

1 feel they have a conflict of interest on any items on the agenda presented
2 this evening? All right. Seeing numb, seeing none rather, I'm sorry.

3
4 **III. APPROVAL OF MINUTES**

5
6 1. January 26, 2015 - Regular Meeting

7
8 Gordon: We'd like to now do the approval of last, the meeting from January 26th.
9 Are there any Commissioners present at that time who feel that the
10 minutes need any corrections? If so please state. Seeing none I'd like to
11 entertain a motion that we adopt the minutes.

12
13 Beard: I move to adopt the minutes.

14
15 Gordon: Okay. Mr. Beard made a motion to adopt the minutes. Do we have a
16 second?

17
18 Crane: Seconded.

19
20 Gordon: Okay. Mr. Crane seconded. Are there any postponements, Adam?

21
22 Ochoa: No sir Mr. Chair, but we still need a, a vote on the minutes of approving
23 the minutes.

24
25 Gordon: I'm sorry. We have a vote on approval of the minutes. All in favor say
26 "aye."

27
28 **MOTION PASSES UNANIMOUSLY.**

29
30 Gordon: Opposed? See, I, hearing no opposed we, the minutes are approved.

31
32 **IV. POSTPONEMENTS**

33
34 Gordon: Now we move, were there any postponements?

35
36 Ochoa: No sir. None tonight.

37
38 Gordon: Okay.

39
40 **V. CONSENT AGENDA**

- 41
42 1. **Case S-15-035:** Request for approval of an application of Borderland
43 Engineers & Surveyors, LLC on behalf of Terry & Lavonda Preuit, property
44 owners, for a master plan known as Preuit Subdivision Master Plan on 1.00
45 +/- acres zoned R-1aM (Single-Family Medium Density Mobile) and located
46 on the north side of Payan Road, 350 +/- feet east of its intersection with

1 Porter Drive; Parcel ID# 02-19826. Proposed Use: A 6 lot single-family
2 residential subdivision that will be developed in 2 phases; Council District 5
3 (Councilor Sorg).
4

- 5 2. **Case S-15-036:** Request for approval of an application of Borderland
6 Engineers & Surveyors, LLC on behalf of Terry & Lavonda Preuit, property
7 owners, for a preliminary plat known as Preuit Subdivision, Phase 1 on 1.00
8 +/- acres zoned R-1aM (Single-Family Medium Density Mobile) and located
9 on the north side of Payan Road, 350 +/- feet east of its intersection with
10 Porter Drive; Parcel ID# 02-19826. Proposed Use: Phase 1 of the Preuit
11 Subdivision Master plan with four residential lots and one tract to be
12 developed in the future with residential lots: Council District 5 (Councilor
13 Sorg).
14

15 Gordon: Next then we can move to the Consent Agenda. There are two cases on
16 the Consent Agenda this evening. They're Case Number S-15-035 and
17 Case S-15-036. Is there any member of the public or the Commission or
18 a, the department that wish they have to make any discussion on these
19 items? All right. Seeing none, if there are no objections then we will vote
20 on the Consent Agenda in its entirety. So I'd like to have a motion to
21 accept.
22

23 Crane: I move we accept the Consent Agenda.
24

25 Gordon: Oh.
26

27 Beard: I second it.
28

29 Gordon: Okay. We have a vote, we have a motion to accept the Consent Agenda.
30 All in favor say "aye."
31

32 MOTION PASSES UNANIMOUSLY.
33

34 Gordon: Against? Seeing none, passes six to zero.
35

36 VI. OLD BUSINESS - NONE 37

38 Gordon: Then we move to new, or was there any Old Business, I'm sorry.
39

40 Ochoa: No sir. None tonight.
41

42 Gordon: Okay.
43
44
45
46

1 VII. NEW BUSINESS

- 2
3 1. **Case 61305:** A Special Use Permit (SUP) application of Verizon
4 Wireless/KGI Wireless on behalf of Valley Equity, LLC, property owner, to
5 construct a new wireless communication facility on a property encompassing
6 0.99 +/- acres, zoned C-2 (Commercial Medium Intensity) and located on the
7 southwest corner of Valley Drive and Aspen Avenue; a.k.a. 1240 Valley
8 Drive; Parcel ID# 02-21157; Proposed Use: The applicant is seeking to
9 construct a new 70-foot tall stealth wireless communication structure and
10 associated accessory structures on the subject property. Council District 4
11 (Councilor Eakman).

12
13 Gordon: Okay. Then we'd like to move to New Business. There was only one
14 case on New Business tonight. That's Case Number 61305. Before we
15 start I'd like to know if there are any members of the public who wish to
16 speak on this issue. Would you please raise your hand. All right. Seeing
17 only one I could give you sort of unlimited time, maybe up to five or ten
18 minutes to say what you'd like. So being that said, Adam you want to
19 present this item.

20
21 Ochoa: Yes sir. Adam Ochoa, Community Development Department for the
22 record. First case tonight ladies and gentlemen is Case 61305. It is a
23 special use permit request for a new wireless communication facility at
24 1240 South Valley Drive. Subject property's shown here in the hash
25 marks, kind of an L-shaped lot located north of what is Avenida de Mesilla,
26 west of Valley Drive, and east of you can see I-10 is right over here. As
27 you can see from the zoning map it is relatively in a, a, a largely
28 commercial zoned area with the two thoroughfares but abutting directly to
29 the west is a single-family residential neighborhood. It is located on the
30 southwest corner of Valley Drive and Aspen Avenue.

31 Subject property currently encompasses a little under an acre,
32 about 0.99 acres and is currently zoned C-2 or commercial medium
33 intensity. Currently on the property there is a small shopping strip with a
34 couple of suites with businesses in them. Shown here on the aerial map
35 that existing business with its existing parking lot. Just to give you a better
36 idea we got some used car and car dealerships here to the east. We got
37 a Murphy's Express, the gas station here to the south, Avenida, Avenida
38 de Mesilla shown here further to the south, and then single-family homes
39 to the west, and apartments and other single-family homes to the, to the
40 northwest.

41 For the request tonight what staff looked at is Section 38-59F of the
42 2001 Zoning Code which essentially states that any new communication
43 structure adjacent to single-family zoned property, in this case R-1a zoned
44 property shall not be permitted unless approved through the special use
45 permit process. Additionally the section states that the applicant is
46 required to pay for all the expenses associated with the City hiring an

1 independent qualified expert to review the proposed tower and all the, the,
2 the technical information and provide an actual written recommendation to
3 the P&Z so what our expert is, did essentially was provide a
4 recommendation to you all for you to take into consideration for your votes
5 tonight for this proposed application.

6 The proposal is for a new wireless communication facility located
7 on the property, roughly to, to the rear of the property if you will, closer
8 towards Avenida de Mesilla for a facility with a 70-foot-tall wireless
9 communication tower. That tower is proposed to be a stealth tower
10 looking like a pine tree. Again like I stated this is located adjacent to the
11 R-1a zoned property which is why it is required to actually seek a special
12 use permit. The, the, where the proposed tower is proposed to be located
13 at is like, like I stated before is at the rear of the property. The proposed
14 facility and tower do meet the required setbacks for a tower, typical
15 building setbacks including the required setbacks from the adjacent
16 residential lot. The required set back is one for, one foot per foot of height
17 of the tower which is 70 feet plus 10% which would make it up to 77 feet.
18 The tower is actually about a little over 100 feet away from that adjacent
19 residential lot. What the applicant has submitted to staff does appear that
20 all requirements of Section 38-59 which is the requirements for all vertical
21 structures in the 2001 Zoning Code are being met.

22 You can see a site plan here, Valley Drive here to the east, Aspen
23 Avenue here to the north, here is that existing shopping center with its
24 parking. The proposed tower will, is located here to the rear as I stated in
25 that southeast, or southern portion of that lot. Here's the enclosure with
26 the facility, the enclosed facility here. As you can see here again it does
27 meet all its setback requirements for the, from the 2001 Zoning Code.
28 Here's a sketch of what that proposed tower would look like as, like I said,
29 stealth tower camouflaged as a pine tree. Here are some site photos.
30 Here is looking at that parking lot looking towards the actual back area
31 where that tower's going to be. As you can see the tower's roughly
32 located actually behind the existing Murphy's Express so it's actually
33 behind a commercial property, more adjacent to other commercial
34 property as well.

35 Yeah, applicant did provide some pictures of some potential artist
36 renditions what the tower'd look like from the surrounding area. Here is
37 looking at it from the corner of Aspen and Valley Drive. You can see the,
38 the pine tree there, here at the corner of Avenida de Mesilla and Valley
39 you can see the tower here as like I said behind the Murphy's Express,
40 here looking at the tower along Avenida de Mesilla which is where you
41 could see it more. Course Avenida de Mesilla meet, one more, of our
42 more commercial thoroughfares if you were in the city, and this view
43 looking from the west closer from the residential area at where that tower
44 would be.

45 An analysis was prepared for the proposed new facility by Verizon
46 Wireless' analyst and essentially that analysis was forwarded to Greg Best

1 Consulting again who did review this analysis and provided a rhetoric,
2 written recommendation on February 2nd of this year. In that review and
3 analysis the, our independent engineer did concur with the analysis of the
4 applicant that the proposed new wireless communication facility at 1240
5 South Valley Drive is the best available site. He did point out another site
6 along Avenida de Mesilla that could potentially work for this. I believe that
7 is in your staff report as you can see, but that property which is zoned
8 commercial and so forth like that is located in what we call the Avenida de
9 Mesilla Overlay which actually does not permit vertical structures along
10 that area so this actually came, became the best available site because of
11 zoning and allowances and so forth like that.

12 With that staff did review the special use permit and based on the
13 review by staff and all the other reviewing departments of the City of Las
14 Cruces, as well as a written recommendation from the independent expert
15 and the findings found in your staff report, staff recommends approval for
16 the proposed special use permit. Here are those findings which are again
17 found in your staff report essentially stating that we are supporting, or
18 following what our independent consultant recommended for approval for
19 this proposed facility. With that your options tonight ladies and gentlemen
20 is: 1) to vote "yes" as recommended by staff; 2) to vote "yes" with
21 conditions deemed appropriate by the P&Z; 3) to vote "no" and deny the
22 proposed special use permit; or 4) to table and postpone and direct staff
23 and the applicant accordingly. You did, we did have a couple of e-mails
24 from adjacent property owners that were in your staff reports with some
25 concerns with the proposed tower. The applicant actually did go ahead
26 and contact those people and she could possibly give you a little more
27 insight as to the conversations with that but after that staff did not hear any
28 more input from, from adjacent property owners or surrounding property
29 owners. With that, the applicant is available if you have any questions for
30 her and I stand for questions as well.

31
32 Gordon: Thank you Adam. So then the representative from Verizon could probably
33 come and speak. I'm sorry. Okay.

34
35 Weiss: Good evening.

36
37 Gordon: Just, just before you begin I'd like to just swear you in please.

38
39 Weiss: Debra Weiss, representative agent for Verizon Wireless.

40
41 Gordon: Okay. Could you spell that for me please?

42
43 Weiss: Weiss is W-E-I-S-S, Debra is D-E-B-R-A, agent for Verizon Wireless.

44
45 Gordon: Okay.

1 Weiss: I live at 510 East Hague, El Paso, Texas.
2
3 Gordon: I'd just like to swear you in before you begin.
4
5 Weiss: Yes sir.
6
7 Gordon: Do you swear or affirm that the testimony you are about to give is the truth
8 and nothing but the truth under penalty of law?
9
10 Weiss: I do.
11
12 Gordon: You may begin.
13
14 Weiss: I'm here for questions to staff and/or to the local neighborhood and with
15 question.
16
17 Gordon: Is there anybody on the Commission have a question?
18
19 Crane: Yes, I do. Does this application for a tower in this location have anything
20 to do with the, the location we had discussed fairly recently on Stern Drive
21 as, a couple of miles south of this location? It was before the Commission
22 and the City Council. I wonder if they have any impact on each other.
23
24 Ochoa: Mr. Chairman, Commissioner Crane. No, the, that is, those are separate,
25 completely separate application and completely separate applicants. This
26 is a completely whole new applicant and rigmarole that they had to go
27 through so there is no correlation between two. The, this subject
28 property's actually about, roughly about four miles away from that Stern
29 property so this doesn't really affect that.
30
31 Crane: Thank you.
32
33 Beard: Mr. Chair.
34
35 Gordon: Mr. Beard.
36
37 Beard: I read a, the input that we received and I thought it was pretty well covered
38 in comparison to what we had received about two years ago. I guess the
39 only question I have, I thought it was very thorough and I, I thought it was
40 pretty good, is do, do you and other wireless servers share towers?
41
42 Weiss: To your response Commissioner Beard, yes we do. The concern with
43 carriers as an independent contractor for all carriers whether it be Verizon,
44 T-Mobile, part of the concern or issues that arise is as you build your sites
45 and the demand becomes ongoing more and more whether it be
46 commercial, whether it be hotels, whether it be people driving down the

1 highway these sites can only handle so much in calls or data so what they
2 end up doing in this particular case with Verizon, this is a capacity site. So
3 they have a site to the north, they have a site to the south or southwest
4 and what happens is, is when you lose coverage you lose it for two
5 reasons: You lose it either because of topography, because of the ups
6 and down valleys and the mountains or you lose it because there's so
7 many calls jumping into that cell site it can't handle any more and it
8 bounces off and you lose your call. So carriers, whether it be Verizon, T-
9 Mobile, Sprint, when you get to that particular situation you call it a
10 capacity site. So you have to go back into the area and find a location that
11 you can do by first of all a willing landlord, also by zoning, and also what
12 you can comply with and you find another site that you can build or
13 accommodate by either rooftop or raw land build that will take that
14 overload so that people can have their data, their calls, their cell phones
15 on a regular basis. So they, when they come into an area, customers
16 demand, customers require, "Why do I not have coverage? Why am I
17 losing my calls?"

18
19 Gordon: You need to talk into the microphone.

20
21 Weiss: Oh, I'm sorry. I apologize. So then the companies will come back and
22 say, "We need to come back out into this area, find a location that we can
23 accommodate the customers' needs." So by doing so our original search
24 ring to the history, I came into it on the zoning side. So the original
25 history, this site was located back in the spring of 2014. It took them till
26 the fall, or fourth quarter to locate a property that they could work with.
27 They originally were going to go a little bit more toward the west, toward I-
28 10 in order to accommodate their sites to the east, to the north, and to the
29 south but because of zoning restrictions and/or unwilling landlords, this
30 was the closest location that would accommodate their needs. In this
31 particular zoning their permitted use is 65 feet and because we're going
32 into a stealth design in order to make it either a mono-palm or mono-pine
33 we needed to raise the tower five feet above what was required, so our
34 center line is 65 feet and because of the palms, or I should say the pines
35 of this particular mono-pine it brought us to 70 feet which is five feet above
36 the permitted use. And that's why we are where we are.

37
38 Beard: I, I did notice, I, I looked at the north tower and the southern tower.

39
40 Weiss: Yes sir.

41
42 Beard: And I noticed that there were many, many more antennas on those towers
43 than what you're proposing for this tower, is reason I'm asking that
44 question. Can, can you or other people share towers?
45

1 Weiss: Yes we can. So this tower is designed to do co-location. However, keep
2 in mind because it is a stealth design it needs to be, the second carrier will
3 need to accommodate within those lower pines that we have there or the,
4 the pine branches. So yes it is designed as a co-location at I believe 45
5 feet by the time we have our centerline and we have a spread. All carriers
6 whether you co-locate or not has a, a center of tip-to-tip spread that we
7 need to for interference. So yes this site is designed for another carrier to
8 come on board.
9

10 Beard: Thank you.

11

12 Weiss: Thank you.

13

14 Gordon: Ms. Ferrary.

15

16 Ferrary: I was glad to see that you've already introduced the idea of having the
17 pine stealth because there are some pine trees that are about that high so
18 it should blend in very nicely. And I do have a question, just from the
19 person that submitted an e-mail. They were worried about interference to
20 other wireless systems. I don't think that happens but can you clarify that.
21

22 Weiss: It does not happen. The FCC regulates certain licensed bands between
23 every carrier whether it be on Sprint, whether it be Verizon, whether be
24 Nextel. It's basically all belt, done belt by wattage so no, all those bands,
25 even with the 9-1-1 system when the FCC regulates an, a 9-1-1 system
26 for the cities, municipalities, and counties those are all specific bandwidths
27 so they're not allowed to compromise and, which again which is why we
28 can collocate because we're set on certain perimeters.
29

30 Ferrary: Thank you.

31

32 Gordon: I have a question. Mr. Ochoa mentioned in his presentation that you had
33 spoken to two of the residents in reference to their concerns. Could you
34 please in, tell us what, what transpired, what they, what they were
35 concerned about and maybe what was resolved and what you told them?
36

37 Weiss: Yes sir. In the original notification the registered mail, there were 19
38 notifications, six of those notifications were out of state, three of them
39 were Post Office boxes, one was a business owner who was not present
40 that day, and then I had four absent landlords which means they own the
41 property but they did not live in the City of Las Cruces, and I had five
42 potential door-to-door contacts. When I installed the sign for the
43 notification of the meeting I went physically door to door that evening,
44 telling people "I understand you're going to get a notice from the City. You
45 will not get all the information. I would like to explain to you exactly what
46 we are proposing as Verizon." Out of those five potential door-to-doors

1 out of the 19, I had two yeses and three were not at home and did not
2 answer the door.

3 On the regular mail we had 30 notifications. Ten again were out of
4 state, three were absent landlords which own the property in the area but
5 do not live there, I had 17 potential door-to-door contacts. Out of those I
6 had six, five were not at home, I had six yeses, I apologize. Six yeses,
7 five were not at home and did not answer the door, in fact one said,
8 "Please do not ring the door. My baby is sleeping." Six, at that point
9 where it was a cold windy day, it was dark, it was 7:30 at night and not too
10 many people open the door to a stranger in the evening on a cold windy
11 night. So I have six that did not answer the door. These properties were
12 all located on Calle del Sol Street. On the two that you had responses to,
13 the one woman which is Ms. Hunt, she is in the regular mail notifications.
14 I spoke with Ms., Ms. Jennifer Huntsberger, explained what we were
15 doing, and she gave me her approval at that point, once she understood
16 what we're doing and it wasn't a standard monopole, it was a stealth
17 design. The second property which e-mailed me was Mr. Rivera. I
18 responded to his e-mail with no response but I do have it the same day
19 that Mr. Ochoa sent it to me.

20
21 Gordon: All right. Well thank you very much. Anyone on the Commission have
22 any further questions?

23
24 Crane: I'd like to congratulate Ms. Weiss on the thoroughness with which you
25 canvassed the area to cover as far as you could all the affected people. I
26 don't think I've ever heard anything done that thoroughly so it makes our
27 job easier.

28
29 Weiss: Thank you sir. I was trying to find a church or a community center in the
30 area that I could send out letters to but there's nothing in that particular
31 area so I decided the best was to do door by door. Thank you.

32
33 Gordon: Well if there are no further questions is there someone who wishes to
34 speak from the public? Would you please come forward and state your
35 name.

36
37 Haver: Hello, good evening. My name is Cody Haver. I live on 1513 Aspen. I'm
38 actually the one that had the sign that says, "My baby is sleeping."

39
40 Gordon: Yeah.

41
42 Haver: So thank you for not ringing the doorbell because ...

43
44 Gordon: Excuse me. Before you go any further could you please spell your last
45 name for me please.
46

1 Haver: Sure. It's Haver, H-A-V as in Victor E-R. First name Cody.
2
3 Gordon: All right. Before you begin I must swear you in.
4
5 Haver: Okay.
6
7 Gordon: Do you swear or affirm that the testimony you are about to give is the truth
8 and nothing but the truth under penalty of law?
9
10 Haver: Yes I do. Okay.
11
12 Gordon: Thank you.
13
14 Haver: Well good evening. Again I, as I said I live on Aspen Avenue. I have a
15 few concerns and I apologize or regret that I don't have more information
16 about the previous case on Stern. That was before I was aware that there
17 would be a tower going up next to my house so I don't have the
18 information about that. I am a little interested about the, about the process
19 of this as she, as Ms. Weiss just stated she's an independent contractor
20 working on behalf of that property owner installing a tower for Verizon.
21 Well I understand that there were several concerns about the tower that
22 did not go up on Stern, that was not approved and based off of what I just
23 heard I think it's very likely to believe that it's possible that there could've
24 been a completely separate independent contractor working for a separate
25 property owner but for the same tower, if you see where I'm going with
26 this. As I said I regret I don't have more information about that. That is
27 one concern that I have though. I'd be very interested to understand what
28 the concerns were on Stern and why the tower did not go up in that area
29 whether it was just a zoning issue or whether there was more to that and
30 maybe one of you could answer that for me.
31 The other concern that I have and on, again I apologize, my wife is
32 not here tonight and we have a toddler and a baby at home, a newborn
33 that she's nursing so she wasn't able to come but she's a realtor of ten
34 years here in Las Cruces. She works for Enchanted Sun Realty. She's
35 very familiar with all properties in Las Cruces, all of the areas especially
36 ours that we happen to live in. One of our concerns is about resale value
37 of the homes. We already have problems with resale values in our
38 neighborhood for issues of being next to a commercial area, also next to
39 several areas where there are numerous homeless people that are in the
40 neighborhood, that walk through the neighborhood. There's heavy
41 commercial traffic going down Aspen through Hickory. If you actually want
42 to do, do the research I'm sure you could talk to the Community
43 Development Department and find out that they've done several studies
44 over the last few years of the heavy commercial traffic that's being used
45 through Aspen Avenue onto Hickory Loop and Hickory Drive. For these
46 several reasons this tower brings a concern to me because the

1 commercial development continues to rise in our area unlike ever before
2 which is not something that most of the residents that currently live there
3 would have expected even ten years ago. Several properties and
4 developments have gone up commercially next to our neighborhood, just
5 adjacent to our neighborhood. If you look on the aerial map here where
6 the subject property is, I don't know if I can use the mouse but the property
7 with all the trees and grass right next to that Verizon building, I happen to
8 live just three houses down from that. So the tower is very close to all
9 those properties and I found it a little bit interesting that in the presentation
10 which I agree was very thorough and I appreciate a lot of the information
11 that's on there, it's interesting that a lot of those pictures were taken from
12 so far away on each side of the intersection that it made the tree look, or
13 the tower look very small in comparison to what it would look like to those
14 homeowners that are right next to the property. Even if it's within the, I
15 don't remember what it was, 75, 77 feet setback, if it's even a little bit
16 farther than that, it's a very large tower next to our homes that is going to
17 affect, not could affect, it's going to affect our resale values in our
18 neighborhood.

19 Also, I'm sure many of you or probably all of you have at one point
20 heard you know information through the media, through you know green
21 societies that there's, you know obviously the potential for health problems
22 for, the potential for cancer problems that are created from these towers
23 and while there's you know several research articles and literature that
24 shows either way it has not been completely affirmed or denied at this
25 point so if you bring the fact that this tower's going to be next to several,
26 several houses as far as also apartments and you know for me personally
27 it's a concern for my family because I am trying to keep my family as
28 healthy as possible and I have a baby and a three-year-old at home that
29 could potentially you know suffer from this. I mean it's hard to say at this
30 point with any certainty whether that's the case but it could be the case.
31 There's no way that I can you know either affirm or deny that and that's
32 just a large concern that I have for my family and I would really appreciate
33 if the Committee could at least think about it, are there other properties in
34 the area that could possibly meet these same zoning requirements that
35 would meet their requirements for their operations? There's you know
36 commercial properties along Hickory Loop that are being developed right
37 now, several properties in the area that are not right next to homes but a
38 little farther away that I think could fit the bill for what they're trying to do
39 and I'd really encourage you to think about that and see if maybe there's
40 something that you can do to help keep our neighborhood a little more
41 intact and not be burdened any further by commercial development. Any
42 questions for me?

43
44 Gordon: Mr. Beard.

45
46 Beard: I, I have a, some comments.

1
2 Haver: Okay.
3
4 Beard: I drove through your resident, you, you're at, in the housing area as
5 opposed to the apartments.
6
7 Haver: That's correct.
8
9 Beard: Soon as you drive into your area you can't see anything just because of
10 your trees. I, I mean even when you're looking up at a very steep angle I
11 don't think that you'd be able to see this thing very clearly. I think that it's
12 going to meld in with the, the trees that are, that are in that green area that
13 you're looking at.
14
15 Haver: Okay.
16
17 Beard: However you, I mean you have your opinion but I, that has been a
18 concern all the time that a new tower is coming up so I wanted to take a
19 look both from the apartments and from the residential areas. Even
20 though the trees don't have leaves on them right now it's still hard to see
21 that area from, and I can tell, I was close to your house when I was
22 looking at, in that direction. I think it'd be pretty hard to see that tower, tell
23 you the truth.
24
25 Haver: Okay.
26
27 Beard: I think the benefits outweigh the sight. I live in an area where I have poor
28 coverage and it's a, it's a pain really to have, not be able to get a signal or
29 to lose a signal. This area could be, get swamped if, if you, I don't know if
30 you read the notices that they put out, Verizon. I thought it was a very
31 good technical description of why they need that tower there.
32
33 Haver: Okay.
34
35 Beard: And they did look at, they did look at different locations. They, but the
36 location that they really wanted to put it in was not available.
37
38 Haver: Okay.
39
40 Beard: And it was just on the other side of your house.
41
42 Haver: Okay.
43
44 Beard: The frequency, the frequency that your phone puts out is, is very close to
45 the same frequency that this tower's putting out. I mean the two are
46 communicating on that same frequency.

1
2 Haver: True.
3
4 Beard: So here you have the cell phone in your ear with that frequency
5 transmitting, I think is a lot more dangerous than the tower transmitting,
6 tell you the truth.
7
8 Haver: Well and that is you know that can be the case. There are several articles
9 and researchers that showed that using a hands-free device can help
10 alleviate that issue of having your cell phone right next to your head
11 basically and me and my wife both practice that I mean religiously which I,
12 I mean I can see your point. Again like I said I'd just like to, to encourage
13 you to really think about the long-term effects of having this tower here.
14 And I understand your, your opinion of the aesthetics which I, I suppose I
15 could agree with for the most part. But again you know if you're that
16 homeowner that lives right there at that property and you're trying to sell
17 your home, you don't think that somebody's going to notice that large
18 tower right next to it and then as a homeowner you're going to be
19 frustrated when your home doesn't sell for several months or a year or two
20 years because you can't find a buyer because that cell tower's right next to
21 it. I know we can play the what-if game all day. I'm just saying that I
22 would you know appreciate your, your, at least your concern and
23 thoughtfulness in this and that there's no other possible place that could
24 go nearby with the same effects for them.
25
26 Beard: I appreciate your concerns.
27
28 Haver: Okay. Any other Members from the Committee?
29
30 Gordon: Thank you very much.
31
32 Haver: Okay. Thank you.
33
34 Gordon: Ms. Weiss you have anything you want to add to that?
35
36 Weiss: No sir. At this time I, I believe I've answered all questions that were
37 required.
38
39 Gordon: Mr. Ochoa, staff?
40
41 Ochoa: If I may interject Mr. Chairman. A couple more people, more members of
42 the public actually showed up after you made the, the question if anybody
43 had any, any, would like to talk about the case so I don't know if you want
44 to just ask the question one more time to see if there's anybody else and
45 then give them time restraints like you did before as well sir.
46

1 Gordon: How many more people wish to speak? Would you please raise your
2 hand.
3
4 Ochoa: I guess not.
5
6 Gordon: Okay. All right. Thank you. Well in that case is, does the Commission
7 have any comments or questions, any further discussion? Ms. Ferrary.
8
9 Ferrary: I was trying to find the map that showed where the other locations were
10 but is it, it is true that, or agreed that there are no other possible locations
11 that wouldn't affect people in the same way of being close to a
12 neighborhood.
13
14 Ochoa: Mr. Chair, Ms. Ferrary. That is correct. The only other lot that the
15 independent expert engineer saw that would work for this tower, it is in the
16 overlay of the Avenida de Mesilla and you're not allowed to put a tower on
17 those, on those lots unfortunately.
18
19 Ferrary: And is it true that if they weren't asking to go to the 70 feet to
20 accommodate you know having the stealth pine tree that they could go
21 ahead and do it without a special approval?
22
23 Ochoa: Mr. Chairman, Commissioner Ferrary. No, they would still have to get a
24 special use permit because they are adjacent to single-family zoning.
25 Basically the 70 feet is just on top of the special use permit request. It's a
26 request for a variance if you will to the maximum height of the tower by
27 five feet essentially. But again it's not actual tower. If we do remember
28 from our, the last time on Stern Drive that was initially a 75-foot tower and
29 it was just, not stealth, it was just a monopole tower. This, and that was
30 75 feet for the entire tower. This'll be, the tower's 65 feet and then 70 feet
31 to kind of accommodate for the branches I guess if you will for the pine
32 tree.
33
34 Ferrary: Okay. Thank you.
35
36 Gordon: Mr. Beard.
37
38 Beard: This is just a comment among the other Commissioners. The tower that's
39 to the north is a shorter tower it looked like. There's a whole lot of, and it,
40 and it's painted a sand color I believe it is. It's, it sticks out as does the
41 one to the south. It sticks out quite a bit. But there's nothing around it.
42 There's no trees around it. It sticks up above everything else. This tower
43 is among trees and, and other stuff. It, I don't think it's going to stick out
44 like the other ones. Those other, the north one and the south towers are,
45 are not camouflaged at all. They got an awful lot of antennas on top of
46 them and they do show out quite substantially as does the tower that's on

1 Idaho and Main Street. That tower's big. I mean, but this is nothing like
2 that. I think this is a pretty well camouflaged tower and I think that this city
3 needs good coverage for, for its digital needs. I don't want to, I think it'd
4 be worse to have a, a house like mine without good coverage than to have
5 an antenna sitting beside my house, tell you the truth.
6
7 Gordon: Are there any other comments? If not Mr. Ochoa would you kindly inform
8 the Commission as to what our options are. I'm sorry. I didn't realize
9 there was another. Mr. Alvarado.
10
11 Alvarado: Thank you. I, I think that as the city grows and we get more people, more
12 businesses, more activity in the city we're going to be faced more, more
13 often with cases like this and the, you can either stop progress, slow it
14 down but, but I don't think you can stop it completely so that's my opinion.
15
16 Gordon: All right. Thank you.
17
18 Ochoa: Mr. ...
19
20 Gordon: Seeing no other comments. Mr. Ochoa.
21
22 Ochoa: And Mr. Chairman, now if there are no other comments you could go
23 ahead and open it for a, a motion on the case here.
24
25 Gordon: Would you kindly just repeat our options please for this Commission?
26
27 Ochoa: Yes sir. You have four options tonight, is: 1) is to vote "yes" as
28 recommended by staff referencing the findings in the staff report that you
29 have before you; 2) to vote "yes" with any conditions deemed appropriate
30 by the P&Z; 3) to vote "no," deny the proposed special use permit; or 4) a
31 vote to table and postpone and direct staff and the applicant accordingly.
32
33 Gordon: Thank you Mr. Ochoa. With that in mind I'd like to entertain a motion on,
34 gotta take my glasses off, on Case Number 61305. Mr. Beard.
35
36 Beard: I move to approve Case 61305.
37
38 Gordon: Do I have a second?
39
40 Stowe: Second.
41
42 Gordon: We have a second. All those in favor, I'm sorry. And then we'll poll the
43 Commission. Going to my far right, Mr. Crane.
44
45 Crane: I vote aye based on findings, discussion, and site visit.
46

1 Gordon: Mr. Stowe.
2
3 Stowe: I vote aye based on site, on discussions and findings.
4
5 Gordon: Ms. Ferrary.
6
7 Ferrary: I vote aye according to findings, discussion, and site visit.
8
9 Gordon: Mr. Alvarado.
10
11 Alvarado: I vote aye based on findings, discussion, and site visit.
12
13 Gordon: Mr. Beard.
14
15 Beard: I vote yes based on findings, discussions, and site visit.
16
17 Gordon: And I vote yes based on site visit, findings, and discussions.

18
19 **MOTION PASSES UNANIMOUSLY.**

20
21 Gordon: Therefore the vote is six-nothing in favor. The motion passes. Thank you.
22
23 Ochoa: Thank you sir.
24
25 Gordon: All right. Seeing, I believe, is there any other new business?
26
27 Ochoa: No sir. There ...

28
29 **VIII. OTHER BUSINESS - DISCUSSION ONLY**

30
31 1. **UAP-16-01:** Discussion of the proposed Las Cruces Urban Agriculture and
32 Food Policy Plan drafted and presented by La Semilla Food Center staff.
33 The city-wide planning area consists of all Council Districts.
34

35 Gordon: Are, there are two cases that we have to, we have two presentations from
36 the City, correct?
37

38 Ochoa: Yes sir. Under Other Business we have two discussion items for you.
39

40 Gordon: Okay. Are we going to take them in the order of the, of the agenda?
41 These two items on the agenda are Item Number 1) UAP-16-01, second
42 Item Case Number ZCA-16-02. These items are for discussion only and
43 staff will make this presentation.
44

45 Basnyat: Good evening Mr. Chair, Commissioners. This is Srijana Basnyat, Senior
46 Planner with Community Development and I will be presenting UAP-16-01

1 which is a discussion item on the Las Cruces or proposed Las Cruces
2 Urban Agriculture and Food Policy Plan. If I can just pull up the
3 presentation. Okay. So what I'm going to do is just do a quick overview
4 and I will let the author of this plan, Ms. Krysten Aguilar who is here today
5 to present the plan in detail take over. First of all the purpose of the plan
6 is to provide recommendations to guide the City's efforts in supporting and
7 expanding food and agricultural activities in the city and the scope of the
8 plan is limited to the city itself, as in the city government and what we can
9 do with community partners to expand opportunities for urban ag and food
10 growing, cultivating, processing, distributing in the city. And so very
11 quickly I'll go over the timeline. In May 2014 there was a public, public
12 engagement kickoff event hosted by La Semilla and following that,
13 November of 2014 our presentation was made to the Planning and Zoning
14 Commission to ask for direction as to whether staff and Ms. Aguilar should
15 proceed with the drafting of the plan. Receiving the go-ahead, Ms. Aguilar
16 has been working on that plan with stakeholders in the community and a
17 first draft was presented in April of, of last year to staff. Then an
18 interdepartmental work group was formed in essence, with staff from the
19 various departments such as Parks, Utilities, Community Culture Services,
20 and of course Community Development reviewing the document and
21 providing feedback from staff, an administrative perspective as well as
22 technical review. And there were about three or four meetings and what
23 you see before you in your packets today is the final product. The, that
24 particular draft was also posted on the City's website earlier this month
25 and we've received a couple of comments, both in support of the plan so
26 far and I'm not going to read that to you but, so with that I do want to point
27 out you have in your packets before you my staff report and the findings
28 should you request, or should you be comfortable bringing, having staff
29 bring this forward next P&Z for recommendation to City Council. The plan
30 is supported by the City's Comprehensive Plan, the City's Strategic Plan,
31 as well as the Sustainability Action Plan. And with that I'm going to hand
32 over the mic to Ms. Aguilar and she can go over the, the actual plan with
33 you and I'm, I'll just stand by for questions later. Thank you.

34
35 Aguilar: Hello Mr. Chair, Commission. My name is Krysten Aguilar. I am Food
36 Planning and Policy Advocacy Specialist at La Semilla Food Center.
37 We're a nonprofit that works here in the region on all things food and
38 agriculture related. We have a small farm. We work in school gardens,
39 cooking, garden and nutrition education in schools and in communities. I
40 also work as, one of my roles is a coordinator for the Mesilla Valley Food
41 Policy Council.

42 And so I'm really here tonight to present the Las Cruces Urban
43 Agriculture and Food Policy Plan as Srijana pointed out. This plan
44 addresses the growing need and interest in our local food system. Cities
45 and towns across the nation are recognizing what a powerful tool urban
46 agriculture and food policy can be for communities. The American

1 Planning Association focuses on urban agriculture and planning for that
2 specifically. This plan will be the first of its kind in New Mexico but it's
3 certainly not unheard of or the first of its kind across the nation. Cities like
4 San Antonio, Tucson, Cleveland, Baltimore, Kansas City, Louisville,
5 Kentucky, and many more have all adopted similar plans or ordinances.
6 And before I dive in I wanted to give you a couple of definitions. When we
7 say "urban agriculture," this is the practice of cultivating, processing, and
8 distributing food in and around towns and cities. This includes everything
9 from school and community gardens to community commercial kitchens
10 where somebody can for a low rate go in for a day, can their grandma's
11 salsa recipe, and then sell it at profit, and all the way to composting food
12 waste and then putting that back on the garden so it's a nice cycle. And
13 using urban agriculture as a point of focus can really play a critical role in
14 the regional agriculture and food economy. This includes creating new
15 economic activity, job training, creating access to healthy food, and more.

16 And as such there's really been a huge amount of interest in this
17 plan and in this work and it's really been a community-driven initiative.
18 We've worked you know for, since 2011 on community meetings and
19 talking to people about how they think about food, how they access food,
20 how they feel about growing it, consuming it, and over this time there's
21 just, this interest in urban agriculture has really risen to the top here in the
22 city. And as Srijana pointed out this all started with a kickoff envisioning
23 meeting in 2014 here at City, at Council Chambers. It was held on a
24 Friday evening and we had over 90 participants so that was pretty
25 promising way to start things off. This visioning meeting served as the
26 foundation of what you see before you in this plan. Since then there've
27 been two large community events as well as additional up to bimonthly
28 community meetings and working group meetings held to get input to
29 really shape this plan. So while I am the author this is really a community-
30 driven initiative. And additionally there's been continual outreach by a
31 listserv, an e-mail that people have signed up for.

32 And really briefly there are some other initiatives going on in the
33 region so this plan isn't completely out of context for where we are either.
34 There are a lot of things happening including, one is Growing Food
35 Connections which is a technical assistance grant that Dona Ana County
36 has applied for and received and this is really, this is through a USDA
37 program and there's a steering committee housed in the county that
38 focuses on ensuring that county policy and planning integrates local food
39 and agriculture issues. Other efforts include the Food Policy Council as
40 was mentioned before, just a group of interested stakeholders that focus
41 on policy and planning and this group and the Growing Food Connections
42 group are actually combining. Additionally city and comprehensive plans
43 include language directly supporting local food initiatives like this plan and
44 they're also statewide initiatives, for example Double Up Food Bucks that
45 allows dollars to be matched at SNAP benefits at farmers' markets to
46 benefit small farmers and underserved families. This plan aligns with

1 current city plans as Srijana pointed out as well. Appendix II will give you
2 a table that shows all of that. And this includes the Comprehensive Plan,
3 the Strategic Plan, and the Sustainability Plan. So in other words this plan
4 is really furthering the objectives of a lot of those.

5 So why is this important and what is the purpose? We know there
6 are multiple documented benefits of urban agriculture and these include
7 social, economic, health, and environmental benefits. These are all
8 outlined clearly within the document as well. And the purpose of this plan
9 is really to provide and for, informed recommendations to advance and
10 guide the City's efforts to support and expand food and agriculture
11 activities within the City of Las Cruces. The food system is very large and
12 complex. It includes everything from that seed that gets planted on
13 through the whole process of distribution to getting onto somebody's plate
14 and then the waste, so it's a very complex system. However the scope
15 and scale of the recommendations in this plan focus on the local level and
16 what the City of Las Cruces can achieve within its jurisdiction together with
17 public, private, and community partners.

18 So the, again the vision of this plan is based on community input
19 and feedback. The vision is that Las Cruces has a resilient food system
20 that fosters healthy communities and residents and contributes to the
21 overall economic, social, cultural, and environmental vitality of the city.
22 The plan has three overarching goals and each goal, goal, each of those
23 goals has recommendations and actions underneath it. The three goals
24 are that the urban agriculture and the food system in Las Cruces will
25 contribute to goal number one: A healthy and food-secure community;
26 that is all residents should have enough to eat and access to affordable,
27 local, healthy, sustainable, and culturally-appropriate food. Goal two: A
28 stronger, more vibrant local economy with more food growing and
29 processing opportunities. Businesses and entrepreneurs that produce,
30 process, distribute, and sell local and healthy food are a key component of
31 a vibrant local economy. And goal three: Healthier ecosystems and smart
32 environmental resource stewardship. Food-related waste should be
33 prevented, reused, or recycled and natural resources should be used
34 wisely. I won't read all of the recommendations and actions over the next
35 few slides. They're all included in the plan itself, but I will go over the main
36 recommendations, not the actions underneath them.

37 So for goal one, the healthy and food-secure community:
38 Recommendation one is to establish healthy food access points that can
39 be reached by safe walking, biking, or transit by all residents. There are
40 five I believe food deserts within the City of Las Cruces. There are also
41 some very handy maps that City staff has put together in here district by
42 district, that shows where people have little or no access to healthy food in
43 their area. Number two, use the City's purchasing and contracting power
44 to support healthy, local, sustainably-produced food. Three, support
45 programs, policies, and projects that help get more healthy food to
46 children and youth, and increase affordability of healthy local food for low-

1 income residents. Goal one continued, number five, promote healthy food
2 especially in low-end communities and with youth through education and
3 collaborative efforts. Continue to establish community gardens and
4 promote home gardening. This one I know that a lot of people in Las
5 Cruces love the community gardens that the City has and I know that last
6 fall at one of the, at the fair here in southern New Mexico there was a
7 young gentleman, I think he was 10 or 11 and he won a prize with a
8 squash I think that he grew in one of the community gardens here at the
9 City. So that was exciting.

10 Moving on to goal two, a stronger, more vibrant local economy.
11 Our recommendation is to support efforts to expand urban food production
12 on privately-owned land including residential, commercial, and institutional
13 properties while the City's, this includes things like ensuring that the
14 zoning code includes urban farms as an allowed use in all applicable
15 zones. And the next recommendation is to create opportunities and
16 spaces for entrepreneurial ventures in businesses that grow, distribute,
17 process, and sell local healthy food. Number nine is to integrate urban
18 agriculture activities into local economic development plans and
19 processes as a means to diversify the economy and attract more young
20 people to stay or return to the area. Ten, celebrate local food as integral
21 to Las Cruces' economy and agricultural heritage.

22 Goal three, with healthier ecosystems and smart environmental
23 resources stewardship. Eleven; is prevent edible food waste from
24 entering the waste system. Twelve; eliminate water and energy waste.
25 And goal three continued, encourage the use of alternative pest control
26 practices, both, this includes both the City and then education, working
27 with master gardeners and home gardeners.

28 So this plan really lays out how to prioritize recommendations and
29 actions. Implementation is really the most important part of this.
30 Otherwise we're just you know talking to each other and making up a little
31 plan and putting it on the shelf. And the plan lays out that City staff and
32 the Food Policy Council will prioritize actions based on the following
33 guidelines which includes a timeline, how long is any given
34 recommendation or action going to actually take to accomplish; how many
35 partners need to be involved to make it happen; what type of action is it, is
36 it a policy and ordinance that needs to be changed, is it a program, what is
37 it; the amount of staff time that will be needed from the City; and then
38 funding that's needed, if any. And the responsible parties are staff, Food
39 Policy Council, and then identified stakeholders.

40 And then how do we know if it's working and something else that's
41 important, is it having unintended consequences. In Appendix III of the
42 plan you'll see metrics laid out that are adapted from Five Boroughs Farm
43 which is an urban agriculture initiative in New York City. The metrics
44 measure potential benefits associated with health, social, economic, and
45 ecological benefits. And we know Las Cruces is not New York City so the
46 plan states that these metrics will be adapted in a way that makes sense

1 for using them here in Las Cruces to evaluate this plan and make sure
2 that what we're doing is good work.

3 And then what will success look like? At our initial visioning event
4 in 2014 when we first started this we asked the question, "What will
5 success look like? If this plan's doing it, doing its job what should we see
6 here in Las Cruces in ten years, say?" And we had fantastic answers like
7 rainwater harvesting and gray water use increases, if families have access
8 to fresh healthy foods, if new businesses pop up around food, if
9 community gardens increase, if our neighborhoods become safer,
10 greener, and more vibrant, that's success. The realization of our vision is
11 success. If Las Cruces has a resilient food system that fosters healthy
12 communities and residents and contributes to the overall economic, social,
13 cultural, and environmental vitality of the city, that will be success.

14 And just to finish up both action and inaction by the City have
15 impacts on our community which is why this plan is important. It has great
16 potential to be a really useful tool for the City and for our communities in
17 general. And I wanted to thank you for your time this evening and I would
18 be happy to answer any questions you might have.

19
20 Gordon: I have a question.

21
22 Aguilar: Yes.

23
24 Gordon: It seems to me that you're trying to encourage production of produce here
25 in Las Cruces to be consumed locally. How do you, how do you convince
26 someone who has agricultural land to produce produce, that if they do
27 they won't turn around and sell it at the open market and say for example
28 send it out for export?

29
30 Aguilar: That's a very good question and it's a very big question. We have
31 systems in place right now that, it's very difficult to be a small farmer right
32 now. The majority of small farmers have another job. Farming is not their
33 main source of income. So you have to be a certain size of a farm already
34 which is not going to be in the city limits first of all and there are, there's
35 infrastructure in place for them to ship that produce out and it's easier to
36 do that because we don't have infrastructure that makes it worthwhile or
37 the best option to keep it local which is why something like this is
38 important whenever you start focusing on making sure infrastructure is in
39 place, and these are things that are happening at the County now too. So
40 this plan fits in well with what's happening in the county and the region
41 generally. We're looking, I say "we," we as food advocates I guess you
42 could say, and at the County specifically they've been working on plans for
43 a food hub, a place for small and mid-size farmers who don't have the
44 option of selling to big markets cause they just don't produce enough to be
45 able to aggregate their product with other small farmers, have
46 transportation, cold storage in place. Those things are very expensive for

1 small farmers. So it's really, this is important because it helps put all of
2 these pieces in place to make small farmers able to sell locally. And we
3 know that whenever you buy food locally close to about 80 to 85 cents on
4 the dollar stays and circulates in the community versus 30 to 35 cents if it
5 gets shipped out or if you buy food that has been shipped in from
6 elsewhere. So this is one small step in getting to a point where we have a
7 system that supports small and mid-size farmers and the people who eat
8 their food.
9

10 Gordon: But I know that during the, the, the spring, summer, and fall season local
11 farmers come and sell their wares at the, at the market on Saturday or
12 may, on Saturday basically. I don't know if they're even there on
13 Wednesday but I know they're there on Saturday and of course they don't
14 grow during the winter months so there's nothing to be sold anyway. But I
15 know like for example in New York City where I'm originally from there was
16 a, an area called the Bronx Farmers' Market where basically all the
17 produce from the surrounding areas in the, in the tristate area would come
18 to one local place and they would sell to companies that would in turn turn
19 around and sell to supermarkets and institutions and things like that. How,
20 how are you going to get all this produce into one place where, where
21 people can go and buy it that, that it is, where they're able to do that? I
22 mean did, a lot of people here don't have cars. They can't drive down to
23 the farmers' market. Where are you going to sell this stuff?
24

25 Aguilar: The, really the guiding, really vision behind this is that it's one, having for
26 example an, a one-acre empty lot in the city for example. If that's put into
27 cultivation that's going to produce a fair, a pretty big amount of food. You
28 can grow a lot of tomatoes on one acre. But it's also encouraging a side,
29 it's looking at this larger picture like you're speaking of but it's also looking
30 at these smaller pictures. So it's encouraging and working on education to
31 encourage for example a family that has even a small backyard, a decent
32 sized backyard, if you can grow tomatoes and then set up a farm stand
33 and make an extra \$200-300 a month, that's a huge boon particularly for
34 well like for anybody I would say, but particularly for low-income families.
35 So this is not just looking at a certain scale, it's looking at all of these other
36 pieces too. So it's the growing of the food and the selling of the food, and
37 then it's also you know like a community kitchen. So if you wanted to, if
38 you have an apple or a peach tree and you want to make jam and to sell it
39 you have to have a certified kitchen which is incredibly expensive. And if,
40 this way, so then that's where these economic opportunities so it's the
41 growing of the food, it's the selling of the food, it's processing it and it's
42 looking at it at all these different levels. It's, you know you have large
43 farmers come, or farmers coming in to sell at a farmers' market and
44 transportation is a huge issue for a lot of people which we've heard about
45 often. Even here in the Mesquite neighborhood there are people who live,
46 don't have vehicles and can't get to a store unless they get a ride and that

1 can be really difficult. So it's, then think about how do we get food into
2 those communities: Is it more community gardens? Is it education and
3 resources on home gardening? Is it mobile farmers' markets that go into
4 these areas? The purpose of this plan was to be comprehensive enough
5 that we address, I don't want to say all of the issues, that's a really lofty
6 goal but as many of the issues as we can.

7
8 Gordon: I just have one other question and then I'll entertain the Commission. Are
9 there going to be any incentives or subsidies given by the City for people
10 to do this because if someone has an acre of land you go ahead and he
11 incurs a cost of buying seed and doing the work to cultivate the land and
12 perhaps having the crops harvested and whatever else is in, entailed in
13 doing all this and can't get it to market or doesn't sell it?

14
15 Aguilar: There are different ways to go about it. The recommendations that are
16 laid out now include things like making sure that if somebody wants to
17 grow on a plot of land that it's zoned appropriately to do that first of all
18 which is the main barrier. As far as subsidizing it directly by the City, that's
19 not in this plan although there are recommendations to go after funding,
20 state funding or federal funding that can help a lot of these things happen.
21 And including you know potentially, even though it's not specifically laid
22 out in here using some City funds if appropriate and where need be.

23
24 Gordon: Okay. Thank you. Mr.

25
26 Crane: Thank you Mr. Chairman. I've three points to bring up. One is it seems to
27 me this is very worthwhile even if the element of selling the produce is
28 ignored because a, a family could do on the very small plot some
29 subsistence agriculture even perhaps if they lived in an apartment.
30 Secondly and this was touched on in your reply to Mr. Gordon a moment
31 ago, I was brought up in England and there's a system there, it's barely a
32 system but it's very widespread called allotments which may have started
33 in World War I and possibly goes back earlier where spits of I assume
34 publicly, maybe City-owned land are made available to local residents.
35 There might be a plot 20 by 10 feet and people have them it seems in
36 perpetuity and they grow their own veggies. Now as far as I know they
37 don't typically go out to sell them. I've seen something like that in Holland
38 and sometimes people even erect a little structure on there and put in a
39 couple of chairs and it's their beach. Probably it's in other places in
40 Europe. It may be in the States but I don't recall having noticed it. That is
41 something the City could get behind. Our unused lots in this city going to
42 need a lot of soil amendments before you can grow anything on them but
43 for a modest outlay on the part of the City using that mulch that the waste,
44 that, that the solid waste plant stores up on Sonoma Ranch Boulevard I
45 think it is which we've used and also the sewage sludge repurposed as, I
46 forget the name of it. I call it "processed poop" but that's not nice. But we

1 use that. The plants love it. They don't know what they're eating. And
2 maybe some bought potting soil, you have a lot of fun with that in a raised
3 bed and you can make a raised bed without any hammer or nails. You
4 can make it out of bricks. You can make it out of field rock just piled up.
5 You don't have to use mortar. And I didn't notice this in your excellent
6 presentation but is any part of this encouraging people to plant fruit trees?
7 Yes it takes a few years for them to produce anything but ultimately you've
8 apricots, peaches, apples do quite nicely around here, particularly apricots
9 and peaches.

10
11 Aguilar: Mr. Chairman, Commissioner. We, there is, I'm not sure if there's
12 anything in here specifically talking about encouraging individuals to plant
13 fruit trees but we have talked with Parks and Rec quite often about
14 planting edibles where appropriate on City lands including possibly fruit
15 trees. They have concerns about you know vandalism or something like
16 that as well but that's definitely something that's come up and it's a great
17 investment.

18
19 Crane: Thank you.

20
21 Gordon: Mr. Beard.

22
23 Beard: I have a, a couple of comments on page 14. In your second paragraph it
24 says, "local food supply chains can be an important aspect of reducing
25 pollution and carbon dioxide." It's true that carbon dioxide is a food as
26 well as water for plants so maybe, and I don't know the other pollutions
27 that you're reducing. Carbon dioxide of course is definitely reduced and
28 we don't want to get rid of it cause we'd lose our plants. On the bottom
29 part of this page there, you say it, you have the acreage breakdown of Las
30 Cruces and you emphasize the undeveloped amount of land that's in Las
31 Cruces being 50%. I would further, how are you going to use that 50%?
32 You know it, it, you're emphasizing it. Is there water there? How much is
33 that desert? Is there any of that that can be used as agriculture?

34
35 Basnyat: Mr. Chair, Commissioner Beard. The 50% includes all of the undeveloped
36 land in the city that is currently zoned and unzoned for particular land
37 uses. So what goes there is not something that we know right now
38 necessarily and I doubt if the plan is actually calling for all of the 50% to be
39 developed as agriculture. But ...

40
41 Beard: I, yeah I think it, I, if you're going to emphasize the 50% of the land that's
42 undeveloped I would go a little bit further and say how much of it would be
43 agricultural type land, how much of it has water for instance. I don't think
44 very much of it has water even.

45
46 Basnyat: No. Most of that land is actually raw undeveloped land.

1
2 Beard: Is, it's, it's, most of it's out on the West Mesa, right?
3
4 Basnyat: The East and the West, yeah.
5
6 Beard: Does it include anything on the East Mesa?
7
8 Basnyat: Yes.
9
10 Beard: All that industrial zoning out there?
11
12 Basnyat: You mean the West Mesa.
13
14 Beard: On the West Mesa, yeah. Where the industrial park is.
15
16 Basnyat: Yes that would include ...
17
18 Beard: Okay.
19
20 Basnyat: That.
21
22 Beard: One other comment: Bees. I happen to live real, real close to an orchard.
23 Fact it's in my backyard practically. It's a pecan orchard. Two years ago
24 they sprayed for aphids and every honeybee in the neighborhood went to
25 my swimming pool and died. They sprayed in the morning and the, and
26 you could hardly see the water that evening. So there is definitely a
27 problem, and since then the aphids haven't been a problem so I don't, not
28 sure that they've been spraying for aphids but that's an issue that's got to
29 be addressed.
30
31 Aguilar: Yeah. I completely agree. We love bees. We have a farm and we have
32 three hives and without bees we don't have food. I think it's every three
33 bites, one out of every three or four bites that you take of food is because
34 of bees. So that's something, it's, pesticide use is addressed in here.
35 Right now it's really written as encouraging minimal pesticide use and then
36 integrating minimal pesticide use and integrated pest management with
37 City uses itself. So the City's working towards creating, or towards using
38 less pesticides that kill bees. And then beyond that a lot of that gets into
39 state law and then what you can and can't do but yeah, it's definitely
40 something that we address and I love bees too. I do not want to see them
41 all killed.
42
43 Gordon: Ms. Ferrary.
44
45 Ferrary: I love seeing the maps with all the schools that are participating and I think
46 it's great you know when we see in the newspaper you know where the

1 schools are, you know the kids are really excited and they're serving it at
2 their cafeterias and I, as I'm looking at the maps also I'm noticing how
3 many of the Park Service gaps, you know the purple blotches that are
4 around our city and then seeing the City-owned parcels you know
5 somewhere in between. Are you suggesting that if the City adopts this
6 that some of these City parcels might be available or, or the City would try
7 and make them available for community farms?
8

9 Aguilar: So this is, the maps are really, you, as a tool right, so we know that where
10 there are gaps and this is a good way to kind of identify the highest priority
11 areas so where are there problems, where are the food deserts and where
12 is there a lack of food and where are there also park gaps where we need
13 parks, where are City-owned parcels that could potentially either be turned
14 into parks or food-producing areas or community gardens and green
15 space and looking at that. And there's you know some places where all of
16 those things don't line up nicely and that's fine. But it's really just an, an
17 opportunity and this is how it exists right now. So these are really
18 intended to be as a tool. When we go forward and start prioritizing
19 recommendations and where we're going to put new community gardens
20 or where might there be a good location for a, an urban farm, these are
21 really helpful tools to make those decisions. And there's, they also show I
22 think that there's a lot of opportunity to be doing a lot of this stuff.
23

24 Ferrary: Sure. One other thing, I know when you were going through the
25 presentation you know as quickly as you could you mentioned the Food
26 Bucks. Now is that like you said two for one as far as ...
27

28 Aguilar: That's a state program, the Double Up Food Bucks and it's used here at
29 our farmers' market. So it was a state appropriation and with the intention
30 of leveraging federal USDA dollars as well. And what happens is if you
31 use your SNAP benefits at the farmers' market, for every dollar that you
32 spend in SNAP benefits you get a matching dollar free from the Double Up
33 Food Bucks so it's dollar to dollar. So if you get \$10 worth of SNAP
34 benefits in your little tokens, they give them in little wooden tokens they
35 can buy anything that SNAP can buy including fruits, vegetables, honey,
36 bread, jams but with the Double Up Food Bucks it's just for produce so it's
37 only fruits and vegetables. But then you spend \$10 and have \$20 to
38 spend at the farmers' market which helps you know both the small, both
39 the farmers who are there, it increases that economic benefit and then
40 access on the other end.
41

42 Ferrary: And it helps people to eat healthier foods that normally cost more.
43

44 Aguilar: Right and, because all you can buy is what the extra, is fruits and
45 vegetables so that's automatically increasing the amount of fruits and
46 vegetables that you're incorporating into your diet.

1
2 Ferrary: That's great. Thank you.
3
4 Gordon: Are there any further questions?
5
6 Alvarado: I, I don't have a question, just wanted to make a comment. Having grown
7 tomatoes in my backyard, even if you go buy them at whole foods you
8 can't match the taste so I think once, once people start tasting what they
9 grow that they'll, they'll really go for this. Thank you.
10
11 Aguilar: I completely agree. It's not, can't compare it.
12
13 Gordon: Anyone else? No. Thank you very much. It was very informative.
14
15 Aguilar: Thank you.
16
17 2. **ZCA-16-02:** Discussion of the proposed Downtown Development Code. The
18 City of Las Cruces has proposed enacting a form-based in the downtown
19 area. The Downtown Development Code (DDC) would increase focus on
20 urban design and human interaction with the built environment while
21 maintaining oversight of appropriate downtown land uses. The Code
22 encourages a variety of residential options through mixed use development
23 and overall integration of compatible land uses. If approved by the City
24 Council, this proposed Code would replace the existing Central Business
25 District and Main Street Overlay. Council Districts 1 (Councilor Gandara) & 4
26 (Councilor Eakman).
27
28 Gordon: I guess the next item up will be ZCA-16-02. Andy.
29
30 Hume: Good afternoon Mr. Chair, Members of the Commission. My presentation
31 is not anywhere near as colorful so you'll have to bear with me on that.
32 Here we go. Before you this evening is a discussion item regarding the
33 Downtown Development Code. This is an item that we brought before the
34 Planning and Zoning Commission at a work session last month and we
35 had a very spirited discussion on that at that time. We've made some,
36 some adjustments as we had talked about last month and so I want to go
37 over some of those and I want to go into some very specific features of the
38 Code and talk about how staff feels the development community, the
39 downtown community will overall benefit from adoption of this code. We'll
40 talk about next steps, we'll talk about where we're at in our, in our steps of
41 progress up to today and I will provide, provide some details but I'm, I'm
42 not going to go into a tremendous number of details at this point and
43 hopefully we'll have some questions and comments and discussion
44 afterward as well. So as I mentioned we're going to talk about some of
45 the, specifically some of the features. We touched on it a little bit at our
46 work session last month but I'll go into a little bit more detail on those.

1 So first of all where are we at today? Today this is the third draft
2 that you're reviewing. I'm not going to read through all the bullets there
3 but I just wanted to sort of bring you up to speed as to where we are at at
4 this moment this evening. A quick reminder, we had a really detailed
5 discussion at our work session, a training session about what a form-
6 based code is and how one works and a, a good comparison is this idea
7 of form and function. Typical codes that you work with today elevate
8 function over form. That's a typical code that you're used to dealing with.
9 In fact even in the, in the prior presentation we talked about making sure
10 that certain parcels are zoned for agriculture and making sure that we
11 make sure that that function is part of the use. We didn't really talk about
12 form, how it would look, how it would integrate with the neighborhood. A
13 form-based code as you recall flips the discussion, understanding that
14 most functions actually work well side by side, most do. But it's how you
15 design them and how you build them and how you create the form as to
16 whether they work together or how well they work together.

17 To orient ourselves I wanted to show this map early on. The map
18 on the left is the current Central Business District. That is the current code
19 that is on the books. In the middle the hashed area is called the Main
20 Street Overlay. It is a, it is a section within the Central Business District
21 that has some very specific, very specific guidelines as far as sign
22 placement, design standards, some of those types of things. On the left-
23 hand side, or that's on the left-hand side. On the right-hand side is the
24 proposed Downtown Code. As we talked about at our work session last
25 month, it is designed in what are called transects so when you're looking
26 at how form flows from one area to another, there's some type of
27 organization to how that, that form flows. Also when you're looking at its
28 relationship to the adjoining neighborhoods which is a very important
29 relationship, we have built into the code how this more urban form of the
30 downtown is going to relate to these adjoining historic districts.

31 So let's cover just a few of the features of the code and I'm going to
32 highlight ones, I, I'm not going to get into details about you know where
33 uses are located in one place versus another, those types of things. You
34 may have questions on those later on. What I want to talk about are really
35 things that are significant differences from this code compared to the
36 current code.

37 The first is that this code has a very distinct purpose which the
38 Central Business District really lacks. In, I'm not going to read again
39 through all the bullets but things like flexibility with predictability, that's very
40 important. As we talked about in, at the work session our current code
41 allows owners to do pretty much whatever they want. That's not beneficial
42 to their adjoining property owners or to adjoining business owners. So
43 creating a level of predictability is very important, but also trying to retain a
44 level of the flexibility that currently exists is also important. The idea of
45 creating this urban environment that's compact, it's walk-able, it's vibrant,
46 it's diverse, understanding that office use does not need to be segregated

1 from commercial use which also does not need to be segregated from
2 residential use, these things in looking at form they can all work together;
3 when we talk about urban form we don't have to segregate the different
4 uses like we're used to doing in current codes. We talked about the
5 adjoining aspects of, the aspects of the adjoining neighborhoods and
6 really when we look at the direction that the current Downtown Master
7 Plan as well I hope some, I hope some of you were able to attend at least
8 portions of the charrette last week. We had a, a wonderful turnout, a lot of
9 people from, from all over the city, the adjoining neighborhoods and so on
10 came and, and told us how they want to see downtown continue to
11 redevelop and how, the, the vision that they have for it. This code
12 continues to support that and implementation of a master plan as you all
13 know is so vitally important.

14 One of the things that is great about this, actually you know what
15 before I go on to this I want to pull up the Code itself because this is, this,
16 this is really, in fact it, it at the, at the work session one of my colleagues
17 showed a form-based code from Cincinnati and it had this really great
18 diagram that said, "Here are the steps you need to follow through in this
19 document so that when you present a set of plans you've covered all your
20 bases," very simple instructions. And I said, "Wow. My code doesn't have
21 that, our code doesn't have that." So Section D that you see on your
22 screen is just that. It's a list of instructions. If you do, if you go through
23 these steps when you get to step number three, you will have addressed,
24 you should have addressed all of the steps that you need to have a really
25 great submittal and cut your review times and keep the process moving.
26 As we all have heard many times at this Commission and other venues,
27 time is money. So if we clearly outline the steps or the instructions on how
28 to put your plans together we're hopefully giving you that time and you're
29 saving that money and you're reinvesting that in our downtown area. And
30 we can, we can come back to this as well in a, in a little bit.

31 Let's see here, get back to my slide show. The other thing that we
32 have here is there are a lot of tables and graphs. If you're familiar with
33 current codes, I know you are, it's words, words, words, and more words,
34 and more words. What we tried to do is to take a lot of that information
35 and put it into pictures, into tables, into bulleted lists, and really simplify
36 down to the essence what it is that we're asking an applicant to do, what
37 are the clear regulations, and try to make it very obvious using these tools.
38 Staff is really excited about this because one of the biggest issues that we
39 have in a redevelopment area is that of what's called "adaptive reuse." It's
40 when you have an existing building, it's been serving one function or many
41 functions throughout its life, and now it's time for it to serve a new function.
42 Adaptive reuse is very difficult especially in some older buildings. We
43 have some buildings downtown that are 70, 80 years old. So what we did
44 was we wanted to simplify how we go about the processes of altering,
45 remodeling, or even providing minor modifications to buildings. First of all
46 we define alteration not in dollar amount but we define it in scope. And so

1 when you see in the code where it talks about a, an alteration or a
2 remodel being something where you're moving load-bearing walls, for
3 instance that's an alteration. That's not a minor modification. That's, that
4 is going to involve significant cost, it's going to in, involve the structural
5 integrity of the building. That's what we're saying. We're not, we're not
6 putting a dollar amount and, and in the past dollar amounts have been
7 very difficult for staff to track. Sometimes and I'm, I'm, I'm not, I'm not
8 going to point any fingers but sometimes the cost is surprisingly low to the
9 penny of what the limit is for triggering that next level, okay. I think you all
10 know what I'm talking about. You've probably seen these situations come
11 across your desk. We're getting rid of all that. We're simply defining this,
12 "If you do this to your building or something like this, that's what an
13 alteration is. Everything else, minor modification. You're allowed to do it
14 by right." Again we don't care how much it costs. If you're moving an
15 interior wall because you're going to enhance your seating area for your
16 restaurant, do it. We don't want to hold you up on that. Just do it. What
17 we feel as staff is that we have a building code and you need to follow the
18 building code and you still need to follow a permitting process and an
19 inspection process and those things. If it's, it, if, if, if moving your wall or
20 doing your minor modification costs \$10,000 fantastic. If it costs \$50,000
21 that's fine too. Just go do it. We want to as much as possible streamline
22 that process so that you can get your business open as soon as possible.

23 There are building and design standards in here. Specifically a lot
24 of the building and design standards relate to the Main Street area which
25 is that core area again. But even within these we have created a great
26 deal of flexibility. You'll notice in looking at the diagrams and reading the
27 tables and charts and everything else, oftentimes there are ranges that
28 are indicated, not a hard number. It's not, "You need this," it's, "Ah,
29 anywhere between these two numbers here," whatever those numbers
30 happen to be you'll see maximum and minimums. And so as long as
31 you're not exceeding the maximum or the minimum then, or I guess
32 exceeding the maximum and less than minimum then submit it and let's
33 review it based on its merit. Those are the types of things that we want to
34 get to. Even with the flexible standards we still have options for some
35 administrative variance processes. So we're trying to make this again as
36 flexible as possible but trying to retain the predictability so that if you're an
37 adjoining property owner you have a fairly good idea of what your
38 neighbor can and cannot do within, within reason with their own property.

39 The other thing that was very interesting is a, a couple of times it
40 came out in discussion at the charrette last week and that is the term
41 "raise the bar." With our current downtown code we have certain design
42 standards that are, they're good. They've served us up to this point. But if
43 we want downtown to be "the destination" or "a major destination" for Las
44 Cruces, the direction that was given to us is, "You gotta raise the bar."
45 You really have to take these building and design standards and say,
46 "This is good. This is better and here's why we need to be better."

1 Because downtown functions very differently than Telshor and Lohman or
2 the, the Lohman corridor. We have to make downtown a destination the,
3 as, in and, in and of its own self. And so that was a very interesting
4 comment that I thought came out through the charrette process.

5 We talked at great length about parking issues and I, I want to
6 delve into this just a little bit. First of all what we're saying is, in the code is
7 there is no City requirement like there are in other parts of the City for
8 parking. This currently exists in the Main Street Overlay. There is no
9 requirement for parking within the Main Street Overlay under the current
10 code. What we would be doing is expanding that through the rest of the
11 code. Now, some of the questions that came up, I wanted to use these
12 points to sort of address some of the questions that came up. First, even
13 though the City is not requiring parking if you take a development to try
14 and secure funding and you don't provide parking you're not going to get
15 your funding. That's just the bottom line. So we're, it, so it is a market-
16 based parking requirement. It's not a City-based parking requirement.
17 And I want to make sure that's very, very clear. In addition to that I, I want
18 to, these other points here are very crucial because they speak to the
19 overall functionality of downtown. For instance there is plenty of on-street
20 parking even in the downtown, the immediate downtown area, not even at,
21 we're, we're not going to even propose use of on-street parking in the
22 adjoining neighborhoods. Just in downtown there is a lot of on-street
23 parking. Additionally there are at least three parking garages that are
24 being proposed through the Downtown Master Plan. So as we move
25 through in the redevelopment process a lot of the surface parking will be
26 redeveloped into other uses. So these parking garages are being
27 proposed to offset some of that parking loss. And finally there are other
28 off-peak parking lots and I'll explain that. Typically your, your, your peak
29 parking is going to be during the day especially with all the office uses that
30 we have here. So when you come and try to find a spot at City Hall for
31 instance during the day, it's not going to happen probably especially not in
32 the parking garage behind City, City Hall. But off-peak, outside of eight to
33 five that is public parking and so there, and the, and there, that's just one
34 example of other off-street parking areas that would be available and
35 actually in the code it specifically talks about how you can, it gives you a
36 table on how you can figure out what opportunities for shared parking
37 there are in your immediate vicinity.

38 So I just went through some of the very, very broad brush-stroke
39 ideas. I want to again specifically focus on ways that this code differs
40 significantly from the current code that we have. As I mentioned this is the
41 third draft and that is, that is here for your review and we'll take comments
42 here in just a moment. This is just sort of briefly outlining the next steps.
43 We are on the schedule for March 15th City Council work session. I, I
44 look forward to giving a presentation very similar to this and engaging the
45 City Council in a discussion of the Downtown Development Code. What
46 staff hopes to do is bring back for action to this Committee at your March

1 meeting this document in what would be probably draft four we'll call it and
2 have discussion and hopefully receive a recommendation from this body
3 in March. Staff would like to proceed with a late spring/very early summer
4 adoption of this code so that we can continue with our Downtown Master
5 Plan implementation. So with that Mr. Chair, thank you all very much for
6 your attention and I stand for questions and comments.

7
8 Gordon: First of all I must apologize, Dr. Crane.

9
10 Crane: You're so kind Mr. Chairman. I'm concerned about what you said about
11 parking. If the parking provided is, is not mandated by the City with no
12 consideration for the impact on the profitability of the business but instead
13 is decided by the lender to the developer with a view to helping the loan
14 along and helping the individual to have enough parking probably but not
15 excessive parking, I rather distrust the element of profit motive there.
16 Furthermore I wonder what you're going to do about handicapped parking
17 which very frequently I notice is not utilized in many places and there's a
18 tendency there to say, "The heck with it. We'll drop three spaces down to
19 one," or something. Be interested to have your comment on that.

20
21 Hume: Yes. Mr. Chair, Commissioner Crane. Let me address ADA first. ADA's
22 actually a federal requirement, not a local requirement. So whatever the
23 federal requirement is they would still be required to provide that parking.
24 That, that is a federal requirement. We can't waive that. Your, your first
25 question though is very interesting because of the, I'll, I'll, let me focus if I
26 may on the phraseology that you used. You used the word "profitability"
27 from the standpoint of the City requiring parking. Actually from the City
28 requiring parking that is, that tends to be over-burdensome on many and
29 far more parking is required from the City perspective than is actually
30 needed. Actually that's a net loss for the developer. From the standpoint
31 of profitability when you are going forward to a, to a lending institution they
32 are keenly interested in your profitability. And so they really are only
33 interested in the absolute maximum that you need to be profitable with
34 taking that in consideration that there's also a great deal of shared
35 parking, no matter where you go in downtown there will be shared parking
36 within the block around your area. So I, I, say that because I think the
37 phraseology you used is correct but from the, but actually it, it, it, seems
38 counterintuitive since we've gone on with a suburban model of
39 redevelopment for so many years and this is not a suburban area. This is
40 an urban area and so for things that we tend to see work or, or we, we feel
41 that work in a suburban area it's actually the other way around when
42 you're talking about a more urban area.

43
44 Crane: I, if I follow on very briefly Mr. Chairman. Yeah I see what you mean but
45 we should consider that the City's stipulations about the amount of parking
46 you have to have was, were rationally based and not, were, were not just

1 grabbed out of the air, perhaps were based on some kind of national
2 standards, maybe that's the "suburban" you are referring to. It's not a
3 deal-breaker to my mind but I'm, often think that for people who don't like
4 an intrusive government to think about how much maintenance would get
5 done on an aircraft if it were up to strictly people who were counting beans
6 rather than people who are trying to save lives. I suspect the bean-
7 counters would win at first but after a while they wouldn't fly anymore.
8 Thank you.
9

10 Gordon: Ms. Ferrary.

11

12 Ferrary: Speaking of parking, are the garages that are being proposed, any of
13 them from the City or, or will be City-owned or are they private?
14

15 Hume: Mr. Chair and Commissioner Ferrary. A, a mix. One of the garages that
16 is being proposed would be on private property but the other two at this
17 point in time are being proposed on City property and would probably be,
18 have some sort of involvement from the tax increment development district
19 or the TIDD.
20

21 Ferrary: Okay. And also as we're expanding our transportation program to you
22 know reach you know most recently all the way down to Sunland Park and
23 up to T or C and Alamogordo, and for events that are planned to be taking
24 place in the downtown redevelopment, would they also consider
25 supporting having more transportation later at night so that more people
26 could come and then they wouldn't have to use so much parking if they
27 were using public transportation?
28

29 Hume: Mr. Chair, Commissioner Ferrary. That's a fair question. This code
30 doesn't specifically address that. However when you look at the type of
31 development, particularly from a standpoint of residential development
32 that was being proposed through the Downtown Master Plan and we'd be
33 supported by this, actually that type of a development would very much
34 lend itself to expansion of transit service at least in the downtown area as,
35 as that development occurs.
36

37 Ferrary: Thank you.

38

39 Gordon: Andy I just have, I have two questions I'd like to ask. You talked earlier
40 about streamlining the process where if somebody wants to do something
41 and, and it's within reason do they still have to come and ask for
42 permission even though it, perhaps cause they might've done something
43 wrong?
44

45 Hume: Mr. Chair. And, and that's an excellent question. The short answer is yes,
46 we would still want them to go through the permitting process. However I

1 think there's a couple things in play. Number one is by removing any
2 worry about I'll, I'll pick on minor modifications cause that's the one that,
3 that I think is, is probably most germane in, in the question that you're
4 asking. When we're worried about, "Well we only consider up to \$25,000
5 being minor modification," you know and then you know the, we, sort of
6 hedging those, those types of things then if it's beyond that then maybe
7 we have to do a variance or whatever, if we just cut that out and say,
8 "Look. This is how we define a significant modification. This is how we
9 define a minor modification." That right there streamlines the process
10 because you know going in, "Look. I'm not moving a load-bearing wall.
11 It's an interior wall." But if that interior wall happens have electricity ...

12
13 Gordon: Right.

14
15 Hume: Then an inspection is, is needed.

16
17 Gordon: Exactly.

18
19 Hume: And that's where the building code comes in and you would need to go
20 through the, the, the inspection process. So, plus even if it isn't a load-
21 bearing wall you still want to make sure it's constructed properly. So that's
22 why we're saying we're doing away with any of those limitations as far as,
23 as far as cost and all that sort of stuff. All we're saying is if this, this is, this
24 is a major modification, this is a minor but go through the, go through the
25 permitting process and the inspection process because it, we still have to
26 maintain a level of health, safety, welfare from the government
27 perspective.

28
29 Gordon: Okay. And the second one that I, I'm looking at this table, Downtown
30 Regulation Plan, it's I, I don't have a, a number on it. It's in page three of
31 this presentation. You brought it up before. You, you show what the new
32 configuration would be based on so much in the middle is this, so much on
33 the outside that and it goes around, whatever. What happens if there's
34 somebody already in, in the existent, in the existing central portion of that
35 diagram that really is not compliant if it was something that wanted to
36 move in there? Is he grandfathered in?

37
38 Hume: Let me make sure that I understand your question because one is you,
39 you were saying "if they're already there" and then you used the word
40 "move there."

41
42 Gordon: I'm, I'm trying to make two, two things.

43
44 Hume: Two, two points, okay.

45
46 Gordon: Right.

1
2 Hume: So on page eight, I just wanted to make sure that that was the case. On
3 page eight, item F3 it says "existing buildings and properties that do not
4 conform to the provision of this section," which is the, the code we're
5 talking about, "may continue in use as they are," period. Nonconforming,
6 they can continue as use, not a problem. But if they meet any, either one
7 of these three items, one, two, or three underneath then they have to be
8 brought into compliance. So if they remain vacant for a continuous, a
9 period of continuous one year or more. If they have a, a major, a remodel
10 or alteration that causes a change of 30% of the gross floor area which is
11 a significant change, I mean that's a really big change, 30% is a really big
12 change; 10% we're not worried about, 15% we're not worried about. You
13 start getting to 30 and that's a, that's a significant change. The other one
14 is when you have changes that change the, the use orientation, for
15 example if you go from an office to a retail very different requirements are
16 needed by the building code. If you go from retail to residential very
17 different requirements are, are required by the, by the building code, also
18 if you look at a change in density. So bottom line is if you have something
19 in the downtown area and you want to continue to use that building,
20 continue to use it, and as long as you use it, let's say you're using it for a
21 small retail shop and another small retail shop is there, continue to use it.
22 We don't want to hold you up on that. But there are certain points where
23 staff has to say, "Look. You've created a big enough change to this
24 building that now you have to bring it into compliance." But the changes
25 that we're asking for are really significant, they're, the, the threshold is
26 very high that you have to reach.
27
28 Gordon: But it, but it says here in, in, in item three the second sentence says,
29 "However they shall be brought into compliance with current standards
30 when," etc, etc, etc.
31
32 Hume: Correct.
33
34 Gordon: What happens if they can't afford it?
35
36 Hume: Then they'll either have to reduce what they're asking for or they're going
37 to have to find, seek another, seek another solution.
38
39 Gordon: The, I mean suppose, suppose they're not asking you for anything. They
40 just say, "Well just leave me alone. I just want to do what I have here.
41 Don't bother me."
42
43 Hume: Then that's fine.
44
45 Gordon: That is fine.
46

1 Hume: If ...
2
3 Gordon: So it, so they don't have to come into compliance.
4
5 Hume: They don't have to come into compliance until they hit those triggers,
6 those triggers.
7
8 Gordon: So if they don't do anything there's ...
9
10 Hume: Then they're fine.
11
12 Gordon: They're fine. I understand.
13
14 Hume: So for instance I'll just pick on a, a shop downtown. There's a, a friend of
15 mine, he owns the running, the running store. That would be considered
16 small retail. If he moves on, maybe finds a bigger space hopefully,
17 something like that and another small retail store goes in there, they want
18 to paint it, they want to replace the carpet, done. Not a problem. We're
19 not going to require any, if, if they happen to be out of compliance of
20 something they'll remain out of compliance or out of conformance, that's
21 fine. But if a restaurant tries to move in there or if that space remains
22 vacant for a year or more and then somebody else comes ...
23
24 Gordon: Yeah.
25
26 Hume: In, those are really high thresholds that staff has to say, "Look. At this
27 point in time, now you have to come into compliance." Otherwise the
28 shops can come and go and, and do what they please within a pretty wide
29 latitude.
30
31 Gordon: Okay. And when you speak of compliance are you, are you talking in
32 terms of Code Enforcement?
33
34 Hume: I'm talking about compliance of this code, yes.
35
36 Gordon: So would it be Code Enforcement? Would be, who, who would, who
37 would issue the violation?
38
39 Hume: Well what they would do is if they would need to come into compliance
40 they would need to submit a plan, set of plans and go through the whole
41 plan permitting process.
42
43 Gordon: But my point is if they don't what happens?
44
45 Hume: Well yeah, I mean at some point somebody will probably go in there and
46 even if it's to buy something or whatever and they'll see something out of

1 compliance and you know. It's kind of like what happens elsewhere in the
2 city. I guarantee you people do a lot of things to their homes and never
3 take out a permit that they're supposed to.
4

5 Gordon: Yeah.

6
7 Hume: And what happens is their neighbor squeals on them or there happens to
8 be a Code Enforcement officer maybe that drives by and says, "Oh hey,
9 that's an addition. That wasn't there you know three weeks ago." So I
10 mean the, some of those things happen, you know some of them never
11 get caught. But I mean we have to set some threshold at which staff
12 would say, "Okay. You've gotten to this point. Now you need to come into
13 compliance." But up to that point again staff is trying to provide a great
14 deal of latitude to just keep businesses in business, keep the doors open,
15 if you want to make a new business you know get, get in as, as easily as
16 possible.
17

18 Gordon: All right. Thank you. Dr. Crane.

19
20 Crane: I just want to make the point that looking at your paragraph three, item II,
21 that looks like a record-keeping nightmare for somebody because it's, it's
22 some compliance can be triggered if a cumulative increase of 30% of
23 gross square footage has happened during a ten-year period. So
24 incrementally increases it 10% over, let's say every three or four years and
25 then sooner or later somebody how is going to come along and say, "I
26 notice that you're gone over 30% in ten years. You got to come into
27 compliance." Now we know practically what's going to happen is what you
28 just mentioned, that it's going to sneak by. But you know I don't really like
29 laws which you can sneak around without anybody noticing. It's a little
30 complex. I'm sure we can all live with it.
31

32 Hume: So Mr. Chair and Commissioner Crane. Actually staff has grappled a little
33 bit with that because we don't like the idea of tracking stuff like that. I
34 mean you're right, it is, we, we have you know how many thousands of
35 parcels and buildings and so on and so forth in the entire city. How are
36 we going to focus on one parcel and track it for ten years? Couple things.
37 The first is that as you've probably have already heard the City is moving
38 to a, a digital tracking system with when we submit permits and go through
39 inspections and so on. Some of that tracking will be made easier. The
40 second thing is generally speaking in a very vibrant, robust area if you're
41 going to, if you're going to ... okay, let me, let me, here, here's the
42 example that we were thinking of. I'm a property owner, I own a building
43 and am I going to nickel and dime and make just enough changes to 10%
44 over the course of four years so I don't trigger the ten-year thing or is
45 probably what is more likely is I'm going to either do some minor
46 modifications which are allowed by right or I'm going to overhaul this

1 building. Generally speaking one of those two things happens, not
2 worrying about 30% over ten years. So what staff is fine with doing is
3 striking the whole "over ten years" and just saying, "If you're creating a
4 one-time change of 30% we'd be fine with that," cause frankly, a) you're
5 right, we don't want to track it and b) what we want is we want people
6 coming in and making you know intelligent, well-planned, well-designed
7 improvements to the downtown area and getting it vibrant again, not
8 worrying about nitpicking over 29% versus 30%.

9
10 Crane: Thank you.

11
12 Gordon: Mr. Beard.

13
14 Beard: These are good plans. I'm just wondering how you're going to get the
15 people to go to the downtown area and take up residence down there as
16 opposed to going to the mall or going onto North Telshor. I mean what,
17 what are the incentives that the City is putting into this project in order to
18 draw them downtown?

19
20 Hume: So first, first of all what I'll say with all due respect Mr. Chair and to the
21 Committee Members, that's really not what we're discussing here in
22 discussing the, the development code. But let me take a stab at it cause
23 let me see if I can maybe find an answer there. I think there's two classes
24 of people when you're talking about, when you're talking about bringing
25 people down. One is the people who want to invest in downtown, open a
26 business, open an office, those types of things. Having a code like this
27 that is hopefully simpler, easier to use, streamlining the process, removing
28 potential impediments and obstacles to the process are, is going to make
29 this a, a much more favorable place to be. In addition staff is also
30 reviewing the infill policy, so that coupled with opportunities for incentives
31 through the infill policy could be very, very beneficial. The other thing too
32 from a standpoint of somebody wants to make an investment and again
33 we talked about this at the charrette last week is finding the x-factor, being
34 in a place in, in which you want to shop and live and so on. The mall
35 doesn't have that. The mall does not have x. the mall has one store after
36 another, cookie-cutter, all those things going on. You know it has the
37 Dillard's, it has the other big box and so on and so forth. There is not a
38 floral shop in the mall like we have downtown. There is not a running
39 store in the mall like we have downtown. There isn't a home-furnishing
40 store, and I can go on and on because actually we've seen some of those
41 businesses open up recently.

42 From the standpoint of the people who want to be downtown to live,
43 to shop, that's the second set of people, creating that x-factor, creating
44 that environment, having a place where I can step out and I'm done
45 shopping and I want to sit out and enjoy the plaza and people-watch and
46 watch the fountain go off and, and listen to a band play or something like

1 that, those are the things that malls don't have, that Telshor and Lohman
2 doesn't have, that the Lohman corridor and so on don't have. That's why
3 people are going to want to be here.
4
5 Beard: Thank you.
6
7 Gordon: Andy I just had one other thought. Does, does this system eliminate or, or
8 create a need for a variance?
9
10 Hume: Excellent question Mr. Chair. In many cases staff feels no it does not.
11 Because again we've built in flexibility so that if you want to say have, if
12 you want to build right up to your property line, in many cases in the code
13 you're allowed to. If you want to have a little bit more space, again you're
14 allowed to. In addition to that there are, there is an administrative
15 variance process that is built into many sections of the code.
16
17 Gordon: All right. Thank you. Ms. Ferrary, I'm sorry.
18
19 Ferrary: Thank you. I just think this is wonderful that you've been able to
20 streamline, make it simpler for people to understand you know when they
21 are interested in you know the development of the downtown and
22 especially you know involving you know with the charrettes, the input from
23 the public. We're criticized government, government is often criticized for
24 not, for making things more difficult and having more barriers so I think
25 this is a, a really great step and I think people should recognize what a
26 good job you all are doing. Thanks.
27
28 Hume: Thank you.
29
30 Gordon: Anything else? Thank you Andy.
31
32 Hume: Sure. I, I don't know Mr. Chair. There may be individuals in the audience
33 who may want to speak or comment here ...
34
35 Gordon: Ah yes, I'm sorry. Is there anyone from the audience who'd care to
36 speak? Please come forward. No. You're not keeping, are you keeping,
37 so I have to swear them in? Okay.
38
39 Parsons: Good evening. Good evening Commissioners. My name is Ariana
40 Parsons. I'm the Executive Director of the Downtown Las Cruces
41 Partnership. We're the organization tasked with ...
42
43 Gordon: Excuse me for interrupting you but I, I ...
44
45 Parsons: Sure.
46

1 Gordon: Apparently I've been told I have to swear you in. I don't know why but ...
2
3 Parsons: Oh. Okay.
4
5 Gordon: This is simple. Do you swear or affirm that the testimony you are about to
6 give is the truth and nothing but the truth under penalty of law?
7
8 Parsons: Yes I do. All right. So my name is Ariana Parsons. I'm the Executive
9 Director of the Downtown Las Cruces Partnership. We're the organization
10 that's tasked with attracting private investment to downtown and I'm really
11 just here this evening to express my full support and the support of my
12 organization for a form-based code. We get a lot of calls in my office for
13 people looking for space downtown and one of the biggest issues is the
14 adaptive reuse. It is very difficult for us to field a wide range of calls with
15 many, many different potential uses and try to make that specific use work
16 in an existing building with the current zoning. And it's hard to make it fit
17 into the, the urban feel that we're trying to go for to integrate the
18 neighborhoods and to give that verticality and very much create that form
19 and that feel that we're looking for. So in our conversations with urban
20 planning and development professionals, market analysts, architects,
21 developers, all the different stakeholders across the board, the more we
22 talk about this the more excited people get because what we're trying to
23 create is a really vibrant city center and with this form-based code we're
24 going to be able to take all of these different ideas and businesses that
25 people want to open and we're going to be able to bring them downtown
26 and make it work for them and we're going to be decreasing those
27 barriers. So just wanted to say that we are fully in support and we're really
28 excited. This is one of the great next steps in the evolution of downtown
29 Las Cruces. Thank you.
30
31 Gordon: Okay. Thank you. We, if you'd please state your name and then I'll swear
32 you in also.
33
34 Newby: Steve Newby, Steve Newby Architects and a partner in Las Cruces
35 Community Partners.
36
37 Gordon: Okay. Do you swear or affirm that the testimony you are about to give is
38 the truth and nothing but the truth under penalty of law?
39
40 Newby: Absolutely.
41
42 Gordon: Thank you.
43
44 Newby: Mr. Chair, Commissioners. I've been involved in downtown revitalization
45 here in Las Cruces for about 30 years. It's, it's been an ebb and a flow.
46 There's good days and bad days. But I have perspective. People like

1 Chuck Beard has known me for years, Mr. Stowe. I can stand before you
2 and say I have not seen a more opportune moment in the last 30 or 40
3 years for a new code to be developed for downtown Las Cruces and I'll tell
4 you why. A smart code is much different than the adjudication that you
5 wonderful gentlemen and ladies go through at every meeting in telling
6 people what they can't do. A smart code tells you what you can do. It's a
7 major difference. Architects are the prime consumers of zoning codes and
8 in this case the smart code. There's two other architects here in the room,
9 my posse, David and Armando. We have been Andy's kitchen cabinet
10 and I can tell you that most of the meetings have been very productive.
11 How, however I can also tell you there was one meeting where I actually
12 saw Andy get mad, at me. It was great. We didn't know he had that
13 emotion. He is very passionate about this but so are we because this is
14 what we live and, live and breathe. We actually have to read this stuff.
15 We actually have to understand it. It's no different than a building code.
16 The major difference though in a smart code that you're looking at today is
17 it talks about form. The code essentially doesn't care what lives next to
18 what. How many meetings have you had including one tonight about what
19 should and shouldn't be next door?

20 Smart codes encourage multiple use; perhaps not a transmission
21 tower but certainly business, businesses directly adjacent to housing,
22 directly adjacent to a restaurant. None of this you have to go through R-1
23 to get to R-2, to R-3, to R-4, you know oh my gosh then you have to go to
24 O-1 and then to C-1, C-2, and C-3 but you can't have C-3 next to R-1. A
25 smart code turns that completely upside-down and says, "We don't really
26 care if C-1 lives next to R-1 or R-3 multifamily lives directly adjacent to C-
27 3." Why? Because that's how all cities were developed for decades if not
28 for centuries. When you look at the ancient cities, they had the smart
29 code in mind. They developed it because everything was organized
30 around the center of the city where you had housing, you had restaurants,
31 you had businesses, you had hospitals. And what I've just described is
32 what the downtown just a few blocks from here was for about 150 years.
33 You had a movie theater directly adjacent to the Chevy dealership, directly
34 across the street from First National Bank, which was next door to a
35 restaurant, which was next door to housing. Most of that got torn down in
36 the '70s. As the leader of the design charrette I, that was on Friday night,
37 Andy? Yes. On Friday night said that many cities were wounded by
38 urban renewal in '60s and '70s, however she said with distinction she
39 believed that Las Cruces was wounded the most.

40 So Andy stands before you tonight to talk about a revolutionary
41 idea that has only been adopted by 366 cities with another 200 or so;
42 cities like Albuquerque and El Paso, Tucson, Phoenix, Denver, Dallas,
43 Houston from very small, small smart codes that affect no more than 100
44 parcels to ones that infected, infect, excuse me, Freudian slip, inject the
45 energy of a smart code into huge cities like Phoenix or Dallas or Los
46 Angeles. So we're not alone in looking at this. We're also not late. Over

1 85% of all smart codes have come into being just in the last 12 years.
2 That's an incredible trend and the trend line when you look at it is only
3 going up. And why is that? Because cities like Las Cruces have found in
4 the centers of their city and in special pockets like in El Paso they have
5 three smart codes now, one kind of east of the airport, one up from UTEP
6 called the Monticello Development, and then another one downtown, they
7 have found that you have to incentivize development, or else we're going
8 to continue to grow until we hit the Organ Mountains, then we'll probably
9 go up the Organ Mountains because that's what zoning codes do. They
10 give you a tremendous push, and our current zoning code is a great
11 example of that, to separate where people live from where they work, from
12 where they eat, from where they party, from where they shop. And then
13 what do we do to get between those places? We create five- and six-lane
14 roads to get you from one use across town to another use or up Telshor
15 and down Lohman and then back up Amador so we can all travel.
16 Americans spend more time in their cars than any other society in the
17 world, so think about that. What do smart codes do about that? They say,
18 "Hey, why don't we just put everything together? Why don't we do it like
19 most cities have for thousands of years, and in our case for about 100
20 years?" Put everything together, what does that do? It makes the
21 downtown more walk-able cause you don't have to get in your car and
22 drive from downtown up to Albertson's, or I guess used to be down to El
23 Paseo. You don't have to get in your car to go shopping or to go to the
24 restaurant. You come out of your apartment that's now a block away and
25 you walk to those facilities. You have to though have courage and vision
26 here. This is not an easy thing to do because all of y'all have trained
27 yourselves, in some cases over many, many years and my hats are off to
28 you folks who've been on this Board for a decade or more into how to
29 adjudicate what I call a punitive zoning code that tells you, "No, no, no.
30 You can't do that. No, you can't put this here. Oh no, we have to have a
31 four-lane arterial. You have to have traffic engineers." Saying have
32 courage instead to adopt the City's first smart code which I hope will be
33 one of many in Las Cruces, to have the courage to turn all of that upside-
34 down and everything you've ever known about zoning codes and it's going
35 to be a new day but you've got a great leader in Andy cause he's going to
36 help you through it.

37 These current codes like I said you, you have to understand how
38 we got to where we got and, and there's no bad actors in this. It was
39 order. We came to a point in the '50s and '60s that the cities were
40 growing in odd ways. A lot of planners got together, no offense to Andy's
41 profession and said, "We need to regulate that. We need to separate out
42 these uses. We, we don't like to have this next to that anymore. There's
43 too many people arguing." There was a great need for that because up
44 until the '50s, you know '40s and '50s there just weren't too many robust
45 zoning codes. City of Las Cruces' first zoning code was what, '64 or
46 something. Yeah. So think. We had 100 years without any zoning code,

1 you know. When you look at the pictures of old downtown, tell you what.
2 They did a pretty darn good job cause back in the '50s downtown looked a
3 lot better than what it does today.

4 So I'm here with my compatriots back behind me, three architects
5 here who have had how many meetings with you Andy, only four or five,
6 seems like 12, that we as a profession in the architecture profession
7 believe in this type of code. We believe this is the best step for Las
8 Cruces. And some of your questions are great. How does this code help
9 to get people downtown? Why are they going to come downtown? Hey,
10 you're going to pass this hopefully in a couple of months. Do you think
11 hordes of people are then going to rush downtown the next day? Nope.
12 No more than they rushed downtown after we spent 17 million bucks, got
13 rid of the pedestrian mall over eight years, put a street through it, and now
14 you can drive through a somewhat dead downtown. It's a combination of
15 a lot of things and one of the primary things to do is to avoid the
16 continuance of the codes that have governed cities for decades and give
17 Las Cruces' downtown a chance.

18 Last thing, the question on parking. I hate to say it, I'm somewhat
19 of a student of the parking issues downtown, attended every meeting,
20 talked to every consultant. The last parking study by the Walker
21 Company, a national consultant, found that we had 990 excess parking
22 spaces that were never used downtown. So when I hear, "Gee, we're
23 going to run out of parking," I've said for 30 years the day we have a
24 parking problem downtown is going to be a great day, cause you know
25 what it means? You might have to park a block away from InstaCopy.
26 You might have to take two-block walk to get to the bistro. When you
27 have to do that come find me. I'll shake your hand because that means,
28 like all other great downtowns that we have achieved the density that we
29 need. There will be parking structures. There's no question about it. Do
30 we need any now? At 900 spaces, there is not anyone that would finance
31 that, much less it would be a waste of public money to spend about
32 \$25,000 a space, multiply that times 300 spaces. You start understanding
33 you will build parking garages only when you need them. Those are
34 baked into the cookies, they're already in the plan. Parking will happen
35 when it needs to. And with that again Mr. Chairman, Commissioners I
36 would strongly recommend that you adopt this. It's going to be a fun ride.
37 I'm sure there will be times we go like this on, "Why did we not see that in
38 that section?" But that's true with all new ordinances. Thank you very
39 much.

40
41 Gordon: Thank you. That was very done, well, done very well. Thank you.
42 Anyone else?

43
44 Hume: Mr. Chair. I almost wish I'd brought this for action tonight. No, as I
45 mentioned we'll bring this back before this body in March for a
46 recommendation. Again I want to make sure that you all have as much

1 time as you need to give it a look-over. We had talked about this at the, at
2 the work session. Whatever level of detail you're comfortable with in
3 reviewing it, please use that level of detail. I really appreciate the
4 comments that we've received over the last couple of meetings and we'll
5 see you again next month.
6

7 Gordon: All right. Thank you. Very nice. Is there any other business to the
8 Commission?
9

10 **IX. PUBLIC PARTICIPATION**
11

12 Gordon: Is there any public, anybody from the public have anything to say?
13

14 **X. STAFF ANNOUNCEMENTS**
15

16 Gordon: Staff?
17

18 Ochoa: No sir. Nothing further tonight.
19

20 **XI. ADJOURNMENT (8:15 p.m.)**
21

22 Gordon: Then I guess we can entertain a motion to adjourn.
23

24 Stowe: So moved.
25

26 Gordon: Second?
27

28 Beard: Second.
29

30 Gordon: All in favor.
31

32 **MOTION PASSES UNANIMOUSLY.**
33

34 Gordon: It is now 8:15 and we are adjourned.
35
36
37
38

39
40 
41 _____
42 Chairperson
43