shall be maintained in a neat and orderly fashion. Open yards shall be enclosed by a fence at least five (5) feet in height.

Sec. 38-33A Guest Dwelling (EE, RE, REM, R-1c, R-1a, R-1b, R-1cM, R-1aM, and R-1bM). (See Accessory Dwelling Unit in this section.) No more than one guest dwelling shall be permitted per lot with a single-family dwelling. A guest dwelling may be attached to or detached from a single-family unit. The guest dwelling shall be no more than fifty percent (50%) of the main dwelling's heated/cooled square footage and shall not contain a kitchen. A guest dwelling that is not part of the main dwelling is considered an accessory building and shall meet the requirements for accessory buildings, including setback and size restrictions. A guest dwelling is to be used for temporary occupancy only and is not to be rented or leased. Properties using a septic tank may not have a separate septic tank for a guest dwelling.

Sec. 38-33H Parking Facilities, Commercial (Garages & Parking Lots) (R-4). Parking lots must be within five hundred (500) feet of any office, commercial, or industrial use or zoning district. The parking area shall be suitably landscaped, paved and drained, lighted, and maintained free of debris. (See Section 38-58)

Sec. 38-33E Park, Public and Private (All zoning districts).

- Neighborhood Parks: Generally, these parks will be up to ten (10) acres in size. Commercial amusements, circuses, carnivals, craft fairs, etc., shall be prohibited. Only recreational activities and neighborhood affairs, such as, concerts, may be permitted.
- Community Parks: Generally, these parks will be up to 100 acres, but not less than 10 acres in size, and should be located on a minor arterial or higher designated roadway. Recreational activities, concerts, craft fairs may be permitted.
- Regional Parks: Generally, these parks will be more than 100 acres in size and should be located on a major arterial. All types of recreational activities and high intensity uses (carnivals and circuses) amusements, concerts, and craft fairs may be permitted.

All uses proposed to be located in City parks shall comply with Chapter 20 of the Municipal Code.

Sec. 38-33G Private Club or Lodge (EE, RE, REM, R-1c, R-1a, R-1b, R-1cM, R-1aM, R-1bM, R-2, R-3, R-4, and OS-R). A private club or lodge shall be located on a major local or higher designated street. Structures or parking located within twenty-five (25) feet of a residential zoning district shall provide an opaque buffer consisting of landscaping and walls or fences. Dumpsters or other garbage collection facilities shall not be located within twenty-five (25) feet of property used for residential purposes.

Sec. 38-33J Public/Private Utility Installations, e.g., substations, waterwells, transformers, regulators, lift stations, telecommunication site (All zoning districts). The site shall be developed and maintained in conformance with the general character and appearance of the district, and such development shall include landscaping and suitable opaque screening in the form of a solid wall, fence or compact shrubbery around the entire perimeter of the lot or tract, or around the installation itself in cases such as transformers. A wall or fence may be up to ten (10) feet high.

Sec. 38-33D Religious Institutions (Over Ten (10) Persons)/Columbarium (All zoning districts except Industrial). Religious institutions, with or without a columbarium, shall be located on a major local or higher designated roadway. Structures or parking located within twenty-five (25) feet of a residential zoning district shall provide an opaque buffer consisting of landscape and walls or fences. Dumpsters or other garbage collection facilities shall not be located within twenty-five (25) feet of property used for residential purposes.

Sec. 38-33D Schools (K-12) Public, Private, Parochial/College or University/ Commercial, Trade or Technical (For zoning districts, see page Section 38-33D). Elementary, Middle or High Schools shall be located on a collector or higher designated roadway. Commercial, Trade or Technical Schools, College or University shall be located on a minor arterial or higher designated roadway. All sites shall have a minimum of one (1) acre. Structures or parking located within twenty-five (25) feet of a residential zoning district shall provide an opaque buffer consisting of landscape and walls or fences. Dumpsters or other garbage collection facilities shall not be located within twenty-five (25) feet of property used for residential purposes.

Sec. 38-33E Swimming Pool, Commercial or Public (All zoning districts except O-1, C-1 and M-3). A protective fence or wall no less than six (6) feet in height, measured from the highest abutting property, shall be provided which completely encloses the pool area, and the pool shall be no closer than twenty-five (25) feet from any property line. Approval from the electric utility is required to ensure safety. (See Section 38-60)



Cannabis Business Registrations



Attachment 2

Total New BRs:

Submit Date	Business License	Issue Year	Issue Month	Record Status	DBA Business Name	Contact Name	Business Type	Description	Location Address	Employees
03/23/2022	24654-22-APP	2022	8	Issued	FRATELLI INVESTMENT GROUP LLC	CARLOS CASILLAS	RETAIL	RETAIL OF CANNABIS	908 S SOLANO DR	5
04/25/2022	24752-22-APP	2022	8	Issued	MONSTER HOUSE	MAGGIE MARBLE	RETAIL	RETAIL CANNABIS DISPENSARY	301 N SOLANO DR STE 8	4
06/21/2022	24921-22-APP	2022	7	Issued	MASBUDS LLC	RONALD BENDER	RETAIL	RETAIL BUSINESS SELLING CANNABIS FOR RECREATIONAL PURPOSES	142 WYATT DR	2
10/06/2021	24141-21-APP	2022	6	Issued	EVEREST APOTHECARY INC.	TRISHELLE KIRK	RETAIL	MEDICAL CANNABIS SALES	1240 S VALLEY DR STE D	90
09/22/2021	24150-21-APP	2022	5	Issued	VIDA VERDE VENTURES, LLC	NICOLE FUCHS	AGRICULTURE	GREENHOUSE OPERATIONS AND AGRICULTURAL BROKER.	9035 ADVANCEMENT AVE BLDG E	1
10/14/2021	24170-21-APP	2022	5	Issued	DO WAT I WANT INDUSTRIES	JONATHAN MIRABAL	RETAIL	RECREATIONAL CANNABIS RETAIL ESTABLISHMENT	1770 S TELSHOR, SUITE C, LAS CRUCES, NM 88011	1
01/18/2022	24456-22-APP	2022	5	Issued	CANNAVERSE LLC	RICHARD SMITH	RETAIL	TO PROVIDE OUR CLIENTS WITH GOODS AND SERVICES	2305 NEVADA AVENUE, LAS CRUCES, NM 88001	5
02/25/2022	24590-22-APP	2022	4	Issued	SOL CANNABIS LLC	BRETT BURKE	RETAIL	SOL CANNABIS IS AN ADULT USE RECREATIONAL AND MEDICAL DISPENSARY. THE LOCATION INCLUDES A FULL KITCHEN, AND A PORTION OF THE BUILDING FOR MANUFACTURING/PACKAGING, AS WELL AS A CONSUMPTION LOUNGE. WE HAVE APPLIED TO THE STATE FOR A VERTICALLY INTEGRATED LICENSE. WE CURRENTLY HAVE ZONING,	523 IDAHO AVE	16
03/23/2022	24650-22-APP	2022	4	Issued	HASHTAG CANNABIS LLC	ERIC MADRID	RETAIL	RETAIL CANNABIS SALES	2460 MISSOURI AVE	4
08/25/2021	24022-21-APP	2022	3	Issued	GREENGO NM LLC	NORA LANCASTER	OTHER		2000 E LOHMAN AVE STE E	1
12/11/2021	24342-21-APP	2022	3	Issued	MICAH BAILEY	MICAH BAILEY	TRANSPORTATION	TRANSPORTING OF CANNABIS PER 16.8.2.8 BB (D) NMAC	2049 S TRIVIZ DR APT E17	1
01/10/2022	24441-22-APP	2022	3	Issued	V&S ENTERPRISES LLC	VERONICA SAENZ	AGRICULTURE	CANNABIS PRODUCER MICROBUSINESS	9035 ADVANCEMENT AVE A	2
02/10/2022	24528-22-APP	2022	3	Issued	ORGAN MOUNTAIN ORGANIX LLC	HAILY VAUGHAN	RETAIL	CBD, CANNABIS AND NOVELTY GIFT STORE	1300 EL PASEO RD STE 280	4
02/18/2022	24546-22-APP	2022	3	Issued	BEST BUDZ	JOSE ZAVALA	RETAIL	RETAIL SALES	505 N VALLEY DR	4
03/16/2022	24627-22-APP	2022	3	Issued	ORYX KING, LLC	NICOLE FUCHS	AGRICULTURE	CANNABIS PRODUCTION	9035 ADVANCEMENT AVE BLDG B	2
03/16/2022	24628-22-APP	2022	3	Issued	AKESO BOTANICALS, LLC	NICOLE FUCHS	AGRICULTURE	CANNABIS PRODUCTION	9035 ADVANCEMENT AVE, STE D, LAS CRUCES, NM 88007	2
05/17/2021	23732-21-APP	2021	6	Issued	AKESO BOTANICALS LLC	HAL COFFMAN	MANUFACTURING		200 CONWAY AVE STE B	4
10/21/2020	23144-20-APP	2021	5	Issued	ZIA COLLECTIVE DISPENSARY	CRISANTA L CALDERON	RETAIL		951 N SOLANO DR STE B	2
04/21/2021	23697-21-APP	2021	5	Issued	ROUNDHOUSE RESERVE	JORDAN BARBER	RETAIL		200 S SOLANO DR STE 3	1
02/04/2021	23468-21-APP	2021	2	Issued	RED BARN GROWERS	ELIZABETH BESANCON	OTHER		1405 S VALLEY DR STE 800	9
06/05/2020	22621-20-APP	2020	7	Issued	R. GREENLEAF ORGANICS INC	AUSTIN OVERPECK	RETAIL		2750 MALL DR STE 260	120
05/15/2021	23737-21-APP			Incomplete Submittal	GROTH INDUSTRIES LLC	MATT GROTH	OTHER		2000 W HADLEY AVE	2
09/16/2021	24084-21-APP			Incomplete Submittal	GROBROS	JOEL GREEN	AGRICULTURE	MEDICAL AND RECREATIONAL CANNABIS PRODUCTION FACILITY	2201 N MESQUITE ST STE B	2
11/08/2021	24261-21-APP			Incomplete Submittal	DOUGHDY LLC	JUSTIN KARRENBERG	OTHER	CANNABIS PRODUCTION AND WHOLESALE	2201 N MESQUITE ST, BLDG , LAS CRUCES, NM 88001	5
11/18/2021	24287-21-APP			Incomplete Submittal	GROBROS	JOEL GREEN	AGRICULTURE	CANNABIS CULTIVATION	2201 N MESQUITE ST STE A	2
12/28/2021	24380-21-APP			Incomplete Submittal	RMC NM INC	NATALIE RICKS	RETAIL	RECREATION RETAIL CANNABIS DISPENSARY	304 WYATT DR, SUITE 1, LAS CRUCES, NM 88001	100
02/05/2022	24533-22-APP			Incomplete Submittal	LOS PRIMOS NURSERY LLC	LUIS SENA	LIVE PLANTS	WE ARE A NURSERY WHICH WILL PRODUCE CLONES AND TEENS WITHOUT GROWING ANY MATURE PLANTS	110 N SOLANO DR, BLDG 1/2, LAS CRUCES, NM 88001	5
03/23/2022	24655-22-APP			Incomplete Submittal	THE HOT BOX	CARLOS CASILLAS	RETAIL	RETAIL, MANUFACTURING, AND CONSUMPTION AREA OF CANNABIS PRODUCTS	887 N MAIN ST	5
02/16/2022	24775-22-APP			Incomplete Submittal	PURLIFE	JON WOOD	RETAIL	PURLIFE INC. IS A MEDICAL/RECREATIONAL MARIJUANA PRODUCER, MANUFACTURER AND RETAILER WITH LOCATIONS ALL ACROSS NEW MEXICO. WE HAVE BEEN PROVIDING NEW MEXICANS WITH ALTERNATIVE MEDICINE SINCE 2015. WE HAVE LOCATIONS IN ALBUQUERQUE, LAS CRUCES, FARMINGTON, ALAMOGORDO, HOBBS, RIO RANCHO, T OR C,	2451 N MAIN ST	10
05/16/2022	24823-22-APP			Incomplete Submittal	EVERGREEN PRODUCTS LLC	NICOLE FUCHS	AGRICULTURE	CANNABIS PRODUCTION (GREEN HOUSE)	9035 ADVANCEMENT AVE, STE F, LAS CRUCES, NM 88007	2
06/15/2022	24901-22-APP			Incomplete Submittal	QUEEN BEES COLLECTIVE	VERONICA GARCIA	RETAIL	CANNABIS DISPENSARY RETAIL	600 S SOLANO DR, STE B, LAS CRUCES, NM 88001	6
07/06/2022	24965-22-APP			Incomplete Submittal	URBAN WELLNESS	JORDAN REED	RETAIL	MEDICAL AND RECREATIONAL CANNABIS SALES.	3830 E LOHMAN AVE BLDG 2	15
07/23/2022	25015-22-APP			Incomplete Submittal	CLOUD 9	ERICA ROMERO	RETAIL	THIS IS A CANNABIS RETAIL LOCATION.	169 SKI RUN RD, ALTO, NM 88312	3
07/26/2022	25027-22-APP			Incomplete Submittal	SANDIA BOTANICALS	MICHEAL HAWK	OTHER	CANNABIS DISPENSARY	2517 N MAIN ST STE A	5
07/29/2022	25037-22-APP			Incomplete Submittal	NORTHSTAR LEAF	SALIM PREMIJ	RETAIL	STATE-LICENSED ADULT-USE CANNABIS RETAIL	3330 RINCONADA BLVD STE 1	2
08/09/2022	25054-22-APP			Incomplete Submittal	CLOUD 9	ERICA ROMERO	RETAIL	THIS IS A CANNABIS RETAIL ESTABLISHMENT.	3280 RINCONADA BLVD	3
04/13/2022	24723-22-APP			Inspection Phase	ABOVE THE CLOUDS	VERONICA GARCIA	RETAIL	CANNABIS DISPENSARY	600 S SOLANO RD, SPC B, LAS CRUCES, NM 88001	6
04/26/2022	24759-22-APP			Inspection Phase	SMOKEY ROAD FARMS	RYAN STRAND	RETAIL	RECREATIONAL CANNABIS RETAILER	500 W BOUTZ RD STE A	4
04/25/2022	24767-22-APP			Inspection Phase	LOS PRIMOS FARMS	LUIS SENA	AGRICULTURE	INTEGRATED CANNABIS MICRO BUSINESS	110 N SOLANO DR, #1/2, LAS CRUCES, NM	7
05/02/2022	24772-22-APP			Inspection Phase	HIGH HORSE	RUBEN AGUILAR	MANUFACTURING	CBD AND/OR CANNABIS RETAIL/PRODUCTION/ AND OR MANUFACTURING	390 N SEVENTEENTH ST	5
05/02/2022	24773-22-APP			Inspection Phase	HIGH HORSE	RUBEN AGUILAR	RETAIL	CBD AND/OR CANNABIS RETAIL/PRODUCTION/ AND OR MANUFACTURING	700 S TELSHOR BLVD STE 1502	5
05/02/2022	24776-22-APP			Inspection Phase	HIGH HORSE	RUBEN AGUILAR	RETAIL	CBD AND/OR CANNABIS RETAIL/PRODUCTION/ AND OR MANUFACTURING	1128 S SOLANO DR	5
05/12/2022	24810-22-APP			Inspection Phase	HIGH HORSE	RUBEN AGUILAR	RETAIL	CBD AND/OR CANNABIS RETAIL/PRODUCTION/ AND OR MANUFACTURING	580 S VALLEY DR STE 300	10
05/12/2022	24811-22-APP			Inspection Phase	HIGH HORSE	RUBEN AGUILAR	AGRICULTURE	CBD AND/OR CANNABIS RETAIL/PRODUCTION/ AND OR MANUFACTURING	1510 W AMADOR AVE STE A	10
05/12/2022	24812-22-APP			Inspection Phase	HIGH HORSE	RUBEN AGUILAR	RETAIL	CBD AND/OR CANNABIS RETAIL/PRODUCTION/ AND OR MANUFACTURING	1685 N MAIN ST	10
05/11/2022	24831-22-APP			Inspection Phase	THE BLOOM MANAGEMENT GROUP	TRAVAGHN COLWELL	RETAIL	CANNABIS RETAIL SHOP	615 E LOHMAN AVE STE A	7
05/23/2022	24841-22-APP			Inspection Phase	OTC NM LLC	NORMAN YOUSIF	RETAIL	THE BUSINESS CONDUCTS THE RETAIL SALE OF RECREATIONAL CANNABIS AND CANNABIS GOODS TO QUALIFIED CUSTOMERS OVER THE AGE OF 21	750 S MAIN ST	10
06/02/2022	24863-22-APP			Inspection Phase	THE KITCHEN	CEARA ANGEL	FOOD SERVICE	RETAIL COTTAGE BAKERY WITH CANNABIS INFUSED PRODUCTS	300 N MAIN ST, LAS CRUCES, NM 88001	4
04/21/2022	24887-22-APP			Inspection Phase	CINDER CANNABIS	JUSTIN PETERSON	RETAIL	CANNABIS RETAIL STORE	4420 N SONOMA RANCH BLVD STE C	20
06/17/2022	24912-22-APP			Inspection Phase	MYCBDPLUS LLC	SAM UKPEDINJAGBA	RETAIL	CANNABIS DISPENSARY	1030 EL PASEO RD	6

07/14/2022	24982-22-APP	Inspection Phase	R. GREENLEAF ORGANICS, INC.	RYAN ORDORICA	RETAIL	CANNABIS RETAILER OF MEDICAL AND RECREATIONAL ADULT USE CANNABIS	775 S TELSHOR BLVD	20
07/18/2022	24995-22-APP	Inspection Phase	FCI OF NEW MEXICO	CODY FISHER	RETAIL	CANNABIS RETAIL	140 W PICACHO AVE	50
07/20/2022	25004-22-APP	Inspection Phase	LOUD LEAFS LLC	ERIC MADRID	AGRICULTURE	INTEGRATED CANNABIS MICRO BUSINESS	2460 MISSOURI AVE	4
07/22/2022	25012-22-APP	Inspection Phase	CANNA*CO*LC	CORRINA STRAUSS	RETAIL	CANNABIS RETAIL	606 N MESQUITE ST	2
07/25/2022	25020-22-APP	Inspection Phase	ALTER EGO CULTIVATION	JASON ESCOBAR	AGRICULTURE	CANNABIS CULTIVATION	1720 W HADLEY AVE UNIT E	1
07/26/2022	25026-22-APP	Inspection Phase	JACKPOT DISPENSARY	JACQUIES WILLIAMS	RETAIL	RETAIL	1275 W PICACHO AVE	2
08/30/2021	24043-21-APP	Pending	HIGH DESERT GROWERS	RYAN MAJOR	AGRICULTURE	CANNABIS MICROBUSINESS	7330 SHANNON RD	1
09/15/2021	24080-21-APP	Pending	LA YERBA BUENA NM<	JOHN SERRANO	AGRICULTURE	INDOOR CANNABIS GROW	401 N SEVENTEENTH ST STE 7	3
09/08/2021	24066-21-APP	Revisions Required	ORGAN MOUNTAIN WELLNESS LLC	SOMMER MARTIN	AGRICULTURE	CANNABIS CULTIVATION	205 W BOUTZ RD, BLDG 1, LAS CRUCES, NM 88005	5
09/13/2021	24103-21-APP	Revisions Required	DRAGOONS LAIR LLC	ELI SALCIDO	AGRICULTURE	AN INDOOR MICRO-GROW PRODUCER OF LESS THAN 200 CANNABIS PLANTS.	3495 BATAAN MEMORIAL WEST STE D	2
10/15/2021	24173-21-APP	Revisions Required	TOP CROP	NICK SPOOR	RETAIL	CANNABIS RETAIL DISPENSARY	2240 E LOHMAN AVE	10
10/07/2021	24174-21-APP	Revisions Required	ORGAN MOUNTAIN GROWERS, INC.	STEVEN BURLBAW	AGRICULTURE	CANNABIS PRODUCER OPERATION	430 N COMPRESS RD	12
10/10/2021	24177-21-APP	Revisions Required	ORIGIN GREENLIGHTS	REYES ESPINOZA	WHOLESALE	ORIGIN GREENLIGHTS IS A CANNABIS PRODUCER MICROBUSINESS WHOLESALING NO MORE THAN 200 MATURE PLANTS, OR THEIR BYPRODUCTS, AT ANY ONE TIME WITHIN THE STATE OF NEW MEXICO. THIS COMMERCIAL CANNABIS ACTIVITY WILL BE CARRIED OUT BY EMPLOYEES AND UPPER-LEVEL MANAGEMENT TO INCREASE NEW MEXICO'S GLOBAL AND NATIONAL APPEAL. THE CANNABIS PRODUCTS FROM ORIGIN GREENLIGHTS WILL BE SOLD TO MANUFACTURERS, VERTICALLY INTEGRATED CANNABIS ESTABLISHMENTS, AND RETAIL LOCATIONS AT WHOLESALE PRICES, WHILE ADHERING TO THE DICTATES OF THE CITY OF LAS CRUCES AND NEW MEXICO'S CANNABIS CONTROL DIVISION.	2001 COPPER LOOP STE 4	3
10/07/2021	24205-21-APP	Revisions Required	ELEVATED SOCIETY LLC	SERGIO FLORES	PRODUCE	MARIJUANA CULTIVATION	375 N COMPRESS RD	3
11/24/2021	24304-21-APP	Revisions Required	IRON LUNG NM, LLC	MATT CHADWICK	AGRICULTURE	CANNABIS GROW OPERATION	1655 W AMADOR AVE	10
12/04/2021	24326-21-APP	Revisions Required	TWISTED ROOTS FARMS	GREGORY SANDERS	AGRICULTURE	GROWING CANNABIS, WHOLE SALE OF CANNABIS TO COMMERCIAL CANNABIS DISPENSARIES	1790 W HADLEY AVE STE E	6
01/01/2022	24385-22-APP	Revisions Required	FOURTY TWO COLLECTIONS	MARVINA THOMAS	RETAIL	CANNABIS RETAIL, MANUFACTURED, SMALL CULTIVATION AND KITCHEN	2215 S MAIN ST STE A	1
01/25/2022	24476-22-APP	Revisions Required	BUDZ CANNABIS	RICARDO WILSON	RETAIL	CANNABIS RETAIL STORE	1886 W PICACHO AVE BLDG 1	3
01/14/2022	24499-22-APP	Revisions Required	UNITY RD	JOE HERNANDEZ	RETAIL	LICENSED LEGALIZED ADULT-USE CANNABIS RETAILER	250 W AMADOR AVE	2
02/09/2022	24588-22-APP	Revisions Required	CANNAFUL CREATIONS, LLC	CORINA CUELLAR	MANUFACTURING	INFUSED CANDIES. EXTRACTING THC USING ONLY HEAT AND NO GAS WILL BE USED OTHER THAN WASHING AREAS. EVERYTHING WILL BE ELECTRONIC (120V). IT WILL ONLY BE WHOLESALE MANUFACTURING THE CANDIES AND WILL BE DELIVERED TO DISPENSARIES. IT WILL NOT BE OPEN TO THE PUBLIC AS IT IS ONLY THE MANUFACTURING ASPECT.	525 E MADRID AVE STE 3	1
02/28/2022	24594-22-APP	Revisions Required	FROM THE EARTH	KEIFER PAYNE	RETAIL	RETAIL CANNABIS DISPENSARY. WE ARE A FRANCHISED BUSINESS BASED OUT OF CALIFORNIA THAT WISHES TO HELP GROW THE NEW MEXICO MARKET WITH OUR COMPLIANT AND PROVEN SYSTEMS. WE WILL FOCUS ON THE EDUCATION OF THE PRODUCT TO THE CONSUMERS TO BREAK THE NEGATIVE STIGMAS ASSOCIATED WITH	2505 MISSOURI AVE	11
03/03/2022	24607-22-APP	Revisions Required	CANNAVERSE LLC	RICHARD SMITH	LIVE PLANTS	PRODUCTION	1754 BUILDTEK CT, LAS CRUCES, NM 88005	5
03/21/2022	24641-22-APP	Revisions Required	THE HOT BOX	CARLOS CASILLAS	RETAIL	RETAIL AND CONSUMPTION AREA OF CANNABIS	1007 EL PASEO RD	5
03/15/2022	24643-22-APP	Revisions Required	11:30 CANNABIS	GABRIEL SILVA	RETAIL	GREEN REMEDY ENTERPRISES LLC IS A NEW COMPANY WHICH INTENDS TO EMERGE INTO THE DISPENSARY INDUSTRY. WE WILL SOON ACQUIRE THE REQUIRED LICENSE FROM THE STATE OF NEW MEXICO. LOCATED IN LAS CRUCES NM. WORKING TO OPEN OUR DOORS LATE 2022. WE PLAN TO BE THE SOLUTION TO ALL CANNABIS ENTHUSIASTS FROM NOVICE TO EXPERIENCED. WITH PRODUCTS AT LOW AND COMPETITIVE PRICES AND SERVICE THAT	590 S SOLANO DR STE C	1
03/30/2022	24678-22-APP	Revisions Required	THIS CANNABIS	ANTHONY LIRA	PRODUCE	PRODUCER MICROBUSINESS	1803 N VALLEY DR	1
04/04/2022	24694-22-APP	Revisions Required	BLUNTLEY LLC	GONZALO CHAVEZ	RETAIL	THIS IS A.CANNABIS RETAIL DISPENSARY SHOP.	440 S MAIN ST	1
05/02/2022	24774-22-APP	Revisions Required	HIGH HORSE	RUBEN AGUILAR	RETAIL	CBD AND/OR CANNABIS RETAIL/PRODUCTION/ AND OR MANUFACTURING	2000 E LOHMAN AVE STE B	5
05/19/2022	24833-22-APP	Revisions Required	SOUTHWEST DISPENSARY	ELISEO GARDEA	OTHER	CANNABIS MICROBUSINESS	421 AVENIDA DE MESILLA STE C	3
05/26/2022	24852-22-APP	Revisions Required	EVEREST APOTHECARY, INC	JAMES DARBY	RETAIL	CANNABIS RETAIL	1240 S VALLEY DR STE D	145
10/15/2021	24175-21-APP	Withdrawn	ORGAN MOUNTAIN WELLNESS LLC	SOMMER MARTIN	AGRICULTURE	CANNABIS CULTIVATION AND ADULT RECREATIONAL CANNABIS RETAIL SALES	205 W BOUTZ RD, BLDG 2, LAS CRUCES	3
03/04/2022	24603-22-APP	Withdrawn	JACKPOT DISPENSARY	JACQUIES WILLIAMS	RETAIL	CANNABIS RECREATIONAL ADULT USE DISPENSARY	1275 W PICACHO AVE	8

**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, Secretary
Enrico Smith, Member
Vanessa Vega, Member

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 righty. 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 Dode 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.
46

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.

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

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

16
17 When I did survey the property prior to even submitting the zone change, I
18 was actually going to just locate the property corners because there is an
19 easement that runs there. And so they wanted to make sure and build and
20 not obviously encroach in that easement. And it was at that point that they
21 then applied for the building permit, were told, Hey, you can't actually build
22 on it yet because of the zone designation. At that time there was a chain
23 link fence already there along with the wire fence that is on the east
24 boundary of the property. Since then, they have in fact erected via a permit
25 after the fact, with the fence that is in place. And I did talk to the applicant
26 after addressing concerns that the public had had as to what the items were
27 that were on the lot. And they have mobilized some of their equipment to
28 start to erect the house once we get the go ahead with the zone change.
29 They are custom home builders. So their business personally, of course is
30 custom home building. However, they've just mobilized their equipment to
31 in fact be able to build their house once this designation, if this designation
32 is approved. The storage containers are Conex boxes, because the owner
33 currently is selling his house and so his personal belongings are within the
34 storage Conex boxes that are there. So of course the intent would be that
35 all the insides of that Conex box would be of course furnishing the home.
36 And then there were also concerns regarding the RV units, but those are
37 just personal fifth wheels that the owner has. They're not used for
38 construction purposes or anything like that. They're just personal items that
39 they've placed there for the time being. So, you know, given the process
40 and what we have to go through, we're just seeking the REM designation
41 so that we can move forward and let them have the ability to get their permit
42 approved and build their home.

43
44 Guerrero: All right. Well, thank you very much. Do we have any questions from the
45 Commission? No. Seeing none. We'll move to public comment. Do we
46 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 Kar 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

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

27
28 So your options this evening is vote "yes" and approve the request, you can
29 deny it and provide findings to the contrary of what staff's presented, you
30 could vote "yes" with the condition staff has proposed or any additional that
31 you may feel prudent to apply. And you can also vote to table the request.
32 And this concludes staff's presentation. I know Mr. Ron Bohannon is in the
33 audience from Tierra West, representative for this case. Between us we
34 can answer any question you may have.

35
36 Guerrero: Perfect. Thank you very much. Would you like to come up and speak? All
37 right before I have you speak I would need to swear you in. Could we have
38 your first and last name please?

39
40 Bohannon: Ronald Bohannon. As in Boy-O-H-A-N-N-A-N

41
42 Guerrero: Thank you for the clarification. And do you swear and affirm that the
43 testimony you're about to give is the truth and nothing but the truth under
44 penalty of law?

45
46 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 Faney,
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 Pintang: 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 Pintang: 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 Pintang; I'm sorry.
20
21 Guerrero: Over 55.
22
23 Pintang: 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 Pintang; 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 Pinter 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 Bohannon: 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 Pinter: May I have one more minute?
14

15 Guerrero: Yes, go ahead.
16

17 Pinter: 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 Bohannon: 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 will 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 Bohannon: 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 Bohannon: 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.

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.

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

1 **12. ADJOURNMENT (9:17)**

2
3 Guerrero: Well, with that being said, can I get a motion to adjourn the meeting?

4
5 Vega: I make a motion to adjourn.

6
7 Bennett: I'll second.

8
9 Guerrero: All righty. Perfect.

10
11 Baum: Board Member Vega.

12
13 Vega: Yes.

14
15 Bam Board Member Smith.

16
17 Smith: Yes.

18
19 Baum: Board Member Kaiser.

20
21 Kaiser: Yes.

22
23 Baum: Board Member Bennett.

24
25 Bennett: Yes.

26
27 Baum: Board Member Acosta.

28
29 Acosta: Yes.

30
31 Baum: Chair Guerrero.

32
33 Guerrero: Yes. Perfect. Well, this meeting is adjourned. Thank you everybody.

34
35
36
37
38
39 _____
Chairperson