PLANNING AND ZONING COMMISSION
FOR THE
CITY OF LAS CRUCES
City Council Chambers
July 26, 2016 at 6:00 p.m.

BOARD MEMBERS PRESENT:

Kirk Clifton, Chairman
Ruben Alvarado, Member
Joanne Ferrary, Member
Harvey Gordon, Vice Chair
Roger Hedrick, Member
LaVonne Muniz, Member
William Stowe, Member

STAFF PRESENT:

Adam Ochoa, Planner, CLC
Sara Gonzales, Planner, CLC
Mark Dubbin, CLC Fire Department
Thomas Limon, CLC Legal Staff
Becky Baum, Recording Secretary, RC Creations, LLC

I. CALL TO ORDER (6:00 p.m.)

Clifton: Good evening fellow Commissioners, Members of the Public. I'd like to welcome you to the July 26, 2016 Planning and Zoning Commission. I'd like to go ahead and introduce our Commissioners for tonight's meeting. Beginning on the far right or your far left: Commissioner Hedrick, then we have Commissioner Muniz, Commissioner Stowe, Commissioner Ferrary, Commissioner Alvarado, Commissioner Gordon, and I am the Chair, Commissioner Clifton. Thank you very much.

II. CONFLICT OF INTEREST

At the opening of each meeting, the chairperson shall ask if any member on the Commission or City staff has any known conflict of interest with any item on the agenda.

Clifton: With that said let's go ahead and let me read the Conflict of Interest into the record. Is there any Commission Member or member of the Community Development Department staff that feels that they have a conflict of interest on any of the items on the agenda presented this evening? Seeing none, okay.

III. APPROVAL OF MINUTES

1. June 28, 2016 - Regular Meeting

Clifton: Has everybody had a chance to review the minutes from last month's meeting? Do we have any comments? Commissioner Gordon.

Gordon: I make a motion that we accept the minutes.

Ferrary: I'll second.

Clifton: We have a motion and a second. All in favor?

MOTION PASSES UNANIMOUSLY.

Clifton: Commission votes unanimously. Minutes are approved.

IV. POSTPONEMENTS - None

V. WITHDRAWALS

Clifton: On the agenda I see we have no postponements nor withdrawals.

Ochoa: That is correct sir.

Clifton: Thank you.

VI. CONSENT AGENDA

1. **Case 66940:** An application of Jared Curry, managing member, on behalf of Dillon Mountain Enterprises, LLC requesting a zone change from R-2 (Multi-Dwelling Low Density) to R-3C (Multi-Dwelling Medium Density-Conditional) for an underdeveloped 14.2 +/- acre parcel located on the east side of Bixler road, 855 +/- feet north of its intersection with Bataan Memorial West; Parcel ID # 02-07925. Proposed use: A potential residential multi-family apartment development. Council District 5 (Councilor Sorg).

2. **Case 67825:** An application of Paul Pompeo on behalf of Boyd Lee Welch, Trustee, property owner, requesting a zone change from R-4 (Multi-Dwelling High Density & Limited Retail and Office) to C-3 (Commercial High Intensity) for a 1.69 +/- acre parcel located on the north side of Hadley Avenue, 833 +/- feet west of its intersection with 17th Street; a.k.a. 2100 W. Hadley Avenue; Parcel ID # 02-00421. Proposed use: Plumbing/mechanical contractor business office. Council District 4 (Councilor Eakman).

Clifton: At this point we'll move into consent. For those of you that may not be aware, the Consent Agenda are items that are placed on the agenda that had very little staff or no public commentary whatsoever, and staff feels these are ready to be approved as presented on the agenda immediately.

Does the Commission have any issues with the, either item on the agenda? Commissioner Hedrick.

Hedrick: I just have the comment that I had a lot of questions on the first consent item but staff answered my questions earlier today, so had they not answered those questions I probably would've asked that it be placed on the regular agenda.

Clifton: Thank you. I'll go ahead and read these into the record and if anybody from the public is interested we can further discuss them.

First item is Case 66940: An application of Jared Curry, managing member, on behalf of Dillon Mountain Enterprises, LLC requesting a zone change from R-2 (multi-dwelling low density) to R-3C (multi-dwelling medium density-conditional) for an underdeveloped 14.2 plus or minus acre parcel located on the east side of Bixler road, 855 plus or minus feet north of its intersection with Bataan Memorial West. Parcel ID # 02-07925. The proposed use: A potential residential multi-family apartment development. This is in Council District 5, Councilor Sorg. Seeing no one.

I'll go ahead and read item number two under consent. Case 67825: An application of Paul Pompeo on behalf of Boyd Lee Welch, Trustee, property owner, requesting a zone change from R-4 (multi-dwelling high density and limited retail and office) to C-3 (commercial high intensity) for a 1.69 plus or minus acre parcel located on the north side of Hadley Avenue, 883 plus or minus feet west of its intersection with 17th Street; otherwise known as 2100 West Hadley Avenue. Parcel ID #02-00421. Proposed land use is for plumbing/mechanical contracting business office. This is in Council District 4, Councilor Eakman. Seeing no additional comments from the Commission or the public can I get a motion to approve the Consent Agenda?

Stowe: I so moved.

Gordon: Second.

Clifton: Commissioner Hedrick.

Hedrick: Aye.

Clifton: Commissioner Muniz.

Muniz: Aye.

Clifton: Commissioner Stowe.

Stowe: Aye.

Clifton: Commissioner Ferrary.

Ferrary: Aye.

Clifton: Commissioner Alvarado.

Alvarado: Aye.

Clifton: Commissioner Gordon.

Gordon: Aye.

Clifton: Chair votes aye.

MOTION PASSES UNANIMOUSLY.

Clifton: Consent Agenda is approved. Okay. Thank you for those that showed up for the consent.

VII. OLD BUSINESS - NONE

VIII. NEW BUSINESS

Clifton: New Business. We have one housekeeping item. Let's go ahead and take care of that on the front end. As advertised we need to have the election of a secretary as we discussed at last month's meeting. At this time I'll go ahead and take a motion to nominate a secretary for the Planning and Zoning Commission.

Gordon: Mr. Chair.

Clifton: Yes Commissioner Gordon.

Gordon: I nominate William Stowe.

Clifton: Do I have a second?

Ferrary: I second.

Clifton: Motioned and seconded. Commissioner Hedrick.

Hedrick: Aye.

Clifton: Commissioner Muniz.

Muniz: Aye.

Clifton: Commissioner Stowe.

Stowe: Aye.

Clifton: Commissioner Ferrary.

Ferrary: Aye.

Clifton: Commissioner Alvarado.

Alvarado: Aye.

Clifton: Commissioner Gordon.

Gordon: Aye.

Clifton: The Chair votes aye.

MOTION PASSES UNANIMOUSLY.

Clifton: Commissioner Stowe you're hired.

Gordon: I could've prefaced it by saying you know "From the great State of New Mexico."

Clifton: Okay. Thank you Commission. So now we have a secretary, staff.

1. **Case 65151:** Application of Zia Engineering on behalf of Mesilla Valley Dental Properties, LLC, property owner, for a Concept Plan for a Planned Unit Development (PUD) known as the Las Cruces Dental Plaza PUD. The Concept Plan proposes to subdivide the property into five commercial lots allowing C-2 (Commercial Medium Intensity) uses with shared access, parking, landscaping, and lighting. The subject area encompasses 1.99 +/- acres and is located at the northeast corner of Don Roser Drive and East University Avenue; Parcel ID # 02-39596. Proposed use: New commercial/office development. Council District 2 (Councilor Smith)

Clifton: Okay. Let's move right into the New Business, item number two, Case 65151: Application of Zia Engineering on behalf of Mesilla Valley Dental Properties, LLC, property owner, for a concept plan for a Planned Unit Development (PUD) known as the Las Cruces Dental Plaza PUD. The Concept Plan proposes to subdivide the property into five commercial lots allowing C-2 (commercial medium intensity) uses with shared access, parking, landscaping, and lighting. The subject area encompasses 1.99

plus or minus acres and is located at the northeast corner of Don Roser Drive and East University Avenue. Parcel ID number 02-39596. Proposed use: New commercial/office development. This is within Council District 2, Councilor Smith. Okay staff.

Gonzales: Okay. As previously said it was Case Number 65151 for a concept plan for a Planned Unit Development known as Las Cruces Dental Plaza PUD. Here is the vicinity zoning map of the property that is currently zoned C-3. It is surrounded by other commercial properties of high intensity as well. It is located on the northeast corner of University as well as Don Roser. You can see on, to the east side of it it is Interstate 25 and, or sorry to, yes and to the west side is actually Telshor Boulevard.

Currently the conditions on the property it is, it does encompass 1.99 acres. It is commercial high-intensity zoned C-3 and it is undeveloped property. And, okay. Here's the aerial maybe, no, just use that one. The aerial provided up on the screen does show that the property is currently vacant. However you will see that Citizens Bank is to the east of the property as well as to the west side is the hotel, or the PicQuik gas station as well. The Urology Center is almost completed. That is to the northern portion of the property so we are basically looking at medical offices within the surrounding area. You also see that Memorial Medical is located off of Telshor Boulevard to the north as well.

The applicant is proposing to subdivide the property into five commercial lots. The reason we are here doing the Planned Unit Development is because the applicant is changing the lot sizes, setbacks, and the building heights. The building heights will actually be lower than what is actually requested for a C-2 or C-3 zone. The applicant is also requesting to do C-2 permitted uses because this is a dental plaza. They are also asking that it be for any uses that do fall underneath. The applicants are requesting to share the access, the driving aisle, the parking areas, the landscaping, the outdoor lighting, utility easements, and any of the dumpster facilities. This will help to maintain the property as well as all five lots will come to a shared agreement. That way it can be maintained for the use of that dental plaza. They will also follow the current development standards for the auto and bicycle parking, driving aisles, and any of the signage.

With that staff did discuss during DRC the requirements for public benefit since this is a Planned Unit Development for the changes in which they are proposing. The changes were as we would consider minimal since they are just the setbacks which are only varying maybe two feet from certain sides. They are varying from the height requirement but they're actually going lower, also for the shared landscaping and the parking. With that their public benefits that are being provided from the applicant will be to the City's Parks and Recreation Program to where they will actually provide four street trees. That's an equivalent to close to about $1,100 based on what they actually donate to Parks and

Recreation. They are also going to be providing at least 24% landscaping rather than the required 15% for any commercial development. So it'll also increase and make the property look a lot better.

Here is the concept plan that is being proposed. You will see there are various, various different sizes in each lot as far as building setbacks and then the design. Throughout the landscaping you will see that there are several trees. A lot of times the trees are harder to maintain or for staff to actually require and so they are providing that as a public benefit to require them throughout the parking lot as well. Their access will be off of Citizens Place. They will have one access only. Those are private streets that are surrounding it. They won't have any access from University Avenue or from Don Roser.

DRC did meet on the 29th of June and we discussed anything as far as infrastructure, utility improvements, anything from a subdivision standpoint that would not recommend approval for this. Instead DRC did recommend approval because they're not making too many changes from the subdivision requirements as well as the zoning standpoint either. So based on that staff is recommending approval. So both DRC is recommending approval and staff recommends approval for this. The Planning and Zoning Commission is a recommending body to City Council and these were the findings for basically, for approving the concept plan for the PUD. They are found in your staff report and we've come to the end.

This is the part where yes, you can vote "yes" to approve the request as recommended by staff and DRC for the PUD concept plan for Case 65151; you can vote "no," this would recommend denial of the PUD concept plan to City Council; you can vote to amend the, and this could mean that you can put any conditions deemed necessary by the P&Z; or you can vote to table and allow staff to do more research and provide you more documentation to make a decision. Once again there is the concept plan and I stand for any questions and you were handed a handout from the applicant showing the design of the property or a proposed design for the property of how it will look on the outside. I stand for any questions as well as the applicant is here.

Clifton: Okay. Thank you Sara. Does this, applicant have a presentation for the Commission?

Gonzales: I don't believe so.

PERSON IN THE AUDIENCE SPEAKING, NOT AT THE MICROPHONE.

Gonzales: The applicant does not have a presentation. He just had basically the pamphlets that I provided.

Clifton: Okay. Thank you. Okay, we'll go ahead and open it up to Commission discussion and then we'll open it to the public. Commissioner Hedrick, do you, nothing.

Hedrick: I've no comment.

Clifton: Commissioner Stowe.

Stowe: This is, seems to me if not unusual it's the first time I've seen a development targeting a certain use of the land. Can staff comment on how does a PUD get proposed, approved, is it width, width of streets, infrastructure? Why a PUD rather than a regular development?

Gonzales: Go ahead.

Ochoa: If I may interject sir, a, a PUD essentially set there if you will to give flexibility to a developer in the City of Las Cruces. Under a Planned Unit Development they essentially set up their own design standards if you will. Under those design standards they could still refer to City standards for some issues but then also do their deviations or changes if you will that they feel that they need for whatever they want to develop on the property. In this case the property's zoned C-3 and the, the lot sizes they're proposing for the property do not meet the standards for a C-3 zoned property. So they went to a PUD to not only take care of that issue, also some minor setback issues, and just to take care of the overall encompassing access, parking, landscaping, you name it. The, the, the, all-encompassing easement over the entire property that's going to essentially work as one complete property but with different property owners and different lots within it. And a PUD is essentially viewed at staff is, when we review it it's kind of a, what benefits are, is the applicant getting by doing these deviations and then in the end what, what benefits the City gets as well and we kind of try to balance those out, is why they are proposing those two public benefits for this proposed PUD.

Stowe: Thank you.

Ferrary: Did this, oh I'm sorry.

Clifton: That's okay. Commissioner Ferrary.

Ferrary: Thank you. Did this make it more streamlined and easier for the development of this area by doing it this, by taking this process?

Gonzales: Chair, Commissioner Ferrary. Yes, it does help with the process because then they are able to propose I believe a little bit more outside of the box so you get a different design, a different style but you still encompass the

same regulations that are around you. We wouldn't you know necessarily put residential home in a, in a commercial area so it does help to eliminate some of the processes throughout to make it a little bit easier for other developers to come in.

Ferrary: That's great. And this also seems to be a very attractive addition to that part of town and I think it's a, a wonderful concept.

Clifton: Commissioner Gordon.

Gordon: I also think that this is a, a very nice-looking project and it certainly would do well for where it's going to be located but I just have a couple questions. Is this going to be somewhat similar to a condominium type arrangement where each one of these dentists is going to own their own piece of property and building?

Gonzales: Mr. Chair, Commissioner Gordon. Yes, they will have their own properties. They will be separate lots that are subdivided out. They will own their own properties, however with the shared access and the agreement made by all the property owners everything within the property will be maintained by whoever's owning that property. So even if you were to sell the property, the next property owner will be liable to maintain the actual site as one rather than just their single development.

Gordon: Is there some kind of a restriction that they're holding out for the piece that has not been perhaps sold at this point, that they're going to be another dentist or perhaps a medical doctor or something of that nature?

Gonzales: Commissioner Gordon. That would be where we asked the applicant to decide if they wanted to maintain it as just a dental plaza and only restrict dentists or if they would like to change it. That's where we included the C-2 uses because you never know what a property will or will not be able to be developed as, or if people come in and come out so it'll be limited to the C-2 uses for the property, whoever comes in.

Gordon: So, but I see at this point buildings A, B, E, and, A, B, A, B, C, and E are I, I assume were, looks like they've already been sold. Is that correct?

Gonzales: Commissioner Gordon. That is correct, yes. Those properties are already identified for the specific ...

Gordon: Okay.

Gonzales: Dentists that'll be in.

Gordon: And, and I assume that all of the, the participating practitioners are satisfied with the amount of parking that seems to be here, cause I would think that each dentist probably would have, maybe if, if they have a, a couple hygienists, a couple people at the desks, maybe two you know each person could have four or five people in each building and that multiplied out by five buildings is 30 spaces, and I don't see that many here. I know it's starker during the day, people don't park there all day long. Are, they're all happy with what's there?

Gonzales: Commissioner Gordon. There's actually 86 parking spaces throughout the parking lot.

Gordon: Really?

Gonzales: There are some that are identified on University Avenue but based on the diagram it's very harder to see because of the landscaping. So I do believe yes, the applicant is providing the required amount as for each building and for the doctors' use. It's, the requirement is two parking spaces per doctor.

Gordon: All right. Sounds good to me.

Gonzales: But, so they actually have increased the amount by sharing the access for the parking lot.

Gordon: Okay. Very nice. Well it looks very good. Thank you.

Clifton: Okay. Does the Commission have any more questions for staff? Seeing none we'll open it up to public comment. Are there any members of the public that have any questions or would like to comment on this case? Seeing none let's go ahead and open up a motion. Can I get a motion?

Gordon: I'd like to make a motion on, for the approval of Case Number 65151 for the application to create this dental plaza under the concept plan for a PUD.

Clifton: Do I have a second?

Ferrary: I'll second it.

Clifton: Okay. We have a motion and a second. Commissioner Hedrick.

Hedrick: Aye.

Clifton: Based on findings?

Hedrick: Based upon the discussion tonight and visiting the site as well as the, the ordinance requirements.

Clifton: Thank you. Commissioner Muniz.

Muniz: Aye based on staff's findings and discussions we've had tonight.

Clifton: Commissioner Stowe.

Stowe: Aye based on findings and discussion this evening.

Clifton: Commissioner Ferrary.

Ferrary: I vote aye based on staff discussion, staff findings and discussion.

Clifton: Commissioner Alvarado.

Alvarado: I vote aye based on findings, discussion, and site visit. I think it'll be a nice fit with the other buildings in the area.

Clifton: Commissioner Gordon.

Gordon: I vote aye based on site visit, staff findings, and discussion.

Clifton: The Chair votes aye based on its compliance with the 2001 Las Cruces Zoning Code as amended, staff presentation, and packet materials submitted.

MOTION PASSES UNANIMOUSLY.

Clifton: Case is approved. Thank you Mr. Johnson.

2. **Case 67384:** A Special Use Permit (SUP) application of Wireless Resources, Inc./Central State Tower on behalf of Fiesta Properties, LLC, property owner to construct a new wireless communication facility on a property encompassing 6.61 +/- acres, zoned M-1/M-2 (Industrial Standard) and located on the south side of El Camino Real, 1,123 +/- feet west of its intersection with Spitz Street; a.k.a. 2499 El Camino Real; Parcel ID # 02-39561. Proposed use: The applicant is seeking to construct a new 89-foot tall wireless communication structure and associated accessory structures on the subject property. Council District 4 (Councilor Eakman).

Clifton: Okay. Item number three under New Business, Case 67384: A Special Use Permit (SUP) application of Wireless Resources, Inc./Central States Tower on behalf of Fiesta Properties, LLC, property owner to construct a new wireless communication facility on a property encompassing 6.61

plus or minus acres, zoned M-1/M-2 (industrial standard) and located on the south side of El Camino Real, 1,123 plus or minus feet west of its intersection with Spitz Street; a.k.a. 2499 El Camino Real. Parcel ID number 02-39561. Proposed use: The applicant is seeking to construct a new 89-foot-tall wireless communication structure and associated accessory structures on the subject property. This is within Council, Councilor, Council District 4, Councilor Eakman. Okay. Staff.

Ochoa: Last case we have tonight for you ladies and gentlemen, I'm bringing another cell, cell tower before you. Case 67384 is a proposed new, proposed Special Use Permit or SUP for a new wireless communication facility for a property located at 2499 El Camino Real. Subject property shown here in the kind of like dotted purple and white. Subject property is zoned M-1/M-2. Just to give you an idea where it is, here's Main Street to the south, Three Crosses to the south, that big intersection there of Three Crosses, Main Street, and Solano. Subject property is here off of El Camino Real.

Subject property is located on the I guess south side, southeast side, southwest side I, I apologize of El Camino Real roughly about 1,100 feet west of its intersection with Spitz Street. Property is relatively large, encompassing 6.61 acres and currently zoned industrial standard, or M-1/M-2. There's currently a storage unit facility on the subject property shown here in the aerial. Subject property here with all the storage facilities with, surrounded essentially by a, a vacant commercial piece of property here, couple single-family homes, we got these properties over here that are zoned single-family but they're actually duplexes, and then the, the majority of everything else are essentially, or is essentially a mobile home park to the, to the north and to the south.

The reason we are here tonight is because of Section 38-59F of the 2001 Zoning Codes where it states all new communication structures adjacent to properties zoned R-1a and R-1b in this case are not permitted unless approved through this SUP process. The applicant, with that the applicant is required to pay for all expenses associated with hiring, with the City, pardon me, hiring a qualified expert to review the, to review the proposed case and provide a written recommendation to the P&Z of all technical information submitted as part of the application. And if we go back here to the zoning map, again we are here because it is adjacent to R-1b zoned property to the north and R-1a property to the west.

The proposal tonight is a new wireless communication facility with an 89-foot-tall wireless communication tower. As I stated before it is adjacent to R-1a and R-1b zoned property. The proposed new tower if you see in your staff report, it's relatively located near the center of the storage facility, right in the center there with a, a portion of a existing storage unit will be eliminated for the new tower and the equip, then the equipment will then be stored within two other existing storage units in the

facility to kind of block those from, from, to I guess buffer them from being seen from a, from, from the public.

The proposed new tower and the associated equipment does meet all required setbacks including the required setbacks from the adjacent R-1a and R-1b zoned property which is a minimum one foot in height from the tower for each foot in, in length plus 10% so it, essentially about 97 feet it needs to be from the adjacent R-1a and R-1b property. See here in the site plan that it does easily meet those setbacks. Like I said it is a relatively large piece of property and it's located right in the middle so the new tower and the equipment easily meets those required setbacks from not only the single-family zoned properties but all other adjacent properties as well.

Here is a schematic of what that new tower would look like. I would like to point out that it does show that the third tier here is where the new antennas will be located for this new tower. They are also proposing, or leaving space essentially for future carriers to the, to the top of it which is basically collocation and that is something that the City of Las Cruces strongly supports in the City of Las Cruces for new towers, to allow for the capability of collocation in the future for any future carriers on, on new towers.

Here are some surrounding views of the property. Shown, shown here, this picture's actually taken along the top left-hand corner is taken along El Camino Real. This, the bottom picture shows kind of a, roughly a, an artist's rendition of what that new tower would look like from the street. Picture here taken off of Karen south of the facility. Again the top picture shows the, how it exists currently and the bottom picture shows what it will look like when it's all said and done and that tower is built on the property. Same thing here, this is taken a little further west on Karen within the mobile home park area. Again the picture to the south, to, to the bottom, apologize, is showing kind of a artist's rendition of what that new tower would look like. And taken here in front of the single-family home to the west of the property. Again here is what that new tower would look like when it is constructed.

During staff's analysis essentially staff weighs their decisions strongly upon what the hired professional engineer provides us. An analysis was prepared for the new facility by the applicant's engineer. That information was provided to Greg, Greg Best Consultant, Inc. which has been used in prior Special Use Permits that you all have seen relatively recently. He did review the analysis and provide a written recommendation to the Planning and Zoning Commission on July 5th, 2016. That analysis is within your staff report. Essentially Greg Best Consultant did concur with the analysis of the applicant that the proposed new wireless facility at 2499 El Camino Real is the best available site for this area and is needed for this site.

With that staff did review the proposed Special Use Permit and based on staff review, all of the reviewing departments in the City of Las

Cruces recommending approval for the proposed SUP and as well as a written recommendation from the independent expert engineer staff finds, recommends approval for the proposed SUP based on staff findings which are found within your staff report, shown here as well.

With that ladies and gentlemen your options tonight is: 1) to vote "yes" as, and vote to approve the proposed Special Use Permit as recommended by staff; 2) to vote "yes" with any conditions deemed necessary by the P&Z; 3) to vote "no" and, recommending, and deny the proposed Special Use Permit; or 4) table and postpone the proposed Special Use Permit and direct staff and the applicant accordingly to provide any additional information at a future meeting. Just a quick note though, the zoning on the property's actually conditioned. It's not shown in our aerial but there is an actual underlying condition on the property that will essentially require this Special Use Permit to go for final approval at City Council. Typically Special Use Permits are finalized here, you have final action, but since this was a condition on there, on their zoning on that property they will have to go to City Council for final approval. Staff did not receive any public input at all for the proposed Special Use Permit from any adjacent property owners. And that concludes my presentation. The applicant is here as well if you have any questions for him and I stand for questions.

Clifton: Thank you Adam. Just a quick question for you. Does not having advertised the condition the, in the case blurb, does that affect the hearing this evening?

Ochoa: Mr. Chairman. It shouldn't cause the zoning is still in effect and they still need to through the Special Use Permit process. It's just an addition, additional step that they will have to do essentially sir.

Clifton: Okay.

Gordon: Adam can you tell us what that is? What, what, what the underlining zoning problem is, or question?

Ochoa: Well the underlying, Mr. Chairman, Commissioner Gordon. It's just essentially that there is a condition on the zoning that it needs to go to City Council for final approval.

Gordon: All right. Thank you.

Ochoa: Yes sir.

Clifton: Okay. We'll go ahead and, if the applicant is here to ...

Ferrary: I, I ...

Clifton: Yes, Commissioner Ferrary.

Ferrary: Can you tell us, I know you said that no one has responded. How far out were the, I know we ask this a lot, how far out were the notifications? Cause the sign was on one side where not very many people would see it, as people on the other side by Richard Lane where some of the duplexes are and noticeably obstructed view from the tower.

Ochoa: Mr. Chairman, Commissioner Ferrary. That is correct. There's, the sign is one aspect of public notice that needs to happen for the proposed Special Use Permit. The big thing where we try to encompass more is our public notice letters that we need to send out. We actually send out about 64 letters to adjacent property owners within that area. That in, basically encompassed everybody off of Terry Drive, all those duplexes to the west essentially, and Karen Avenue. So roughly the, the, the, it encompassed about 500 feet that we sent out public notice to. In all I guess it is about, roughly around thirty-something regular letters that we sent out and then thirty-something certified letters that we sent out as well.

Ferrary: Since some of the, most of these probably are rentals did they go just to the property owner or to the residents?

Ochoa: Mr. Chairman, Commissioner Ferrary. It, it, it just goes to the property owner but the letter does state to please provide this letter to any I guess renter on your property that is not part of the property owner if you will. So it's hard for us to send out letters to people that are renting property. Unfortunately our mail-outs are just to what are the property owners as, as recorded in Dona Ana County essentially ma'am.

Ferrary: So most of these people probably don't even know what's going on, the ones on the south because they didn't have the notification banner on the west side. And most likely the owners of the mobile home area didn't tell all of the renters of their lots anything about it.

Ochoa: Mr. Chairman, Commissioner Ferrary. There's no way to tell whether they told them or not. All I know is staff did not receive any public input from adjacent property owners ma'am.

Ferrary: Okay. Thank you.

Ochoa: Yes ma'am.

Clifton: Commissioner Hedrick.

Hedrick: It, it, it would be very helpful to me as a, to, to ensure that as much citizen engagement is, is, is, is achieved as possible that, that the staff report

indicate how many property owners were notified and how many were received and if there were indeed any comments. As I understand it 64 were sent out, zero, none were returned. Thank you.

Clifton: Commissioner Alvarado.

Alvarado: If, if I'm a renter do I have the same rights as a property owner to protest the putting up of the antenna or does that fall to the property owner only?

Ochoa: Mr. Chairman, Commissioner Alvarado. Since that is a public hearing and it is a public case, anybody in the city could come out against a proposed Special Use Permit. That includes people in a mobile home park, even somebody in the East Mesa essentially if they're against the proposal sir.

Clifton: Thank you Adam. If I could just briefly address this. The, the staff meets the State of New Mexico's legal requirements when sending out notice and unfortunately it doesn't address renters, which is probably a good thing because typically renters are of a nomadic nature. They don't stay in any one place at any one time so quite frankly you know their due process is when they drive by and see the sign or they read the advertisement in the publication of which it's published. So there is ample opportunity for the tenants to see that there is something going on with the property. And if we were to open this up to, to renters on every single project near an apartment complex it, it could be an unmitigated disaster for staff and it's, it's, really puts the applicant, potentially puts the applicant you know at risk of having negative commentary from somebody that might be living there two more months and then move. So I think staff has probably dealt with this issue for three decades at least. I know you have Adam as long as you've been here so.

Ochoa: Mr. Chairman. That is correct. It's an ongoing ...

Clifton: But the, the bottom line is you guys have complied to the notice requirements pursuant to state law and the City of Las Cruces.

Ochoa: Mr. Chairman. That is correct. Not only that but our requirements are actually more than what the State requires. The State actually only requires us to send out to about 100 feet away from the subject property. We'll go 500 feet so we'll go five times farther than what's allow, required by State.

Clifton: Okay. Moving right along. Thank you Adam. If we could have the applicant, if he has a presentation for us this evening we'll go ahead and begin that.

Ochoa: Mr. Chairman. The applicant does not have an, an, a, a formal presentation but he is available for any questions you might have for him

or if he has any statements I'll invite him now if he'd like to come up and make those.

Clifton: Okay. We'll go ahead and get into Commission questions at this point. Does the Commission have any questions for staff or the applicant?

Alvarado: I have a question for the applicant. I, I don't know if he can answer it or not.

Gallagher: Sure, I ...

Alvarado: How, how far in the future is it going to be ...

Clifton: Wait before we, excuse me. Could I swear you in before we go any further?

Gallagher: Sure.

Clifton: Please, please state your name for the record and your address.

Gallagher: Mike Gallagher, 3809 East Edna Drive, Gilbert, Arizona.

Clifton: Okay. Please raise your right hand. Do you swear or affirm that the testimony you are about to give is the truth and nothing but the truth under penalty of law?

Gallagher: I do.

Clifton: Thank you. Commissioner Alvarado.

Alvarado: How far in the future is it going to be before cell phone towers are shorter than they presently are?

Gallagher: There's no way definitive in, to know an exact number but they have been coming down over the years. I don't know how much lower they can go because I, I would say now in my, I'm not an engineer but I, I, 60 feet at this site to me is about, really close to about as low as I, they can go in certain just because of the, the buildings and the trees and, and the obstructions. So I would say, I would say 40 feet in certain areas is probably the minimum. The, the lowest I've seen is like a, a utility pole, something like that being swapped out with antennas at the top where the antennas are about 32 feet.

Clifton: Commissioner Ferrary.

Ferrary: Sometimes we've recommended that cell towers be camouflaged, like to become a pine tree or something but that doesn't seem to be appropriate here because it would tend to obstruct the view even more. Is there like a color that it would still be like silver or something that would blend in with the view of the mountains so that it didn't stand out?

Ochoa: Mr. Chairman, Commissioner Ferrary. If I may interject on that, there's actually requirements in our code that require a certain color, earth-toned if you will to a certain height and then the applicant essentially there is a, a standard that they do for, and, for the rest of the height that kind of lets it blend into the sky and the area for it won't be you know as much of a I guess blockage of views if you will ma'am. But those first 20 feet will be like a, an, an earth-tone color to try to blend in with more of the lower area of this, of the, of that area.

Ferrary: I have another question. On the executive summary it says that this is needed for capacity and coverage to this area. So, but the second part says going from an outdoor coverage to an indoor coverage will reduce the signal. And I'm not sure, I thought it was going to, the addition will be noticeable in the indoor environment to make it better. Is that correct, that ...

Gallagher: That is correct. That is correct. It will improve the indoor coverage as well as the outdoor coverage.

Ferrary: So even though people might have to look at this at least their wireless capacity will be much better.

Gallagher: That's, that's correct.

Ferrary: Okay, great. Thanks.

Clifton: Commissioner Hedrick.

Hedrick: As I understand it alternative locations were examined. Can you tell me what those locations were and why this is the best one?

Gallagher: The, I, my search started with the two existing towers that, within one mile and those were discounted, so then my search from there, I was reviewing existing properties for raw land. I looked at the commercial area to the northeast where the, the shopping center, I, I thought it would stand out a lot more in that area and there's a, there's an existing property where right now they're using it for parking for, for the Shamrock trucks, Shamrock food trucks. That was, there was a flood area coming through that property and it just didn't, also I thought it, it would stand out a lot more. It would be, it would've been much closer to the, to the road and just that

major intersection. So between those properties I, I thought that this property that we're proposing now is, is, is the best one, a little further back and not as noticeable.

Clifton: Any additional ... yes Adam.

Ochoa: And if I may add as well Mr. Hedrick, if you'll, in the analysis of Greg Best Consultant he did state he actually found a couple other properties that would've worked relatively near this property here but the zoning on those properties are residential. Residential properties can, are not allowed to have commercial structures, commercial communication structures on them at all so that's why he recommended approval, or he recommended that this is the best site in this area essentially sir.

Clifton: Okay. Any additional comments from the Commission? Seeing none is there anybody from the public that would wish to address this case? Okay. Seeing none can I get a motion to approve?

Gordon: I make a motion that we approve Case Number 67384, a Special Use Permit for an application for wireless resources for a new tower.

Clifton: Do I have a second?

Stowe: Second.

Clifton: Commissioner Hedrick.

Hedrick: Aye.

Clifton: Based on findings?

Hedrick: Findings, based upon the findings, the discussion tonight, and a site visit.

Clifton: Commissioner Muniz.

Muniz: Aye based on discussions tonight and staff's findings.

Clifton: Commissioner Stowe.

Stowe: Aye based on staff findings and discussions.

Clifton: Commissioner Ferrary.

Ferrary: Aye based on staff findings, discussion, and site visit.

Clifton: Commissioner Alvarado.

Alvarado: Aye based on findings, discussion, and site visit.

Clifton: Commissioner Gordon.

Gordon: I vote yes based on site visit, discussion, and staff presentation.

Clifton: And the Chair votes aye based on its compliance with Section 38-59 of 2001 Las Cruces Zoning Code as amended, presentation, and packet materials supplied.

MOTION PASSES UNANIMOUSLY.

Clifton: Okay. Case approved.

IX. OTHER BUSINESS

Clifton: All right. Is there any other business at this time?

Ochoa: Mr. Chairman. Our Long Range Planning people have a, something to hand out and give you a, a quick little talk about it.

Clifton: Ah. Dinner, thank you.

Basnyat: Good evening Mr. Chair, Commissioners. Srijana Basnyat, Senior Planner with Community Development. I and, and Rocio very kindly is handing out to you the draft report present, that will be presented to City Council as well as yourselves on August 22nd. This is a report prepared by our consultants for the Comprehensive Plan Blue Zones. It is a summary of their findings and recommendations for, intended for the update to the Comprehensive Plan. Just, it, it should be noted that this is just a draft and there will be some minor editing before the final version. But we just thought it might be useful to you to get it ahead of time so you can review it and we will bring this again back to you at your regular Commission, or work session meeting in the future.

And just on that note I do want to remind you all that you are of course invited to the August 22nd Council work session and we hope to see you there. We have some guest speakers attending that particular meeting and so there will be a huge focus on the Comprehensive Plan. And then I also wanted to note that we realize we haven't continued our P&Z training series but you know given your interest and support in that we as staff do hope to continue that in the near future and in the meantime I hope you enjoy reading our Planning Commissioners' Guide produced by the American Planners' Association, or Planning Association. In the meantime some of you of course are very familiar but I hope you enjoy.

Clifton: Okay. Thank you very much. Any more business that we need to take

care of Adam?

X. PUBLIC PARTICIPATION - None

XI. STAFF ANNOUNCEMENTS

Clifton: Staff Announcements.

Ochoa: Yes, since we have no, no real public left we can jump right into staff announcements. Last meeting we did discuss some of the Commissioners looking at possibly getting updates on previous cases that came before you all, the biggest cases being the waiver requests essentially to all road improvements. I know we had a length, rather lengthy discussion at the last meeting about working with you all or coming with you all in a work session of some sort and coming up with some ideas or policy changes or something like that to take forward to City Council for their consideration.

One of our cases, the proposed waiver request out on Bell Road actually went before City Council July 18th and that case was actually postponed by City Council and they actually directed staff to go ahead and start examining possible changes to policy or amendments to codes, options if you will to give City Council to try to, maybe not resolve but maybe try to take care of the issue of these waiver requests that keep coming before every, P&Z and City Council. So that being said what you all were trying to task us with doing, City Council's already done so. We could still have our work session to discuss these things. What staff recommends though is possibly waiting to see what City Council does at our next meeting which will be August 1st, that is when the, the waiver request is coming back before City Council for their consideration and that is when we'll be discussing you know potential options or so forth like that for waiver requests. So it is up to you all but staff does recommend that we kind of wait until, and see what happens after that August 1st meeting.

Clifton: Commissioner Gordon.

Gordon: Adam. You know that this has been one of my pet peeves since the beginning of my tenure as a Commissioner. You know my feelings about how I think that we should deal with people who've been trapped by living in County land and then suddenly become subject to City law. I'm certainly very happy to see that the City Council is going to look into this and I think that, I think the sooner the better. I hope they don't just postpone it again. I don't know when the staff is going to be prepared to make some kind of a suggestion or presentation to them at that meeting but I hope that they really do something that we can now look at when it comes for us to make a decision again. If for some reason that the staff does, I mean the City Council does not discuss this and they postpone it

again or for whatever reason if this doesn't come to some conclusion I, am, am I correct in assuming that they can, they can set some kind of a, for better use of a term a law or a rule or something that's, would be specific to this type of a situation? Because I don't want to be, I would, I would not like to see a, a, someone who is going to want to get a waiver because they want to do something prohibited by the fact that City Council has failed to act upon this. And I hope that we will be able in the future to continue to, especially myself to be able to vote and think the way I have based on the information that we have and the law that's in effect now. It seems that we, or myself, I think staff in, in some cases have agreed with us that we have gone against the recommendations of, of the Planning and Zoning and whatever else, all the other things that go into the, the review of it, of a, a waiver. So I just hope that this is just not going to prevent us from doing that if someone does come before us again. So I do hope that when they do look at this that they take an honest and heartfelt attempt to resolve this very very important problem.

Ochoa: Mr. Chairman, Commissioner Gordon. To touch base on that staff has been tasked to provide options to you know from potential policy changes to potential amendments to code, just for, to give them options as to what they feel could, would as, I don't want to say resolve the issue but to tackle this issue a little bit better if you will, possibly set some guidelines for a certain type of waiver request or certain type of subdivisions. Who knows? The staff is kind of rough, drafting up a memo about that but as we stated at the last meeting if you do have strong feelings of one, of a certain way or another about waiver requests and what people should be required to do and what improvements should be required of them, by all means please contact your City Councilor or your appointee, appointer if you will as to your concerns for, that way they'll have your concerns for the next meeting potentially and then we could go from there and after that we could possibly, staff could, could before you have the next P&Z meeting and possibly give you an update as to what might've happened.

Clifton: Commissioner Ferrary.

Ferrary: You mentioned that you are going to be discussing with the City Council different options. Do you have the options that you're going to be proposing to them or you're just waiting for them to make those proposals?

Ochoa: Mr. Chairman, Commissioner Ferrary. Staff is working on some options for them but they're just really quick guidelines what they might be able to do. Unfortunately we haven't really set in stone exactly what it is that we're going to take before them for their you know consideration for them to mull over if you will. But as soon as something comes, some type of documentation is made available we could definitely get that

documentation to you all.

Ferrary: So you can cc us with that.

Ochoa: I wouldn't see an issue with that, or if not, if we can't do that just stay tuned to your CLCTV and on August 1st and see what happens. That should be probably the, the, the first start if you will especially since City Council basically the people who tell staff, "Hey we need to change this," and now it's staff's job to go and do those changes that they tell us to provide essentially.

Ferrary: Well the reason I'm asking is because if we're going to be attending that August 1st meeting if we can mull over also ahead of time what some of those suggestions might be from Planning it would be great, if we could get that also in advance.

Ochoa: Mr. Chairman, Commissioner Ferrary. I will talk to my administrator and see what we can do for that ma'am.

Ferrary: Thank you.

Gordon: Be just in a, could it be just in a form of an e-mail or something at that effect?

Ochoa: Sure.

Gordon: You don't have to you know.

Clifton: Commissioner Hedrick.

Hedrick: Yeah, I just wanted to emphasize August 1st is next week.

Ochoa: Yes sir.

Hedrick: And you don't have any documentation ready yet so that's not a lot of time between now and then but I, it would be great if we could be in on the loop, that we get the information at the same time that the, the City Council does.

Ochoa: Mr. Hedrick. We will definitely talk to my director, make sure if it's okay with him and we get the, the blessing from up if you will, we could definitely share that out to you all if, as soon as we get that if that's possible.

Clifton: Okay. Thank you Commission. You know procedurally this is something that would be introduced as a ordinance amendment that would come to us first. August 1st is next week. I would hope that there isn't something

that's going to be just rushed just to get them something. There does, there does need to be some thought put into this and we need to be careful but if you could also convey to the Council that you know this is an issue that the Planning and Zoning Commission has been dealing with for quite some time and you know I realize they're busy and they've got you know Constitutional issues they're discussing at the Council level right now. We're probably small potatoes but this is something that we may have next month and the next month and the next month, and really I mean the way I see it at this point Adam I, I, I would suggest to you to suggest to Mr. Weir to go ahead and start drafting an ordinance amendment that we can start fleshing out at the, the P, P&Z level in work sessions and then present those findings to the Las Cruces City Council because ultimately they can't do anything without us first. I mean procedurally we're, we're there first, we will make the recommendation to the City Council. We're the boots on the ground so to speak. We see this and we have to make the initial recommendation month after month. So this is something that probably shouldn't be taken lightly by the Council and a little bit of thought needs to go into it and I think quite frankly the Commission's probably a little better equipped to sit down with you guys and, and figure out what we need to do to amend the Code.

Ochoa: Mr. Chairman. I don't disagree with that. Like I said before staff is, is writing something up as, in memo form just giving options. As I said before we, we've been entrenched in this discussion at, in the staff level as well, not only before you all but there's been some discussions at staff level as well as to who's for potential changes, who's against potential changes and so forth like that. But hopefully we can get something draft up and if they find something that they, that'd be okay that would give us the green light to essentially start writing up an ordinance or a change to an ordinance, an amendment to an ordinance and bring it before y'all to see if this is, that's something you would like, you, you agree with and then take that forward to City Council if, if that is something that would work for y'all as well.

Clifton: Commissioner Gordon.

Gordon: Adam. The particular item that we're talking was the last one that we just voted on, I believe. Correct? That they discussed at the past meeting where they postponed it? Bell Road?

Ochoa: Yes sir. It was Bell Road.

Gordon: Okay. What happened to all the ones that were done prior to that? Did, did they go to City Council and were approved? Do you remember?

Ochoa: Mr. Chairman, Commissioner Gordon. The, there was a number of things

that were, that were done. A handful were approved. Some were approved with a condition that they provide a, a proportionate share payment if you will. In other words whatever, what, whatever intensity they're increasing on that road they have to pay for that intensity for the future construction of that road if you will. A couple have been denied as well. It's, it, it's, it's really a hodgepodge unfortunately what's happened in the past sir, it's nothing consistent and I think they finally see that this may be an issue so hopefully we should get some, some type of guidance from City Council after August 1st.

Gordon: All right. Thanks.

Clifton: Commissioner Hedrick.

Hedrick: Planners understand the planning process and identifying the issue is extremely important. I think it would be enlightening if we knew the magnitude of the problem. How many of these have been approved during the last year you know at a minimum, or maybe the last three years? What are the costs associated with the improvements not being implemented currently? I see a lot of those projects potentially just being another McClure Road in the making, a street in the middle of Las Cruces where there are no curb and gutters, there is no drainage, there are no sidewalks, and the, the City is, is reluctant to go forward with it and it has to be identified as a major project to do anything.

Clifton: Okay. Thank you.

XII. ADJOURNMENT (7:00 p.m.)

Clifton: Can I have a motion to adjourn?

Stowe: I move that we adjourn.

Gordon: I second.

Clifton: Okay. All in favor?

MOTION PASSES UNANIMOUSLY.

Clifton: Unanimous. Meeting is adjourned at 7:00 exactly.

Harry Gordon 8/23/16

Chairperson