COUNCIL BILL NO. 14-001
ORDINANCE NO. 2686

AN ORDINANCE REPEALING AND REPLACING THE 2006 LAS CRUCES SUBDIVISION CODE, AS AMENDED FOR INCORPORATION OF NEW AND REVISED PROVISIONS RELATED TO PUBLIC NOTIFICATION. SUBMITTED BY THE CITY OF LAS CRUCES (CASE SA-13-01).

The City Council is informed that:

WHEREAS, the City of Las Cruces is seeking to improve its public notification processes for planning and development related cases; and

WHEREAS, the City Council following two work sessions on March 26, 2012 and September 24, 2012, provided input and direction on how improvement can be achieved based on staff research and presentation of ideas; and

WHEREAS, the proposed changes increase opportunities for involvement on related cases through early notification and more direct involvement of neighborhood groups and/or residents of the noticed area; and

WHEREAS, the increased notice provisions place equitable responsibility on all stakeholders (City, applicant and neighborhood group/residents of noticed area) to the extent possible.

NOW, THEREFORE, Be it ordained by the governing body of the City of Las Cruces:

(I)

THAT changes outlined pursuant to Exhibit "A," attached hereto and made part of this Ordinance, are hereby approved.

(II)

THAT said action is based on the findings contained in Exhibit "B," attached hereto and made part of this Ordinance.

(III)

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

DONE AND APPROVED this 5th day of August 2013.

APPROVED:

Mayor

ATTEST:

City Clerk

(SEAL)

VOTE:

Mayor Miyagishima:	Aye
Councillor Silva:	Aye
Councillor Smith:	Aye
Councillor Pedroza:	Aye
Councillor Small:	Aye
Councillor Sorg:	Aye
Councillor Thomas:	Aye

Moved by: Silva

Seconded by: Small

APPROVED AS TO FORM:

City Attorney

Exhibit 'A'

CITY OF LAS CRUCES

SUBDIVISION CODE

(Chapter 37, Las Cruces Municipal Code)

DRAFT

Adopted: March 27, 2006

Printed: April 2006

CITY OF LAS CRUCES
SUBDIVISION CODE

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ARTICLE I: GENERAL PROVISIONS

Sec. 37-1. Introduction.

This chapter applies to anyone wishing to divide a parcel of land into two or more parts or to eliminate or adjust lot lines between two or more existing parcels. The required information and the steps to be taken vary and depend on certain characteristics of the proposal, such as the desired number of lots, the intended use of each, the location and legal description. The following information will help determine the process and the requirements necessary for dividing the property.

Why subdivide? People subdivide land for many reasons, the most common being for resale. For example, you may wish to sell a portion of your land to another person. Other reasons for subdividing land might include such transactions as long-term leasing or the mortgaging of a portion of a lot. In order to accomplish any of these, it is necessary to follow the procedures outlined in this chapter.

What is a subdivision? Just as there are many reasons for subdividing land, there are also many ways to subdivide. Some subdivisions consist of just one to two lots and can utilize the alternate summary process. Others consist of hundreds of lots to be developed in phases of a few lots at a time and must follow the processes as illustrated by this chapter's procedures for master plans, preliminary plats, and final plats. A subdivision proposal may contain multiple lots but also may change the uses of the property as well. When a subdivision is proposed in the central part of the city to utilize existing roads and utilities, it may be possible to use the infill subdivision process. Often subdivisions propose to change something about property that has already been subdivided; this would be considered a replat, as defined in this chapter's section on replats.

Subdivisions come in a variety of shapes, sizes, uses and locations. Many require the construction of streets, sidewalks or other improvements to serve the lots created; while some utilize existing infrastructure. Therefore, this chapter provides four basic processes to suit the wide variety of possibilities involved in subdividing land; the alternate summary process, Replat, infill subdivision process and major subdivision process.

One or two lots. The alternate summary process (article VI) and replat (article VI and VII) are followed when a subdivision of land consists of no more than two lots. While larger subdivisions consisting of three lots or more are required to be approved by the planning and zoning commission at a public hearing, the alternate summary process is intended to streamline the processing of small subdivisions by allowing them to be approved administratively.

In the central part of the city. The infill subdivision process (article V) is designed to make desirable the development of vacant land in the central part of the city. The boundary of the infill area is generally bordered by Interstate 25, University Avenue, Valley Drive, and North Main Street. All subdivision proposals within this boundary would be considered infill subdivisions. There are two methods of processing subdivisions within the infill area. One is the infill development process, an expedited procedure which allows variances, special use permits, and other land use issues to be addressed. The second method is the infill subdivision method, also an

expedited method for subdivision-related cases only and for properties which do not qualify to use the infill development process. See article V, infill subdivision process, for more details regarding these two processes. Subdivision proposals in the infill area consisting of just one or two lots may follow the alternate summary process.

Major subdivisions. A subdivision that does not meet the criteria under the alternate summary process, Replat procedures or infill subdivision process is considered a major subdivision. This name is somewhat deceiving in that a major subdivision may range from just three lots to a multi-phased development consisting of hundreds of lots. The typical major subdivision is required to follow both the preliminary plat (article III) and final plat (article IV) procedures. More complex proposals, such as phased development, development with multiple land uses and large developments (over 40 lots), will be required to follow the master plan (article II) process in addition to the preliminary and final platting processes. The master plan is also required when a property owner with property outside the city wishes to annex his/her property into the city limits.

City subdivision process. No matter which type of subdivision you may be proposing, the basic process is the same. The subdivision plat must be prepared by a surveyor licensed to practice in the state. The subdivision plat and related materials will be submitted to the city community development department. The city's subdivision administrator will review the materials and, if complete, accept the submittal for formal staff review. The proposal is distributed to various city departments and other governmental agencies for review and comment. These comments, if applicable, are returned to the consulting surveyor to be addressed. Once all comments have been addressed, the subdivision administrator will schedule the proposal for approval consideration by the appropriate body. Depending on the type of subdivision, the approval consideration may come from the subdivision administrator, the development review committee, or the planning and zoning commission.

Once the final plat is approved, you can proceed to construct any required improvement necessary to allow the plat to be filed in the county courthouse. It is possible to provide a form of financial security to cover the cost of the required improvements in order to file the plat before completing roads and utilities. The city's subdivision administrator will oversee the proposal from the time it is submitted until the plat is filed and/or all improvements are constructed.
(Ord. No. 1798, § I, 6-19-00; Ord. No. 1929, §§ I, II, 8-5-02)

Sec. 37-2. The title of this document.
This chapter shall be known and shall be cited as the "Subdivision Code" of the City of Las Cruces, New Mexico.
(Ord. No. 1798, § I, 6-19-00)

Sec. 37-3. The purpose of this chapter.
The purpose and intent of this chapter are to promote the health, safety, convenience and general welfare of the citizens of the city through the implementation of a readable and understandable set of subdivision regulations outlining the processing of subdivision applications. More specifically, provisions of this chapter are designed to achieve the following objectives in newly-subdivided areas:

- Ensure orderly, efficient and integrated development within the city pursuant to guidelines established by the elements of the city comprehensive plan and all other applicable city policies, rules and regulations.
- Promote proper street location, width and design in order to facilitate vehicle circulation and to minimize adverse growth impacts in accordance with the metropolitan planning organization (MPO) transportation plan, the transportation element of the comprehensive plan and city design standards.
- Provide for the protection and preservation of natural resources and the promotion of natural beauty within the city.
- Provide for adequate air circulation, lighting, public open spaces, utility services, traffic movement, drainage and public facilities.
- Ensure that proposed development is suitable for a given parcel of land, based on its location and environmental characteristics.
- Strive for a customer service approach to subdivision application processing.

(Ord. No. 1798, § I, 6-19-00)

Sec. 37-4. The city authority to require subdivision regulations.

A. This chapter is created and adopted pursuant to the authority set forth in NMSA § 3-19-6, as amended, and shall be applicable to all property within the corporate limits of the city, except for state and federal land being used for public purposes.

B. The city council, the planning and zoning commission, the development review committee (DRC) and the subdivision administrator (SA) are the review and/or approval bodies for this chapter to regulate the subdividing of land within the corporate limits of the city.

(Ord. No. 1798, § I, 6-19-00)

Sec. 37-5. Severability.
If any article, section, paragraph, sentence, phrase or part of this chapter is declared unconstitutional or otherwise invalid, the remaining portions shall not be affected.
(Ord. No. 1798, § I, 6-19-00)

Sec. 37-6. Interpretation and conflict.

A. *Minimum requirements.* The provisions of this chapter shall be considered to be the minimum requirements to meet the purpose expressed in section 37-3 of the Code; nothing herein prohibits the review/approval bodies from imposing greater requirements to ensure the promotion of health, safety and welfare of the citizens of the city and to achieve the goals and objectives of the comprehensive plan.

B. *Local conflict.* Where the provisions of any local ordinance or regulation impose greater

restrictions than those of this chapter, the provisions of such document shall prevail.

C. *Federal and state conflict.* Any provisions of U.S. or state law that impose a greater duty, standard or requirement than those contained herein shall supersede the provisions of this chapter.

D. *Conflict within this chapter.* When two or more provisions of this chapter are in conflict, the most restrictive provision shall apply.

E. *Interpretation of meaning.* The subdivision administrator shall interpret the meaning of the provisions of this chapter. Disagreement with an interpretation may be appealed to the development review committee. The decisions of that committee may be appealed to the planning and zoning commission, and the commission decision may be appealed to the city council.

(Ord. No. 1798, § I, 6-19-00)

Sec. 37-7. Repeal.

All subdivision regulations of the city effective prior to the adoption of this chapter are hereby repealed. Such repeals shall not affect nor prevent the prosecution or punishment of any person for the violation of any regulations repealed for an offense committed prior to the repeal.

(Ord. No. 1798, § I, 6-19-00)

Sec. 37-8. Changes and amendments.

This chapter may be changed and amended by the city council. Such changes or amendments shall not become effective until after a public hearing has been held on the amendments by the planning and zoning commission and recommendations from the commission have been forwarded to the city council.

A. Notice Requirements:

1. Agenda - The agenda for Planning and Zoning Commission meetings shall be available no later than fifteen (15) calendar days prior to the meeting.

2. Notice - Notice regarding the time and place for the Planning and Zoning Commission public hearing shall be published at least fifteen (15) calendar days prior to the meeting. in a newspaper of general circulation in the City.

3. Notice of the City Council public hearing regarding proposed changes and agenda availability shall follow the City Clerk time frames and processes.

(Ord. No. 1798, § I, 6-19-00)

Sec. 37-9. Penalties.

A. *Penalty for use of unapproved or unrecorded plat.* Any owner, or agent of the owner, of any land located within the city who transfers or sells such land prior to approval and recording of the necessary plat with the county clerk, as required in this chapter, shall be deemed guilty of a misdemeanor, and upon conviction shall be penalized in the manner

prescribed by law. The description of the land by metes and bounds in the instrument of transferring of land shall not exempt parties to the transaction from such penalties.

B. *Penalty for improper recording.* Any person who records with the county clerk any plat in violation of this chapter shall be deemed guilty of a violation of this chapter and of state law, and upon conviction shall be punished by a fine of not less than $100.00. Also, all city-provided utilities and services may be withheld or withdrawn from the property until such time as this chapter is complied with. (Ord. No. 1798, § I, 6-19-00)

Sec. 37-10. Fees.

A. A fee is required to offset the costs associated with processing and reviewing the subdivision application, excluding subdivisions processed through the infill development process.

B. All fees related to this chapter shall be adopted by resolution of the city council.

(Ord. No. 1798, § I, 6-19-00)

Sec. 37-11. Processing subdivision applications.

A. Following all prerequisite steps identified for the application types that are listed elsewhere in this code, subdivision applications including submittal materials and fees are to be submitted to the community development department. The subdivision administrator will review the submittal and, if accepted, the submittal will be processed for review. When the review process is completed, the subdivision administrator will schedule the submittal for consideration by the appropriate review/approval officials or bodies and follow the submittal through to final action.

B. Notice of decision. Upon making a recommendation to the city council or taking final action on matters for which the planning and zoning commission has been granted final authority, the community development department shall promptly:
   1. Prepare a written decision that includes an order and a statement of the factual and legal basis for the order:
      a. Recommending the granting or denying of relief; or
      b. Granting or denying relief.
   2. File the written decision with the city clerk.
   3. Send by certified mail, to all parties whose rights will be determined by the decision, a document containing original signatures that includes a copy of the written decision of the planning and zoning commission. Also, this document shall state the requirements for filing an appeal.
   4. Send by regular mail, or otherwise provide a copy of the document that includes a copy of the written decision of the planning and zoning commission to every person who has filed a written request with the community development department for notice of the decision.

(Ord. No. 1798, § I, 6-19-00; Ord. No. 1929, §§ I, II, 8-5-02)

Sec. 37-12. Review/approval bodies.

The city council, the planning and zoning commission, the development review committee

(DRC) and the subdivision administrator (SA) are the review/approval bodies of this chapter. Depending on the type of subdivision application submitted, any of the four review/approval bodies may be the one to grant final approval of the subdivision submittal.

A. *Subdivision administrator.* The subdivision administrator is a representative of the city whose objective it is to simplify the subdivision process for the applicant, while at the same time addressing all concerns related to the proposal on behalf of the city. The SA is the source of information for the general public, the development community and the staff regarding the subdivision process and its requirements. The SA shall facilitate the processing of all subdivision submittals from preapplication meetings to final acceptance of subdivision improvements.

   1. *Authority of the subdivision administrator.* The SA shall have the authority to waive or add submittal requirements in cases in which it is determined that the additional information is necessary to accomplish the objectives of this code. Waiver of engineering/utilities-related submittal requirements shall require the concurrence of the public works director or the utilities director, as appropriate. The SA shall justify, in writing, his/her request for additional submittal requirements.

      The SA shall have the authority to determine the applicability of comments returned by the reviewing staff and to override such comments if it is determined that the comments do not apply to the type of submittal under consideration or that it is inconsistent with city policy, rules and/or regulations. The SA may, with concurrence from the development review committee, approve subdivisions processed through the alternate summary procedure.

   2. *Responsibilities of subdivision administrator.*
      a. Address questions from the general public/developers/consultants and staff related to all areas of subdividing/developing land.
      b. Ensure that all notification measures are carried out pursuant to applicable provisions either codified (Subdivision Code) or within approved policy.
      c. Accept or reject submittals.
      d. Facilitate communication between reviewers and developers/subdividers/consultants.
      e. Resolve issues/problems arising from a staff review of a subdivision.
      f. Schedule meetings and prepare agendas for the development review committee.
      g. Prepare staff recommendations and reports for cases requiring planning and zoning commission approval.
      h. Monitor the progression of construction activities in subdivision improvements and associated performance guarantees or similar agreements through final inspections and acceptances of subdivisions.
      i. Identify, as staff liaison to the development review committee, the subdivisions that are required to be reviewed by the development review committee.

B. *Development review committee.* The development review committee (DRC) is a formal group of representatives employed by the city or its representatives empowered to act on

behalf of their respective departments on subdivision development related applications.

1. Membership of the development review committee shall consist of at least one representative from each of the following:
   a. Public works department;
   b. Community development department;
   c. Utilities department;
   d. Fire department;
   e. Facilities department;
2. The purposes of the development review committee are:
   a. To identify and address major issues that may affect a proposal, and to provide general oversight of the reviews of subdivision- and development-related proposals;
   b. To resolve conflicting comments, recommendations, and design differences between reviewing departments and subdividers/developers regarding planning-related issues that have been appealed from the decision of the subdivision administrator.
   c. To make recommendations to the planning and zoning commission for approval, conditional approval, denial or postponement of master plans, preliminary plats and final plats.
3. Authority and procedure of the development review committee. The development review committee shall have final authority for approval of infill concept plans, alternate summaries, and replats that do not increase the number of lots in an existing subdivision. The development review committee's decision shall be final unless it is overruled by appeal to the director or directors responsible for the area of disagreement and/or further appealed to the planning and zoning commission or city council.

   The development review committee shall meet at the same time each week as needed to review subdivision application submittals, potential submittals or other development-related issues that may require DRC review. The notice of the DRC meeting shall appear in the public meeting schedule. The subdivision administrator shall set the agenda for DRC meetings and abide by all notification requirements pursuant to approved policy. Minutes will be taken during DRC meetings and will become available to interested parties in the form of staff review comments.

C. *Planning and zoning commission.* The planning and zoning commission is a seven-member board appointed by the city council.

1. Authority of the planning and zoning commission:
   a. Final authority on master plans, preliminary plats and, as appropriate, final plats and on all issues referred to the Commission by the development review committee.
   b. Recommendation to city council on amendments to this chapter.
   c. The commission may recommend that any subdivision proposal be reviewed by the city council.
   d. All other authority is granted to the commission in accordance with section 38-66 of the city municipal code, and ordinance no. 1267.

2. A notice of the decision of the planning and zoning commission shall be provided in accordance with section 37-11(b).

D. *City council.* The city council is a seven member board of elected officials that is the governing body of the city.
   1. Authority of the city council. The city council, as it pertains to this chapter, has the authority to:
      a. Resolve appeals of decisions made by the planning and zoning commission and the development review committee.
      b. Grant final approval of amendments to this chapter.
      c. Grant approval of any development proposal in which the planned unit development process is used or any proposal in which a planning-related waiver greater than 15 percent of the required standard is requested.
   2. A notice of the decision of the city council shall be provided in accordance with section 37-11(b).

(Ord. No. 1798, § I, 6-19-00; Ord. No. 1929, §§ I, II, 8-5-02)

Sec. 37-13. Procedures for appealing decisions of the staff, the development review committee and the planning and zoning commission.

A. *Basis for appeals.* Any person, department, committee, commission, board or bureau that is affected by a decision of an administrative official, committee, or board in the administration or enforcement of this chapter or any other adopted resolution, rule, or regulation may appeal the decision. The appeal must be initiated in writing and delivered to the community development department within 15 calendar days after the decision and all other procedures established by this chapter have been exhausted. The appeal shall state all issues to be considered.

B. *How decisions are appealed.* The city council, the planning and zoning commission, the development review committee, the public works director and the utilities director are responsible for hearing appeals at designated stages of the subdivision process.

C. *Appeal of staff decisions.* Staff decisions may be appealed at any time during the subdivision application process. Appeals of staff decisions may fall under one of two categories, engineering/utility issues and planning related issues. The subdivision administrator shall determine whether the appeal should be to an engineering/utility issue or to a planning-related issue, and shall notify the appropriate body to review the appeal.
   1. *Appeal of engineering opinions.* Engineering/utility related opinions are related, but not limited to: design specifications for roadways, grading, drainage, utilities, or other issues determined by the subdivision administrator and/or the public works director to be engineering-related.

      Appeals of staff decisions regarding engineering/utility-related issues are resolved by the public works director or the utilities director, respectively. The appeal may be submitted at any time during the subdivision application process. Appeals shall be submitted in writing to the subdivision administrator. The subdivision administrator shall schedule a meeting for a review of the appeal. The meeting shall include the

applicant, public works director and/or the utilities director, as appropriate and the staff member whose decision is being appealed. Upon review of the appeal, the public works director or the utilities director shall render a decision within three business days of the meeting.

2. *Appeal of planning related issues.* Planning related issues are issues related to, but not limited to: lot configuration, street network, right-of-way requirements, land use, density, phasing of development, suitability of location, or other issues determined by the subdivision administrator to be planning-related.

   Appeals of staff decisions regarding planning related issues are resolved by a committee of at least three of the following: the community development director, facilities director, public works director, utilities director and fire chief. The appeal may be submitted at any time during the subdivision application process.

   Appeals shall be submitted in writing to the subdivision administrator. The subdivision administrator shall schedule a meeting for review of the appeal. The meeting shall include at least three department directors, the DRC and the staff member whose decision is being appealed. Upon review of the appeal the directors shall render a decision on the appeal at the meeting.

D. *Appeal of engineering/utility decisions of the public works director or the utilities director.*

1. Appeals of the public works director or the utilities director's decision regarding engineering or utility related issues are resolved by arbitration. The appeal shall be submitted to the subdivision administrator within 15 calendar days of the decision of the public works director or the utilities director.
2. Arbitration defined. Arbitration is the final appeal process used to resolve only engineering or utility related issues that have been reviewed and acted on by the development review committee, public works director or the utilities director.
3. Arbitration procedure. When an appeal alleges that there is fault in a decision made by either the public works director or the utilities director with regard to an engineering- or utility-related issue, the appeal shall be resolved by an arbitration committee. The appellant shall submit the appeal in writing to the subdivision administrator within 15 calendar days of the decision of either the public works director or the utilities director. The arbitration committee shall review the engineering or utilities related issue under question and any pertinent information within 30 calendar days of the appeal submittal. The appellant shall be responsible for all costs associated with the arbitration board.
4. Arbitration committee. The arbitration committee shall consist of three engineers licensed to practice in the state who are not associated with the city, but are familiar with its development standards. The city shall choose one engineer, the applicant shall choose the second engineer, and the two chosen engineers shall choose the third.

   Action from the arbitration committee shall be in the form of approval or disapproval. Action from the arbitration committee shall be final unless appealed to the state board of registration for professional engineers and surveyors or to a court of competent

jurisdiction.

E. *Appeal of planning related decisions of the department directors.*
   1. Appeal of a planning related decision of the department directors is resolved by the planning and zoning commission. Appeals shall be submitted in writing to the subdivision administrator within 15 calendar days of the development review committee's decision.
   2. Authority of the planning and zoning commission. The planning and zoning commission, by a majority vote of a quorum of the commission, may, after all other procedures established by this chapter have been exhausted, reverse or affirm any order, requirement, decision, or determination of the development review committee, or make any change in an order, requirement, decision, or determination of the planning related decision at a public hearing.

F. *Appeal of decisions of the planning and zoning commission.*
   1. Appeal of a decision of the planning and zoning commission is resolved by the city council. Appeals shall be submitted in writing with the appropriate fees to the subdivision administrator within 15 calendar days of the planning and zoning commission's decision.
   2. Authority of the city council. The city council, by a majority vote of all its members, may, after all other procedures established by this chapter have been exhausted, reverse or affirm any order, requirement, decision or determination of the planning and zoning commission, or make any change in an order, requirement, decision, or determination of the planning and zoning commission. The decision of the city council may be appealed to district court.

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G. *Stay of proceedings.* An appeal shall stay all proceedings in furtherance of the action appealed unless the officer, official, commission, board, or authority from whom the appeal is taken certifies that, by reason of facts, a stay would cause imminent peril of life and property.

H. *Appellant responsibility in appeals.* All appellants under this section are required to submit in writing to the community development department a detailed statement of the grounds of their appeal, no later than 15 calendar days after the decision is appealed. The written appeal shall state specifically the objections of the decision and the reasons for the appeal.

I. *Notice.* Notice on all appeals of decisions of the Planning and Zoning Commission shall:

1. Be sent by regular mail to all property owners (as shown on the records of the county assessor) within the proposed area of development and within no less than five hundred (500) feet of the subject property. This distance may include streets, alleys, channels, canals, railroads, and all other public rights-of-way. Notice shall be mailed at least fifteen (15) calendar days prior to the required public hearing.
2. Require regular, non-certified, first class mail to be sent to all recognized neighborhood groups within five hundred (500) feet of the subject property if staff has determined that such notice was warranted. Notice shall be mailed at least fifteen (15) calendar days prior to the required public hearing.
3. Require notice of the time and place of the public hearing be published at least fifteen (15) calendar days prior to the public hearing in a newspaper of general circulation in the City.
4. In the event that notification signs were issued for the case now under appeal, the property owner and/or original applicant shall ensure that all signs previously erected for notice purposes remain up until a decision on the appeal is rendered. Modification to and/or replacement of said signs shall be authorized and directed by staff to ensure appropriate information regarding the appeal venue is displayed.
5. The SA shall execute an affidavit verifying the list of persons to whom notice was mailed.

J. Fees shall be assessed to the appellant person or persons in order to cover the costs of such appeal. Such fees shall be as prescribed in the fee schedule as adopted and amended.

(Ord. No. 1798, § I, 6-19-00; Ord. No. 1929, §§ I, II, 8-5-02)

Sec. 37-14. Definitions.

Block. An area of land within a subdivision, generally bounded by highways, streets (other than alleys), natural boundaries, or the exterior boundaries of the subdivision.

Building setback. The right angle distance from a point on the street right-of-way to the closest point of any building structure.

City. The City of Las Cruces, New Mexico.

City council. The governing body of the city.

Collector. A street designed to carry moderate to large volumes of traffic (generally a minimum ADT of 5,000 vehicles), primarily from local streets to arterials. Collectors may provide some direct access to individual properties, usually large residential developments and mid-size commercial/industrial/office developments. The length of a major collector seldom exceeds one mile.

Contiguous property. Parcels of property that are in contact or touching.

Cul-de-sac. A minor street with only one outlet and culminated by a turn-around. Refer to section 32-36 of the city municipal code.

Development review committee (DRC). A formal group of representatives employed by the city that meets at the same time each week to review subdivisions or subdivision related proposals and to resolve conflicting comments, recommendations or design differences between city reviewing departments, subdivision administrator, and/or developers/subdividers. The development review committee's decision shall be final unless overruled by a committee of department directors, the planning and zoning commission or city council (See appeals section 37-13).
The development review committee shall consist of at least one representative from each of the following:

- Public works department;
- Community development department;
- Facilities department;
- Utilities department;
- Fire department;

DRC members or their designee shall have the authority to make nonpolicy decisions on behalf of their respective departments and the city.

Drainage plan. A plan indicating an on-site drainage proposal, the passage of stormwaters through the development and safe discharge of runoff onto adjacent lands or into storm drainage facilities. Also, a comprehensive analysis of:

- The existing storm drainage conditions of a proposed development; and
- The disposal of the increased runoff that is generated by the proposed development.

Dwelling. A building or unit thereof designed and used exclusively for residential occupancy.

Easement. The right, liberty, advantage or privilege that one individual (or entity) has in lands of another, either express or imputed (utility, grant or necessity).

Engineer. A person engaged in the practice of engineering and qualified to so practice as attested by his/her legal registration as a professional engineer in the state.

Engineering utility related issues. Issues related to but not limited to: design specifications for roadways, grading, drainage, utilities, or other issues determined by the subdivision

administrator and/or the public works director or the utilities director to be engineering-utility-related.

Improvements. Includes infrastructures such as streets, curbs, gutters, sidewalks, fire hydrants, storm drainage facilities, bike paths, trails, and water, sewer, and gas systems or parts thereof.

Lot. A portion of a subdivision or other parcel of land intended for the purpose, whether immediate or future, for development. It also is a tract of land described by metes and bounds and as shown on the records in the county assessor's office.

Major arterial. A street having the primary purpose of carrying large volumes of traffic, and that does not usually provide direct access to individual properties. Major arterials are designed to provide cross city travel, and generally carry a minimum ADT of 10,000 vehicles.
Major local. A street whose primary purpose it is to provide direct access to individual properties, primarily in small to mid-size residential developments, and to individual commercial/industrial/office lots. The length of a major local seldom exceeds one-half mile.

May. When a requirement in these regulations uses the word "may" instead of "shall," the requirement will be necessary only if directed by the development review committee, the planning and zoning commission or city council.

Minor arterial. A street having the primary purpose of carrying moderate to large volumes of traffic and that does not usually provide direct access to individual properties. Minor arterials are designed to provide partial "cross-city" travel, and generally carry a minimum ADT of 5,000 vehicles.

Minor local. A street having the primary purpose of providing direct access to individual residential lots. The lengths of minor locals seldom exceed one-half mile.

Outlot. A parcel of ground or tract of land within a platted subdivision, to be used for purposes other than residential. An example of an outlot is a tract of land designated for open space or a retention pond.

Performance bond. A surety bond made out to the city in an amount equal to the estimated full cost if the improvements, said cost being estimated by the city engineer, surety bonds being legally sufficient to ensure the city that the said improvements will be constructed in accordance with these regulations.

Planned unit development (P.U.D.). A development process whereby the intent and purpose is to promote design and development standard flexibility in cases where strict application of the zoning ordinance would inhibit the overall goals and objectives of the city.

Planning related issues. Issues related to but not limited to: lot configuration, street network, right-of-way requirements, land use, density, phasing of development, suitability of location, other issues determined by the subdivision administrator to be planning-related.

Planning and zoning commission. The officially appointed planning and zoning commission of the city. The planning and zoning commission shall have final authority in the review of subdivision proposals requiring commission action. The commission shall also act as an advisory board with regard to amendments to this code.

Plat or *replat.* A map, chart, survey, or plan, certified by a land surveyor, that contains a description of subdivided plat or resubdivided replat land with ties to permanent survey monuments.

Shall. The word "shall" is mandatory and not permissive.

Street. A public way, other than an alley, that has been dedicated, or reserved by plat and which affords he principal means of access to abutting property.

Subdivider. An owner or an owner's agent who undertakes the subdivision of land as set forth in the respective regulations.

Subdivision. Subdivision for the purpose of approval by the municipal planning authority means: for the area of land within the corporate boundaries of the city, the division of land into two or more parts by platting or by metes and bounds description into tracts or lots for any purpose.

Surveyor. A person who is engaged in the practice of surveying and is qualified to so practice as attested by his/her legal registration as a professional surveyor in the state.

Tract. See outlot.

Vacation. To void a portion of a previously-filed subdivision plat application or to void the filed plat in its entirety.

(Ord. No. 1798, § I, 6-19-00; Ord. No. 1929, §§ I, II, 8-5-02)

Secs. 37-15--37-40. Reserved.

ARTICLE II.
MASTER PLAN

Sec. 37-41. The purpose of master planning.

A. The purpose of the master planning process is to advance the goals and objectives of the city's comprehensive plan and to address a variety of environmental and social issues in an area being proposed for future development. A master plan is considered part of the planning process in which the proposal is viewed as a conceptual tool reflecting the ideas and thoughts for future development. The master plan process is designed to achieve the following objectives:

- To achieve the goals, objectives and policies of the city comprehensive plan and the objectives of other city policies.
- To ensure compliance with the growth management section of the land use element of the city comprehensive plan.
- To ensure compliance with the metropolitan planning organization's transportation plan.
- To guide future land development and transportation patterns.
- To provide for an efficient process in determining fiscal impacts, neighborhood concerns, the coordination of city capital improvements, and the identification and protection of significant natural features.
- To ensure that all adopted city plans, rules and regulations are followed. To ensure that proposed development is suitable and appropriate for a given parcel of land, based on its location and its environmental characteristics.

B. This chapter recognizes change in design criteria and the need for flexibility in land development. The master plan process permits changes that conform with the intent to provide health, safety, convenience and general welfare to the citizens of the city. Approved master plans shall be used as a general guide to land development with successive steps established for specific plans that shall be consistent with the adopted master plan.

(Ord. No. 1798, § I, 6-19-00)

Sec. 37-42. When a master plan is required.

A. A master plan shall be required when any of the following criteria apply:
   1. A development is to be divided into various phases.
   2. A development application is proposing multiple land uses.
   3. A request for annexation is made.
   4. An application is for the single development of 40 or more lots.
   5. When a commercial, office or industrial development application is proposing to utilize the alternate summary procedure more than once.

B. For smaller residential developments consisting of no more than two phases on ten or fewer acres, with 39 or fewer lots, a master plan may be omitted at the discretion of the DRC.

C. The subdivider is responsible for including on the master plan all contiguous property

owned, legally controlled by, or of any development and/or financial interest to said subdivider.

D. A preliminary plat may be submitted simultaneously with the master plan. A final plat may not be submitted at the same time as the master plan or the preliminary plat. Subdivision applications submitted through the planned unit development (P.U.D.) process will not be required to meet the requirements in this article. (Ord. No. 1798, § I, 6-19-00)

Sec. 37-43. Preapplication meeting.

A. Any proposed master plan causing need for public notification, review and approval by the Planning and Zoning Commission shall first be reviewed at a pre-application meeting scheduled and held by the Community Development staff. A representative for the proposed development action shall attend the pre-application meeting and discuss the proposal in general terms, providing enough specifics to allow attending staff an opportunity to gauge and determine neighborhood and/or community impacts. In that this represents an initial and informal discussion, information provided to the representative regarding procedural nuances or other regulatory related information shall be considered preliminary feedback based on information received, and shall not represent a complete disclosure of all regulatory measures that may apply upon formal review. In no circumstances should related discussion by staff represent a final disposition on the preliminary proposal at hand.

1. Neighborhood group and/or noticed area determination. Staff upon consideration of the information received during the pre-application meeting, will instruct as to whether early notification of the subject proposal by the applicant to a neighborhood group(s) (recognized group(s)) and/or noticed area shall be necessary prior to formal application and submittal of the development proposal to the city. The criteria used by staff to determine notice need may include, but not be limited to the following:

   a. Development that is likely to cause significant traffic impacts due to limited roadway access or a potential decrease in level of service based on the subject roadway's design.

   b. Potential land use conflicts resulting from proposed land use distribution adjacent to existing development of a differing land use classification such as proposed commercial uses adjacent to low density residential uses.

   c. Known neighborhood concerns on tangible and reasonable development issues that could be mitigated through design alternatives. An example of a concern congruent to this criterion is anticipated development consistency with surrounding development styles as they may relate to lot size/dimension transitions, roadway widths out of character with adjacent development, etc. An example of a concern not congruent to the criterion is disapproving development

on private vacant property due to the elimination of "open space" or development of private vacant property because one's view may be compromised,

2. Early notification exception. Staff determination of early notice need which shall include an open invitation to discuss the proposal at a meeting, shall not pre-empt the Planning and Zoning Commission, City Council or other reviewing bodies with approval (recommending or final action) authority from thereafter requiring an additional meeting(s). Criteria used by the applicable reviewing body shall be at their discretion and may or may not follow the criteria identified in the preceding provision. Significant deviation of plan proposal post neighborhood group and/or noticed area meeting may subject the applicant from thereafter participating in another meeting to inform and discuss revisions. Changes addressing neighborhood concerns shall not necessarily subject the applicant to another meeting; however, an omission in the proposal that is added post meeting and deemed significant by Community Development staff is a candidate for reconsideration by the notified neighborhood prior to consideration by any formal reviewing body.

3. Early notification recipients. Notification recipients shall include registered neighborhood groups, and/or associations, identified on the applicable Community Development Department's web page. In the event an identified association or group does not exist or cover an adequate area surrounding the proposal, both the neighborhood group/association and the property owners within 500 feet shall be notified. If no association or group exists within the notification boundary, notification to property owners shall take place using the same distance threshold. Measurement shall be made radially from the outermost property boundary where the subject proposal is located. Any association/group boundary or property boundary that falls either partially or entirely within said radius based on the qualifying standards of this subsection shall receive notification. Contact and mailing information for associations, groups and property owners to be notified shall be provided by the Community Development Department. Mailing preparation, expenses and materials are the responsibility of the developer, applicant and/or representative. Notification shall take place no later than fifteen (15) calendar days prior to the date of submittal. In the event a meeting is called for pursuant to item (4) that follows, may cause delay with the proposal's submittal in order to accommodate the agreed upon meeting schedule and other factors necessary to meet submittal content.

4. Early notification form and content. All required notification shall be sent via regular, non-certified, first class mail and the content of the notice shall include at minimum:

    a. A detailed description (to the extent possible) of what is being pursued in terms of development
    b. Information as to how the developer, applicant, or representative for the development action may be contacted

c. A statement as to how the proposal may impact the neighborhood(s) surrounding the subject property where the development is to occur
d. An open offer to participate in a meeting with the association(s)/group(s) and/or property owners at a mutually agreed upon date, time and location in order to discuss the proposal more fully
e. A need to provide a WRITTEN meeting request (if desired) to the development representative, copying Community Development staff either in a letter or email format within the stated fifteen (15) calendar day threshold. Requests for a meeting within the fifteen (15) calendar day period shall render the meeting need mandatory prior to submittal whether or not the meeting takes place inside or beyond this fifteen (15) calendar day period. Requests that come in after said period do not compel the applicant to entertain a meeting prior to submittal; however, a meeting with those requesting one is advisable prior to formal review of the proposal by a recommending or decision making body.
f. Community Development staff contact information for any related correspondence or general inquiry.

5. Neighborhood group/neighborhood meeting. It shall be the responsibility of the representative for the proposal to supply any and all materials necessary to convey development parameters as applicable. Additionally, the representative shall be responsible for minute transcription (summary or verbatim) which clearly indicates the date, time and location of the meeting and the general nature of conversation that tool place regarding the proposal. Information shall at minimum identify key points that convey support for or the lack thereof for the proposal as presented.

B. Conceptual plans shall be presented to the first available development review committee meeting for review and comment. The development review committee shall discuss with the developer, or the developer's representative, the proposed conceptual plan and shall indicate any changes that will be required for the formal submittal of the proposal.

(Ord. No. 1798, § I, 6-19-00; Ord. No. 1929, §§ I, II, 8-5-02)

Sec. 37-44. Submittal of a master plan application.

A. The master plan and supplemental material shall be submitted to the community development department no later than 25 calendar days prior to the day of the next regular meeting of the planning and zoning commission for approval consideration. Any master plan requesting three or more planning-related variances (excluding administrative variances) shall be processed via the planned unit development process as outlined in the city zoning code.

B. Upon submittal, the community development department shall issue a receipt. The subdivision administrator shall then have eight business hours to review the submittal for completeness. If all of the required items have been submitted, and the master plan submittal contains all necessary items as per section 37-46 of this chapter, the subdivision administrator shall accept the submittal for review. A proposed master plan shall not be accepted for review by the subdivision administrator if incomplete or substantially inaccurate. All items required on a master plan must be present for acceptance. If a submittal is found to be incomplete, the applicant shall have eight business hours to

correct the deficiencies and still meet the submittal deadline if applicable.

C. The subdivision administrator, the development review committee or the planning and zoning commission shall have the authority to waive or add submittal requirements if it is determined that the additional items and resulting information will be needed in order to accomplish the objectives of this chapter. Examples of possible additional requirements and/or information could include, but are not limited to, a neighborhood group and/or noticed area meeting, traffic impact analysis, environmental analysis, detailed drainage analysis, etc. Any request for additional submittal requirements shall be justified, in writing, by the requesting entity.

D. Master plans will be processed by the subdivision administrator to the applicable city departments and other governmental agencies for review, comments, and recommendations. Each department shall have five business days to complete the review. Written reports, containing comments and recommendations shall be returned to the subdivision administrator.

E. The subdivision administrator shall review all comments for applicability and appropriateness to the master plan requirements and forward any comments to the subdivider or the subdivider's representative for completion. Master plans applications that are commented upon shall be returned, amended, resubmitted and reviewed until the provisions set forth in the regulations are met.

(Ord. No. 1798, § I, 6-19-00; Ord. No. 1929, §§ I, II, 8-5-02)

Sec. 37-45. Review and consideration of a master plan application.

A. Master plans shall be submitted to the development review committee for review, comments and recommendations. The development review committee shall review the master plan to determine whether it is consistent with the intents and purposes set forth in sections 37-3 and 37-41 of this chapter. The development review committee shall provide the planning and zoning commission with a report containing a recommendation that the master plan be either approved, conditionally approved, postponed or disapproved. The report shall include the reason(s) for the recommendation.

B. Public notice:
   1. Agenda. The agenda for the planning and zoning commission public hearing shall be made available no later than fifteen (15) calendar days prior to the public hearing.
   2. Posting. Notice of the proposed development shall be posted in conspicuous places on the property by the property owner, applicant or representative at least fifteen (15) calendar days prior to the planning and zoning commission public hearing. A sign measuring four (4) feet by four (4) feet shall be used and secured with appropriate supporting hardware made available by Community Development staff. When the property has multiple street frontages, one sign per frontage shall be posted. Large properties may require a greater number of signs which shall be determined by Community Development staff. It shall be the responsibility of the property owner, applicant or representative to ensure continuous posting throughout the public hearing processes. Processes for purposes of this provision shall start with the Planning and

Zoning Commission and cease when a final determination is made on the proposal regardless of the number of reviewing entities involved. In that multiple reviewing entities may be involved, , Community Development staff will inform the property owner, applicant or representative of necessary changes needed on the sign to reflect the appropriate reviewing entities, meeting dates and venues.

3. *Notice.* Notice on all proposed master plans shall be sent by regular, non-certified, first class mail to all property owners (as shown on the records of the county assessor) within the proposed area of development and within 500 feet of the area of the proposed subdivision, including streets, alleys, channels, canals and other public rights-of-way. The community development department is responsible for the list of property owners and the preparation of mail. Regular, non-certified, first class mail shall also be sent to all recognized neighborhood groups within five hundred (500) feet of the subject property. Notice for purposes herein shall be mailed at least fifteen (15) calendar days prior to the public hearing. The subdivision administrator shall execute an affidavit verifying the list of persons to whom notice was mailed. Notice of the time and place of the public hearing shall be published at least fifteen (15) calendar days prior to the public hearing in a newspaper of general circulation in the city.

C. The planning and zoning commission shall review the master plan, report, comments and recommendations received from the development review committee, subdivision administrator and presentations from the applicant or the applicant's representative and from any interested citizens. Action from the planning and zoning commission shall be in the form of approval, conditional approval, postponement, or disapproval. Action from the planning and zoning commission shall be recorded in the minutes of the meeting. A copy of the notice of decision that includes any changes or conditions acted on by the planning and zoning commission at the public hearing shall be furnished to all appropriate parties in accordance with section 37-11(b).

D. It is the requirement of the planning and zoning commission that no master plan shall be reviewed unless either the applicant or the applicant's representative is present at the public hearing. If neither party is present at the public hearing, the master plan will be postponed until the next regular planning and zoning commission meeting.

E. Upon approval of the master plan by the planning and zoning commission, the developer may submit to the community development department any zoning applications, preliminary plats or final plats as necessary and applicable, that reflect the objectives of the approved master plan.

F. The approval of the master plan shall be effective for a period of five years, as described on the approval action form. If, at the expiration of the five-year period, no single preliminary plat, building permit, or any other development application, in conformance with the approved master plan, has been submitted and approved, the master plan shall expire. Such action does not necessarily have to encompass the entire master-planned area in order for said master plan to remain active. The developer may submit a request for extension of approval prior to the expiration date, if desired. The request will be

reviewed by the planning and zoning commission for consideration. Please note: Approval of a master plan does not prohibit the utilities department from revising any utility requirements based on projected needs or growth around the master-planned area.

G. Any substantial change to the master plan will require resubmittal of the plan in its entirety and may trigger the need for a neighborhood group and/or noticed area meeting to be determined by and at the discretion of the subdivision administrator. Minor modifications or changes shall be reviewed and considered by the subdivision administrator. Substantial changes to the master plan are subject to a regular public hearing with the same requirements as an original application. Substantial changes shall include, but are not limited to:
   1. Any change in land use or use intensity;
   2. Modifications of vehicular traffic circulation on arterials, collectors and/or major local designated streets;
   3. Increase in residential density;
   4. Any extension of time limits beyond 20 percent;
   5. Any change in the master plan that is determined by the subdivision administrator to be substantial.

H. Appeals. Any person, department, committee, commission, board or bureau that is affected by a decision of an administrative official, committee, or board in the administration or enforcement of this chapter or any other adopted resolution, rule, or regulation may appeal the decision. The appeal must be initiated in writing and delivered to the subdivision administrator within 15 calendar days after all other procedures established by this chapter have been attempted. Refer to section 37-13, "procedures for appealing decisions of staff," the development review committee and the planning and zoning commission' for details on the appeal process.

(Ord. No. 1798, § I, 6-19-00; Ord. No. 1929, §§ I, II, 8-5-02)

Sec. 37-46. Master plan submittal requirements.

A. An application for approval of a master plan shall include the following information:
   1. Name of master plan.
   2. Detailed area/vicinity map clearly showing the surrounding area and the proposal's relationship to existing road networks, and existing natural and/or man-made features that may impact the development or may be impacted by the development. Detail must be sufficient so that the subject property can be located in the field using the map.
   3. North arrow, date of preparation, written and graphic scale.
   4. A general legal description that shall include:
      a. Approximate survey ties;
      b. Approximate acreage.
   5. Name and address of the consultant preparing the master plan.
   6. Name and address of the developer.
   7. Boundary lines of the master plan, with approximate lengths of lines.
   8. Proposed land use, by parcel or phase. Residential parcels shall provide gross density range.
   9. Present zoning and proposed zoning (if applicable).
   10. Contours--20-foot intervals. In instances whereby 20-foot intervals are not appropriate or applicable, contours may be provided at an appropriate interval that adequately presents the elevation differences of the land as determined by the community development department director.
   11. Adjacent land use and zoning district identification.
   12. Thoroughfare system: Proposed approximate location, length, width and point of intersection of all major transportation systems, which may include bikeways, trails and any other transportation lines. Identify existing and proposed classification of roads as per city design standards and based on the current city MPO transportation plan.
   13. Significant natural features, such as arroyos and approximate 100-year floodplains.
   14. Adjacent roads and other transportation routes identified by functional classification.
   15. Easements.
   16. Tabular information:
      a. Land use of each phase or parcel.
      b. Approximate acreage for each parcel or phase.
      c. Total number of residential dwelling units, minimum and maximum range.
      d. Dwelling units per acre for each parcel or phase.
      e. Approximate acreage proposed for open space, private and public facilities, and right-of-way.
      f. Approximate additional population to be generated by development, based on census data.
      g. Approximate additional traffic estimated to be generated by development, utilizing ITE trip generation information, as amended.
   17. Approval block signifying the final approved master plan to be signed by the subdivision administrator upon approval by the planning and zoning commission and compliance with all conditions.
   18. Conceptual utilities plan. The conceptual utilities plan shall contain enough

information to provide a general outline of the proposed utility-routing plans for the development, including locations and sizes of existing and proposed utilities to be provided to the development. Actual size and location of utilities to be determined at time of development and subject to change based on utility needs of the surrounding area.

19. Conceptual drainage plan. The conceptual drainage plan shall contain enough information to provide a general understanding of how drainage issues will be addressed by the development.
20. Copy of early notification letter to neighborhood group(s) and/or noticed area and copy of minutes (summary or verbatim) from any subsequent neighborhood group(s) and/or noticed area meeting as may have been required.
21. Supplemental material:
    a. Application:
        i. The application shall be signed by all property owners (including all parties having an equitable interest, trustees of an estate or all persons having a specific power of attorney) for the subject property, as recorded in the county clerk's office.
        ii. Any pending litigation of any final order entered by any court of law regarding the ownership of the subject property shall be disclosed by the applicant at the time that the application is submitted.
    b. Submittal fee.

(Ord. No. 1798, § I, 6-19-00; Ord. No. 1929, §§ I, II, 8-5-02)

Secs. 37-47--37-75. Reserved.

DRAFT

ARTICLE III.
PRELIMINARY PLAT

Sec. 37-76. The purpose of preliminary platting.
The purpose of the preliminary platting process is to establish quality site design that promotes the compatibility of development with physical and cultural issues within the city. The preliminary plat process is designed to achieve the following objectives:

- To provide for an efficient process for establishing streets that have the capacity to adequately handle anticipated traffic flow and that are in harmony with the MPO's transportation plan and the transportation element of the comprehensive plan.
- To promote site design that encourages sound, economical, and compatible development and that creates a healthy living environment in the city.
- To allow for design flexibility and imagination.
- To provide for subdivided lots with adequate configuration, area and appropriate design for the purpose for which they are to be used and to address housing, marketing and economic development trends that support the policies within the housing element of the comprehensive plan.
- To minimize traffic and drainage hazards through proper site design.
- To promote efficient design to mitigate impacts to community infrastructure.
- To assure that all adopted city plans, rules and regulations, and the development master plan, if applicable, are followed.

(Ord. No. 1798, § I, 6-19-00)

Sec. 37-77. When a preliminary plat is required.
A preliminary plat conforming to this chapter shall be required for all subdivisions except those processed through the replat, alternate summary or infill subdivision process. A preliminary plat may be submitted simultaneously with a master plan. Subdivisions that are processed through the P.U.D. process do not have to receive preliminary plat approval.
(Ord. No. 1798, § I, 6-19-00)

Sec. 37-78. Preapplication procedure.

A. Any proposed preliminary plat causing need for public notification, review and approval by the Planning and Zoning Commission shall first be reviewed at a pre-application meeting scheduled and held by the Community Development staff. A representative for the proposed development action shall attend the pre-application meeting and discuss the proposal in general terms, providing enough specifics to allow attending staff an opportunity to gauge and determine neighborhood and/or community impacts. In that this represents an initial and informal discussion, information provided to the representative regarding procedural nuances or other regulatory related information shall be considered preliminary feedback based on information received, and shall not represent a complete disclosure of all regulatory measures that may apply upon formal review. In no circumstances should related discussion by staff represent a final disposition on the preliminary proposal at hand.

    1. Neighborhood group and/or noticed area determination. Staff upon consideration of the information received during the pre-application meeting, will instruct as to

whether early notification of the subject proposal by the applicant to a neighborhood group(s) (recognized group(s)) and/or noticed area shall be necessary prior to formal application and submittal of the development proposal to the city. The criteria used by staff to determine notice need may include, but not be limited to the following:

a. Development that is likely to cause significant traffic impacts due to limited roadway access or a potential decrease in level of service based on the subject roadway's design.

b. Potential land use conflicts resulting from proposed land use distribution adjacent to existing development of a differing land use classification such as proposed commercial uses adjacent to low density residential uses.

c. Known neighborhood concerns on tangible and reasonable development issues that could be mitigated through design alternatives. An example of a concern congruent to this criterion is anticipated development consistency with surrounding development styles as they may relate to lot size/dimension transitions, roadway widths out of character with adjacent development, etc. An example of a concern not congruent to the criterion is disapproving development on private vacant property due to the elimination of "open space" or development of private vacant property because one's view may be compromised,

2. Early notification exception. Staff determination of early notice need which shall include an open invitation to discuss the proposal at a meeting, shall not pre-empt the Planning and Zoning Commission, City Council or other reviewing bodies with approval (recommending or final action) authority from thereafter requiring an additional meeting(s). Criteria used by the applicable reviewing body shall be at their discretion and may or may not follow the criteria identified in the preceding provision. Significant deviation of plan proposal post neighborhood group and/or noticed area meeting may subject the applicant from thereafter participating in another meeting to inform and discuss revisions. Changes addressing neighborhood concerns shall not necessarily subject the applicant to another meeting; however, an omission in the proposal that is added post meeting and deemed significant by Community Development staff is a candidate for reconsideration by the notified neighborhood prior to consideration by any formal reviewing body.

3. Early notification recipients. Notification recipients shall include registered neighborhood groups, and/or associations, identified on the applicable Community Development Department's web page. In the event an identified association or group does not exist or cover an adequate area surrounding the proposal, both the neighborhood group/association and the property owners within 500 feet shall be notified. If no association or group exists within the notification boundary, notification to property owners shall take place using the same distance threshold. Measurement shall be made radially from the outermost property boundary where the subject proposal is located. Any association/group boundary or property boundary

that falls either partially or entirely within said radius based on the qualifying standards of this subsection shall receive notification. Contact and mailing information for associations, groups and property owners to be notified shall be provided by the Community Development Department. Mailing preparation, expenses and materials are the responsibility of the developer, applicant and/or representative. Notification shall take place no later than fifteen (15) calendar days prior to the date of submittal. In the event a meeting is called for pursuant to item (4) that follows, may cause delay with the proposal's submittal in order to accommodate the agreed upon meeting schedule and other factors necessary to meet submittal content.

4. Early notification form and content. All required notification shall be sent via regular, non-certified, first class mail and the content of the notice shall include at minimum:

   a. A detailed description (to the extent possible) of what is being pursued in terms of development.

   b. Information as to how the developer, applicant, or representative for the development action may be contacted.

   c. A statement as to how the proposal may impact the neighborhood(s) surrounding the subject property where the development is to occur.

   d. An open offer to participate in a meeting with the association(s)/group(s) and/or property owners at a mutually agreed upon date, time and location in order to discuss the proposal more fully.

   e. A need to provide a WRITTEN meeting request (if desired) to the development representative, copying Community Development staff either in a letter or email format within the stated fifteen (15) calendar day threshold. Requests for a meeting within the fifteen (15) calendar day period shall render the meeting need mandatory prior to submittal whether or not the meeting takes place inside or beyond this fifteen (15) calendar day period. Requests that come in after said period do not compel the applicant to entertain a meeting prior to submittal; however, a meeting with those requesting one is advisable prior to formal review of the proposal by a recommending or decision making body.

   f. Community Development staff contact information for any related correspondence or general inquiry.

5. Neighborhood group/neighborhood meeting. It shall be the responsibility of the representative for the proposal to supply any and all materials necessary to convey

development parameters as applicable. Additionally, the representative shall be responsible for minute transcription (summary or verbatim) which clearly indicates the date, time and location of the meeting and the general nature of conversation that tool place regarding the proposal. Information shall at minimum identify key points that convey support for or the lack thereof for the proposal as presented.

B. If necessary, the conceptual preliminary plat(s) shall be referred to the first available development review committee meeting for review and comment. The subdivision administrator and/or the development review committee shall review all conceptual plans and discuss with the subdivider or the subdivider's representative the changes, if any, that will be required for the submittal process.

(Ord. No. 1798, § I, 6-19-00)

DRAFT

Sec. 37-79. Submittal of a preliminary plat application.

A. The preliminary plat application and relevant supplemental material shall be submitted to the community development department for approval consideration no later than 25 calendar days prior to the day of the regular meeting of the planning and zoning commission.

B. Upon submittal, the community development department shall issue a receipt for submittal. The subdivision administrator shall then have eight business hours to review the submittal for completeness. If all required items have been submitted, and the preliminary plat submittal contains all required items as per section 37-81 of this chapter, the subdivision administrator shall accept the submittal for review. A proposed preliminary plat submittal shall not be accepted for review if incomplete or substantially inaccurate. All items required on a preliminary plat must be present for acceptance. In cases in which a submittal is found to be incomplete, the applicant shall have eight business hours to correct the deficiencies and still meet the submittal deadline if applicable.

C. The subdivision administrator, the development review committee or the planning or zoning commission shall have the authority to waive or add submittal requirements in cases in which it is determined that the additional items and resulting information is necessary in order to accomplish the objectives of this chapter. Examples of possible additional requirements and/or information could include, but is not limited to, a neighborhood group and/or noticed area meeting, traffic impact analysis, environmental analysis, detailed drainage analysis, etc. Any request for additional submittal requirements shall be justified, in writing, by the requesting entity.

D. Preliminary plats will be referred to the applicable city departments and other governmental agencies for review, comments and recommendations. Each department shall have five business days to complete the review. Written reports, with their comments and recommendations, shall be forwarded to the subdivision administrator.

E. The subdivision administrator shall review all comments for applicability and appropriateness to the preliminary plat requirements and forward any comments to the subdivider or the subdivider's representative for completion. Preliminary plat applications that receive comments shall be resubmitted and reviewed until the provisions set forth in the regulations are met and all outstanding comments are addressed.

(Ord. No. 1798, § I, 6-19-00; Ord. No. 1929, §§ I, II, 8-5-02)

Sec. 37-80. Review and consideration of a preliminary plat.

A. Following staff review, the development review committee shall evaluate the preliminary plat and staff comments to determine if they are consistent with the intent and purpose set forth in sections 37-3 and 37-76 of this chapter. The preliminary plat shall be scheduled for a public hearing for planning and zoning commission consideration. The development review committee shall provide the planning and zoning commission with a written report containing a recommendation that the preliminary plat be approved, conditionally approved, postponed or disapproved. The development review committee shall state the

reason(s) for their recommendation regarding the preliminary plat to the planning and zoning commission.

B. Public notice requirements: The following shall be required for all preliminary plats scheduled for planning and zoning commission review:
   1. *Agenda.* The agenda for the planning and zoning commission public hearing shall be made available no later than fifteen (15) calendar days prior to the public hearing.
   2. *Posting.* Notice of the proposed development shall be posted in conspicuous places on the property by the property owner, applicant or representative at least fifteen (15) calendar days prior to the planning and zoning commission public hearing. A sign measuring four (4) feet by four (4) feet shall be used and secured with appropriate supporting hardware made available by Community Development staff. When the property has multiple street frontages, one sign per frontage shall be posted. Large properties may require a greater number of signs which shall be determined by Community Development staff. It shall be the responsibility of the property owner, applicant or representative to ensure continuous posting throughout the public hearing processes. Processes for purposes of this provision shall start with the Planning and Zoning Commission and cease when a final determination is made on the proposal regardless of the number of reviewing entities involved. In that multiple reviewing entities may be involved, , Community Development staff will inform the property owner, applicant or representative of necessary changes needed on the sign to reflect the appropriate reviewing entities, meeting dates and venues.
   3. *Notice.* Notice on all proposed preliminary plats shall be sent by regular, non-certified, first class mail to all property owners (as shown on the records of the county assessor) within the proposed area of development and within 500 feet of the area of the proposed subdivision, including streets, alleys, channels, canals, other public rights-of-way and railroad rights-of-way. The community development department is responsible for the list of property owners and preparation of the mail. Regular, non-certified, first class mail shall also be sent to all recognized neighborhood groups within five hundred (500) feet of the subject property. Notice, for purposes herein shall be mailed at least fifteen (15) calendar days prior to the public hearing. The subdivision administrator shall execute an affidavit verifying the list of persons to whom notice was mailed. Notice of the time and place of the public hearing shall be published at least fifteen (15) calendar days prior to the public hearing in a newspaper of general circulation in the city.

C. The planning and zoning commission shall review the preliminary plat application, the report, any comments, and recommendations from the development review committee, the presentation from the subdivider or the subdivider's representative and from any interested citizens at a public hearing. The intent of the planning and zoning commission review is to allow for public input in the development process and to serve as a land-planning process. Review of the proposal shall consist of planning related issues such as site plan compliance to the city's comprehensive plan and all development- or growth management-related policies. Action from the planning and zoning commission shall be recorded in the minutes of the meeting. Action shall be in the form of an approval, conditional approval, postponement, or disapproval. A copy of the notice of decision that

includes any changes or conditions from the planning and zoning commission as done at the public hearing shall be furnished to all appropriate parties in accordance with Sec. 37-11(b).

D. It is the requirement of the planning and zoning commission that no preliminary plat shall be reviewed unless either the applicant or the applicant's representative is present at the planning and zoning commission meeting. If the applicant or the applicant's representative is not present at the public hearing, the preliminary plat application hearing will be postponed until the next regular planning and zoning commission meeting.

E. Approval of a preliminary plat shall not constitute approval of the final plat, but shall signify the general acceptability of the proposed subdivision. Preliminary plat approval shall constitute permission to prepare and submit the final plat application and construction drawings of all improvements for the proposed subdivision. Final platting shall not be considered until preliminary plat approval is complete.

F. Preliminary plat approval shall be effective for no more than two years from the date of approval as described on the approval action form. If a final plat application has not been submitted for approval as required by the provisions of this chapter, the preliminary plat shall expire, and a new preliminary plat application must be submitted for approval by the planning and zoning commission. The developer may submit a request for a one year extension of approval, prior to the expiration date, if desired. The request will be reviewed by the development review committee. All plat extensions shall be automatically conditioned to require compliance with all city codes, regulations, and specifications in place at the time of development of the plat in question.

G. Any substantial change to the preliminary plat application will require resubmittal of the plat in its entirety and may trigger the need for a neighborhood group and/or noticed area meeting to be determined by and at the discretion of the subdivision administrator. Minor modifications or changes shall be considered by the subdivision administrator.

H. Substantial changes to the preliminary plat application will be subject to a planning and zoning commission public hearing, with the same requirements as an original application. Substantial changes shall include but are not limited to:
   1. Any proposed change in land use or use intensity;
   2. Anticipated (or proposed) modifications of vehicular traffic circulation on arterials, collectors and/or major local designated streets;
   3. An anticipated increase in residential density;
   4. Any extension of time limits beyond 20 percent;
   5. Any change in the preliminary plat that is determined by the subdivision administrator to be substantial.

I. Appeals. Any person, department, committee, commission, board or bureau that is affected by a decision of an administrative official, committee, or board in the administration or enforcement of this chapter or of any other adopted resolution, rule, or regulation may appeal the decision. The appeal must be initiated in writing and delivered

to the subdivision administrator within 15 calendar days after all other procedures established by this chapter have been exhausted. Refer to section 37-13, "procedures for appealing decisions of the staff, the development review committee and the planning and zoning commission," for details on the appeal process.

(Ord. No. 1798, § I, 6-19-00; Ord. No. 1929, §§ I, II, 8-5-02)

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Sec. 37-81. Preliminary plat submittal requirements.

A. *Preliminary plat requirements.* The preliminary plat shall be at a scale that adequately represents the information. The preliminary plat shall be prepared on 18-inch × 24-inch sheets of paper. Copies provided shall be legible, with no limit to the number of sheets used. The plat shall show existing conditions and all proposals, including the following:

1. Name of proposed subdivision;
2. Total acreage of subdivision, to nearest one-tenth of an acre;
3. Date of preparation, north arrow, written and graphic scale;
4. Detailed area/vicinity map clearly showing surrounding area and the proposal's relationship to existing road networks, and existing natural and/or man-made features that may impact the development. Detail must be sufficient for the subject property to be located in the field using the map;
5. Name and address of subdivider;
6. Name and address of the person, corporation or organization preparing the preliminary plat;
7. An accurate and complete boundary survey of the land to be subdivided. Plat boundary lines shall be shown, giving the bearings in degrees, minutes and seconds. Distances shall be shown in feet and hundredths. Curved boundaries or lines on the plat shall provide sufficient data to enable the reestablishment of curves on the ground. Include the location and description of all monuments set or found. Data for each curve shall include:
   a. Central angle and arc length;
   b. Radius;
   c. Chord bearing and length;
8. A statement of ownership, signed by the legal owner, and the equitable owner if applicable, on the final approved preliminary plat;
9. Zoning or proposed zoning shall be shown with boundaries given as streets, highways, or property lines. Special use permit information shall be included if applicable.
10. Number to identify each lot, plus the acreage of each lot and tract;
11. Proposed lot lines and public rights-of-way lines; rights-of-way and street widths; rights-of-way for public services or utilities with identification of any limitations thereof;
12. Proof that all lots in any subdivision meet the requirements of the city zoning code and that each lot shall be dimensioned in such a manner that setbacks, as required by the code, shall be met for any structure or building that may be on or will be constructed on the lot. No platted lot within a subdivision shall contain less square footage than that required by the city zoning code.
13. Approximate locations, dimensions, areas, and purposes of tracts proposed to be reserved for the public;
14. Sites and approximate area(s) for any multi-family dwellings or nonresidential uses;
15. Existing conditions of the proposed preliminary plat, including the information indicated next, if applicable. Separate sheets may be used, if necessary, to convey the information.
    a. Present site designation or subdivision name;
    b. Easements on-site: Location, width and purpose of each;

c. Public rights-of-way on and within 150 feet of the site: name, width, and classification of each;
d. Utilities on and adjacent to the site: Locations and size of each water well, water reservoir, water line, sanitary and storm drain; locations of all irrigation channels and drains; locations of gas lines, fire hydrants, electric and telephone poles, and street lights. If water mains and sewers are not on or adjacent to the tract, indicate the directions, distances, and sizes of the nearest lines;
e. Existing topography:
   i. For land with average slopes of less than five percent, show contour lines at intervals of not more than two feet;
   ii. For land with average slopes exceeding five percent, show contour lines at intervals of not more than five feet;
f. Existing storm drainage facilities on and adjacent to the site;
g. Conditions on adjacent land significantly affecting design of the subdivision: approximate directions and gradients of ground slopes, character and location of development, access points from adjacent points and building types;

16. Approval block signifying the final approved preliminary plat, to be signed by the subdivision administrator upon approval by the planning and zoning commission and resolution of all outstanding staff comments;
17. Master utility plan, which shall contain a general outline of the proposed utility routing plans for the development, to include, but not be limited to, the following information:
    a. Existing and proposed utility locations;
    b. Sizes of existing and proposed utilities and system loads;
    c. Locations of proposed connections to existing utilities;
    d. Proposed off-site improvements necessary to connect to existing utilities;

    The master utility plan may be submitted with the final plat or construction drawings with the consent of the utilities department director. Written approval for this allowance must be submitted with the preliminary plat submittal.
18. Copy of early notification letter to neighborhood group(s) and/or noticed area and copy of minutes (summary or verbatim) from any subsequent neighborhood group(s) and/or noticed area meeting as may have been required.

B. Supplemental material to be submitted with the preliminary plat:
1. Application:
   a. The application shall be signed by all property owners (including all parties having an equitable interest, trustees of an estate, or all persons having a specific power of attorney) for the subject property as recorded in the county clerk's office.
   b. Any pending litigation of any final order entered by any court of law regarding the ownership of the subject property shall be disclosed by the applicant at the time that the application is submitted.
2. Submittal fee.
3. Variance requests (if applicable).
4. Master drainage study:

a. The purpose of the master drainage study is to identify major drainage ways, ponding areas, locations of culverts, bridges, open channels and drainage basins that are contributory to the proposed study area. In addition, the ability of downstream drainage facilities to pass the developed runoff from the proposed development must be analyzed in the master drainage study.
b. The master drainage study shall contain a general outline of the proposed drainage routing plans for the development.
c. The report shall include, but not be limited to, the following information and calculations:
    i. Calculation for peak flow from all offsite tributary drainage areas.
    ii. Calculations for peak flow within the proposed development for all drainage basins larger than 20 acres.
    iii. Preliminary analysis of 100-year floodplain and major drainage ways.
    iv. Closed sub-basin analysis of 100-year floodplain and major drainage ways.
    v. Discussion and analysis of downstream drainage facilities.
    vi. Discussion of anticipated drainage problems within the proposed development and possible solutions.
    vii. Report shall be typed on 8 1/2-inch × 11-inch paper.
d. Drawings for the master drainage study shall include, but not be limited to, the following:
    i. Any and all floodplains and flood ways must be identified. A copy of applicable F.E.M.A. floodplain map is required indicating limits of current study.
    ii. Existing topography:
        1) For land that slopes less than approximately five percent, show contour lines at intervals of not more than two feet.
        2) For land that slopes more than five percent, show contour lines at intervals of not more than five feet.
        3) Location and size of existing and proposed open channels, storm drains, retention/detention areas, and other drainage structures.
        4) Identification of all drainage basins in the development.
        5) Location of all streets in/adjacent to the proposed development.
        6) Identification of all drainage basins tributary to the proposed development.
        7) Basin maps may be scaled as small as 1 inch = 2,000 feet. Orthophoto maps at scale of 1 inch = 200 feet are preferred. (Use the most appropriate scale available)
e. Inlet and storm drain size calculations are not required with the master drainage study; therefore, the number of sub-basins analyzed in the report shall be held to the smallest practical amount.

(Ord. No. 1798, § I, 6-19-00; Ord. No. 1929, §§ I, II, 8-5-02)

Secs. 37-82--37-110. Reserved.

ARTICLE IV.
FINAL PLAT

Sec. 37-111. The purpose of final platting.
Within two years after the approval of a preliminary plat, the subdivider must submit the final plat. The final plat is the subdivision instrument that is prepared for recording in the office of the county clerk. The final plat process ensures that the recordable plat is in complete compliance with plans approved earlier in the preliminary plat process. If the approved preliminary plat contains more than one phase, a final plat must be submitted every two years thereafter until all phases are complete. The submittal of such additional phases shall constitute a continuance of preliminary plat approval status. A final plat shall not be submitted until preliminary plat approval, if applicable, is complete.
(Ord. No. 1798, § I, 6-19-00)

Sec. 37-112. Preapplication procedure for plats following final plat processes consistent with Article V – Infill Subdivision Process, Section 37-176 (a) regarding alternate summary subdivision creating not more than two (2) lots, Section 37-176 (c) regarding creation of not more than two (2) lots of a previously filed subdivision, Section 37-207 (b) regarding an increase of the number of lots within a previously platted subdivision and Section 37-207 (d) regarding final plats reflecting vacation requests, and Article VIII – Vacation Plats.

A. Any proposed final plat identified in Sec. 37-112 causing need for public notification, review and approval by the Planning and Zoning Commission or City Council shall first be reviewed at a pre-application meeting scheduled and held by the Community Development staff. A representative for the proposed development action shall attend the pre-application meeting and discuss the proposal in general terms, providing enough specifics to allow attending staff an opportunity to gauge and determine neighborhood and/or community impacts. In that this represents an initial and informal discussion, information provided to the representative regarding procedural nuances or other regulatory related information shall be considered preliminary feedback based on information received, and shall not represent a complete disclosure of all regulatory measures that may apply upon formal review. In no circumstances should related discussion by staff represent a final disposition on the preliminary proposal at hand.

    1. Neighborhood group and/or noticed area determination. Staff upon consideration of the information received during the pre-application meeting, will instruct as to whether early notification of the subject proposal by the applicant to a neighborhood group(s) (recognized group(s)) and/or noticed area shall be necessary prior to formal application and submittal of the development proposal to the city. The criteria used by staff to determine notice need may include, but not be limited to the following:

        a. Development that seeks the elimination of ROW that could potentially disrupt traffic flow within a neighborhood or if approved becomes inconsistent with the Major Thoroughfare Plan.

b. Potential land use conflicts resulting from proposed land use distribution adjacent to existing development of a differing land use classification such as proposed commercial uses adjacent to low density residential uses.

c. Known neighborhood concerns on tangible and reasonable development issues that could be mitigated through design alternatives. An example of a concern congruent to this criterion is anticipated development consistency with surrounding development styles as they may relate to lot size/dimension transitions, roadway widths out of character with adjacent development, etc. An example of a concern not congruent to the criterion is disapproving development on private vacant property due to the elimination of "open space" or development of private vacant property because one's view may be compromised,

2. Early notification exception. Staff determination of early notice need which shall include an open invitation to discuss the proposal at a meeting, shall not pre-empt the Planning and Zoning Commission, City Council or other reviewing bodies with approval (recommending or final action) authority from thereafter requiring an additional meeting(s). Criteria used by the applicable reviewing body shall be at their discretion and may or may not follow the criteria identified in the preceding provision. Significant deviation of plan proposal post neighborhood group and/or noticed area meeting may subject the applicant from thereafter participating in another meeting to inform and discuss revisions. Changes addressing neighborhood concerns shall not necessarily subject the applicant to another meeting; however, an omission in the proposal that is added post meeting and deemed significant by Community Development staff is a candidate for reconsideration by the notified neighborhood prior to consideration by any formal reviewing body.

3. Early notification recipients. Notification recipients shall include registered neighborhood groups, and/or associations, identified on the applicable Community Development Department's web page. In the event an identified association or group does not exist or cover an adequate area surrounding the proposal, both the neighborhood group/association and the property owners within 500 feet shall be notified. If no association or group exists within the notification boundary, notification to property owners shall take place using the same distance threshold. Measurement shall be made radially from the outermost property boundary where the subject proposal is located. Any association/group boundary or property boundary that falls either partially or entirely within said radius based on the qualifying standards of this subsection shall receive notification. Contact and mailing information for associations, groups and property owners to be notified shall be provided by the Community Development Department. Mailing preparation, expenses and materials are the responsibility of the developer, applicant and/or representative. Notification shall take place no later than fifteen (15) calendar days prior to the date of submittal. In the event a meeting is called for pursuant to item (4) that follows, may cause delay with the proposal's submittal in order to accommodate the agreed upon meeting schedule and other factors necessary to meet submittal content.

4. Early notification form and content. All required notification shall be sent via regular, non-certified, first class mail and the content of the notice shall include at minimum:

   a. A detailed description (to the extent possible) of what is being pursued in terms of development

   b. Information as to how the developer, applicant, or representative for the development action may be contacted

   c. A statement as to how the proposal may impact the neighborhood(s) surrounding the subject property where the development is to occur

   d. An open offer to participate in a meeting with the association(s)/group(s) and/or property owners at a mutually agreed upon date, time and location in order to discuss the proposal more fully

   e. A need to provide a WRITTEN meeting request (if desired) to the development representative, copying Community Development staff either in a letter or email format within the stated fifteen (15) calendar day threshold. Requests for a meeting within the fifteen (15) calendar day period shall render the meeting need mandatory prior to submittal whether or not the meeting takes place inside or beyond this fifteen (15) calendar day period. Requests that come in after said period do not compel the applicant to entertain a meeting prior to submittal; however, a meeting with those requesting one is advisable prior to formal review of the proposal by a recommending or decision making body.

   f. Community Development staff contact information for any related correspondence or general inquiry.

5. Neighborhood group/neighborhood meeting. It shall be the responsibility of the representative for the proposal to supply any and all materials necessary to convey development parameters as applicable. Additionally, the representative shall be responsible for minute transcription (summary or verbatim) which clearly indicates the date, time and location of the meeting and the general nature of conversation that tool place regarding the proposal. Information shall at minimum identify key points that convey support for or the lack thereof for the proposal as presented.

Sec. 37-113. Submittal of a final plat application.

A. The final plat and supplemental material shall be submitted to the community development department no later than 25 calendar days prior to the day of the regular meeting of the planning and zoning commission for approval consideration if applicable.

B. Upon submittal, the community development department shall issue a receipt for the submittal. The subdivision administrator shall then have eight business hours to review the submittal for completeness. If all of the required items have been submitted and the final plat submittal contains all necessary items as per section 37-114 of this chapter, the subdivision administrator shall accept the submittal for review. A proposed final plat shall not be accepted for review if incomplete or substantially inaccurate. All items required on a final plat must be present for acceptance. If a submittal is found to be incomplete, the applicant shall have eight business hours to correct the deficiencies and still meet the submittal deadline if applicable.

C. The subdivision administrator or the development review committee shall have the authority to waive or add submittal requirements if it is determined that the additional additional items and resulting information is necessary to accomplish the objectives of this Code. Additional requirements may include a neighborhood group and/or noticed area meeting (see Section 37-112). Any request for additional submittal requirements shall be justified, in writing, by the requesting entity.

D. Final plats will be referred to the applicable city departments and other governmental agencies for review, comments and recommendations. Each department shall have five business days to complete the review. Written reports, with their recommendations, shall be forwarded to the subdivision administrator. The development review committee shall review the final plat to determine whether it is consistent with the intent and purpose set forth in sections 37-1 and 37-111 of this chapter. For final plats requiring planning and zoning commission approval, a written report shall be provided to the planning and zoning commission with a recommendation that the final plat be either approved, conditionally approved, postponed, or disapproved. The development review committee shall state the reasons for their recommendation on the final plat in the report to the planning and zoning commission.

(Ord. No. 1798, § I, 6-19-00; Ord. No. 1929, §§ I, II, 8-5-02)

Sec. 37-113. Approval of final plats.

A. Administrative approval of final plats. Final plats that are consistent with, and that conform to, an approved preliminary plat shall be approved administratively, unless determined by the subdivision administrator via pre-application for plats subject to Section 37-112 or the DRC that the planning and zoning commission review is necessary, or as otherwise provided by this chapter e.g., replats or waivers to planning-related issues. A final plat that deviates from the approved preliminary plat shall be rejected by the subdivision administrator and either modified to comply with the preliminary plat or suspended in lieu of an amended preliminary plat.

B. Planning and zoning commission approval of final plats. Final plats requiring planning and zoning commission approval shall be advertised in accordance with the following before consideration at a public hearing:
   1. *Agenda.* The agenda for the planning and zoning commission public hearing shall be made available no later than fifteen (15) calendar days prior to the public hearing.
   2. *Posting.* Notice of the proposed development shall be posted in conspicuous places on the property by the property owner, applicant or representative at least fifteen (15) calendar days prior to the planning and zoning commission public hearing. A sign measuring four (4) feet by four (4) feet shall be used and secured with appropriate supporting hardware made available by Community Development staff. When the property has multiple street frontages, one sign per frontage shall be posted. Large properties may require a greater number of signs which shall be determined by Community Development staff. It shall be the responsibility of the property owner, applicant or representative to ensure continuous posting throughout the public hearing processes. Processes for purposes of this provision shall start with the Planning and Zoning Commission and cease when a final determination is made on the proposal regardless of the number of reviewing entities involved. In that multiple reviewing entities may be involved (e.g. appeals), , Community Development staff will inform the property owner, applicant or representative of necessary changes needed on the sign to reflect the appropriate reviewing entities, meeting dates and venues.
   3. *Notice.* Notice on all proposed final plats requiring planning and zoning commission review shall be sent by regular, non-certified, first class mail to all property owners (as shown on the records of the county assessor) within the proposed area of development and within 500 feet of the area of the proposed subdivision, including streets, alleys, channels, canals, other public rights-of-way and railroad rights-of-way. The community development department is responsible for the list of property owners and for the preparation of mail. Regular, non-certified, first class mail shall also be sent to all recognized neighborhood groups within five hundred (500) feet of the subject property. Notice for purposes herein, shall be mailed at least fifteen (15) calendar days prior to the public hearing. The subdivision administrator shall execute an affidavit verifying the list of persons to whom notice was mailed. Notice of the time and place of the public hearing shall be published at least fifteen (15) calendar days prior to the public hearing in a newspaper of general circulation in the city.

C. The planning and zoning commission shall review the final plat, report, comments and

recommendations from the development review committee, presentation from the subdivider or subdivider's representative and from any interested citizens at a public hearing as applicable. If the proposed final plat is complete and devoid of any issues, said final plat shall be placed on the consent agenda for planning and zoning commission approval. final plats that are in full compliance with this chapter and an approved preliminary plat, if applicable, as determined by the subdivision administrator, shall not be removed from the consent agenda except by a majority vote of the membership of the commission. Action from the planning and zoning commission on final plats not on the consent agenda shall be in the form of an approval, conditional approval, postponement, or disapproval. Action from the planning and zoning commission shall be recorded in the minutes of the meeting. A copy of the notice of decision that includes any changes or conditions from the planning and zoning commission as done at the public hearing shall be furnished to all appropriate parties in accordance with section 37-11(b). All approvals by the planning and zoning commission are conditioned upon final review and approval of outstanding staff comments.

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D. It is the requirement of the planning and zoning commission that no final plat shall be reviewed unless either the applicant or the applicant's representative is present at the planning and zoning commission meeting. If the applicant is not present at the public hearing, the final plat will be tabled until the next regular planning and zoning commission meeting.

E. Upon approval of the final plat, the subdivider may submit applications for construction permits and/or a form of security for the filing of the plat application. The final plat shall not be filed until all construction improvements have been completed, approved and accepted by the city, or until a form of security has been established and approved. It shall be the subdivision administrator's responsibility to obtain the necessary signatures of city officials after final plat approval. The subdivision administrator shall be responsible for filing the final plat with the applicant and/or their representative at the county clerk and recorder's office.

F. Final plat approval shall be effective for no more than three years from the date of approval. If the subdivision improvements have not been completed or a form of security established and approved, the final plat shall be resubmitted for final plat approval. The developer may submit a request for extension of approval prior to the expiration date, if desired. The request will be reviewed by the development review committee for consideration. All plat extensions shall be automatically conditioned to require compliance with all city codes, regulations and specifications in place at the time of development of the plat in question.

G. No changes, revisions, erasures, or modifications shall be made on the final plat. No final plat shall be filed and recorded prior to the satisfaction of all requirements and conditions. Any substantial change to a final plat subject to Section 37-112 may trigger the need for a neighborhood group(s) and/or noticed area meeting to be determined by and at the discretion of the subdivision administrator.

H. Appeals Any person, department, committee, commission, board or bureau affected by a decision of an administrative official, committee, or board in the administration or enforcement of this chapter or of any other adopted resolution, rule, or regulation may appeal the decision. The appeal must be initiated in writing and delivered to the subdivision administrator within 15 calendar days after all other procedures established by this chapter have been exhausted. Refer to section 37-13, "procedures for appealing decisions of staff, the development review committee and the planning and zoning commission," for details on the appeal process.

(Ord. No. 1798, § I, 6-19-00; Ord. No. 1929, §§ I, II, 8-5-02)

Sec. 37-115. Final plat submittal requirements.

A. Final plat requirements. The final plat shall be drawn with permanent ink or produced by a photographic process on a linen or polyester (Mylar) film. The final plat shall be prepared on 18-inch × 24-inch sheets at a scale that adequately represents the information. Copies provided shall be legible.

B. If more than one sheet is used, all sheets must be indexed and contain an index map

showing the relationship of the sheet to the whole. Each sheet shall show north arrow, name of subdivision, date of survey, written and graphic scale. The following information shall be shown on the plat:

1. Name of subdivision.
2. Total acreage of subdivision to nearest one-tenth of acre.
3. Date of preparation, north arrow, written and graphic scale.
4. Detailed area/vicinity map clearly showing surrounding area and the proposal's relationship to existing road networks and existing natural or man-made features that may impact the development. Detail must be sufficient so that the subject property can be located in the field using the map.
5. Signed statements by the subdivider dedicating public rights-of-way, and granting all required easements for public use. Also include a statement that the subdivision is planned with the free consent of and in accordance with, the desire of the undersigned owner of the land, acknowledged in a manner required for acknowledgment of deeds. For consistency on all plats, the dedication statement shall read as follows:

   DEDICATION

   THE TRACT HEREON IS TO BE KNOWN AS _____ SUBDIVISION.

   ALL RIGHTS OF WAY AND PUBLIC AREAS SHOWN HEREON ARE DEDICATED TO THE CITY OF LAS CRUCES. UTILITY EASEMENTS ARE GRANTED FOR THE USE OF THE UTILITY COMPANIES THAT ARE SIGNATORY TO THIS PLAT AND TO THE CITY OF LAS CRUCES. ALL RULES AND REGULATIONS OF THE CITY OF LAS CRUCES AND SAID UTILITIES WILL APPLY TO THESE EASEMENTS. ALL OTHER EASEMENTS SHOWN HEREON ARE GRANTED FOR THE USE INDICATED. NO ENCROACHMENT THAT WILL INTERFERE WITH THE USE OF EASEMENTS AS SHOWN ON THIS PLAT IS ALLOWED.

   THE SUBDIVISION HAS BEEN DEDICATED IN ACCORDANCE WITH THE WISHES OF THE UNDERSIGNED OWNER(S) OF THE LAND SHOWN HEREON.

6. Name and address of subdivider.
7. Name and address of the person, corporation or organization preparing the final plat.
8. Certification block for planning and zoning commission chairman and secretary.
9. Certification block(s) by authorized representatives from respective utility companies(cable, telephone company and electric company, etc.).
10. Certification and seal by a registered licensed surveyor of the state in accordance with the laws of the state, certifying the accuracy of the survey and the plat, and that the surveyor prepared or supervised preparation of the plat.
11. An accurate and complete boundary survey of the land to be subdivided. Plat boundary lines shall be shown giving the bearings in degrees, minutes and seconds. Distances shall be shown in feet and hundredths. Curved boundaries or lines on the plat shall provide sufficient data to enable the reestablishment of curves on the ground. Curve data shall

include:

a. Central angle and arc length;
b. Radius;
c. Chord bearing and length;

12. Location and description of all monuments set or found within the plat area. Subdivisions shall be tied into and referenced to the state plane coordinate system if within one-half mile of a traverse station established in conformity with the state plane coordinate system, with reference made on the final plat.
13. Bearings and lengths for all lot lines and rights-of-way lines existing or proposed. Lines to be eliminated shall be designated and identified by dashed lines. Names of streets, rights-of-way widths of all streets, commercial alleys, green ways, bikeways, trails and other transportation links shall be so designated.
14. Number to identify each lot.
15. Acreage of each lot.
16. Letter to identify each block.
17. Location, dimensions and purpose of all easements, existing or proposed, and any limitations thereof.
18. Adjacent land ownership within 100 feet. Note subdivision and/or owner's names and filing information: book, page and date.
19. Outlots or tracts designated by letter, with disposition indicated in the Note section. Location of land intended to be converted or reserved for public use or reserved in the deeds for the use of all property owners in the proposed subdivision shall be so identified. The purpose of each outlot and the responsibility for maintenance of all tracts shall be noted.
20. Locations, dimensions, and purposes of all necessary easements for water rights in relation to irrigation.
21. Ponding icon. For lots utilizing on-lot ponding, an icon shall be placed on the lot in the approximate location of the proposed ponding area. A note referencing the ponding icon shall also be present on the plat and reflect the purpose and the lot owner's responsibility for maintaining the ponding area.
22. A note placed on the plat stating: "Subdivider responsible for utility stub-outs and for providing any and all easements necessary to provide utility service to lots contained herein."
23. Copy of early notification letter to neighborhood group(s) and/or noticed area and copy of minutes (summary or verbatim) from any subsequent neighborhood group(s) and/or noticed area meeting as may have been required.

C. Supplemental material to submit with the final plat:

1. Application:
   a. The application shall be signed by all property owners (including all parties having an equitable interest, trustees of an estate or all persons having a specific power of attorney) for the subject property as recorded in the county clerk's office.
   b. Any pending litigation of any final order entered by any court of law regarding the ownership of the subject property shall be disclosed by the applicant at the time the application is submitted.

2. Submittal fee.
3. Documentation from the county assessor's office that the current year's property taxes are paid and that no taxes are owed on the property.
4. Appropriate documentation shall be submitted to show proof of water service and approval of sewage disposal. (Applicable if the subdivision will not be utilizing city services.)
5. Address plat. The address plat shall be drawn with permanent black ink or produced by a photographic process on a linen or polyester (Mylar) film. The address plat shall be prepared on 18-inch × 24-inch sheets at a scale that adequately represents the information. Copies provided shall be legible. The following information shall be required:
   a. Title of subdivision;
   b. Approved lot layout;
   c. Lot and block numbers;
   d. Street name;
   e. Street address for each lot. (Community development department will provide the addresses.)
   f. Neighborhood delivery and collection box unit location (NDCBU), if applicable.
6. A traverse closure sheet (computer printout) for the exterior boundaries of the entire tract and for each parcel within the tract, except any parcels that are true rectangles.
7. Filing fee shall be required of the applicant at time of plat filing.

(Ord. No. 1798, § I, 6-19-00; Ord. No. 1929, §§ I, II, 8-5-02)

Secs. 37-116--37-140. Reserved.

ARTICLE V
INFILL SUBDIVISION PROCESS

Sec. 37-141. The purpose of infill subdividing.
The purpose of the infill subdivision process is to implement the infill policy plan regarding the subdivision of land by providing an efficient process to encourage the development of vacant or underutilized properties within the central part of the City and to utilize existing infrastructure in a more cost-effective manner.
(Ord. No. 1798, § I, 6-19-00; Ord. No. 2519, 5-26-09)

Sec. 37-142. Usage.

A. The infill subdivision process is designed to make it more desirable to develop vacant or underutilized land in the central part of the City, as well as to streamline the processing of subdivisions through two procedures: the infill development process (IDP) and the infill subdivision method (ISM). Both procedures provide an expedited review and processing schedule.
B. The infill development process option allows the applicant to submit a single application, in which the Planning and Zoning Commission may consider not only the proposed subdivision, but additional development aspects of the property such as variances, changes of land use, special use permits, etc. Consult section 38-48 of the Municipal Code, for specific procedures and options. The IDP option shall only be available on qualified infill properties within the defined infill area. See figure 1 for delineation of the Infill Area.
C. To qualify for use of the infill development process, the property must meet the definition of an infill parcel as set forth in Section 38-48 of the Municipal Code. Subdivision proposals not meeting the qualifications of the infill development process, but located within the infill area may follow the provisions of the infill subdivision method.
D. The infill subdivision method is an expedited procedure for subdivisions located in the infill areas. The ISM allows for an administrative approval of a concept plan in lieu of the full master plan process for proposals that would ordinarily require master plan approval. Once the concept plan has been approved, the developer may skip the preliminary platting process and proceed to the final plat process. The infill subdivision method is for subdivision proposals only. Any necessary variances, zone changes, special use permits, etc., would require separate action. Subdivision proposals in the Infill Area that consist of just one or two lots may potentially follow the alternate summary procedure.

(Ord. No. 1798, § I, 6-19-00; Ord. No. 1929, §§ I, II, 8-5-02; Ord. No. 2519, 5-26-09)

Sec. 37-143. Procedure for the infill development process.

A. Pre-application procedure for IDP. Any proposed IDP causing need for public notification, review and approval by the Planning and Zoning Commission shall first be reviewed at a pre-application meeting of the Development Review Committee (DRC), scheduled by the Community Development staff. A representative for the proposed development action shall attend the pre-application meeting and discuss the proposal in general terms, providing enough specifics to allow attending staff representing the DRC an opportunity to gauge and determine neighborhood and/or community impacts. In that this represents an initial and informal discussion, information provided to the

representative regarding procedural nuance, necessary changes prior to formal submittal, or other regulatory related information shall be considered preliminary feedback based on information received, and shall not represent a complete disclosure of all regulatory measures that may apply upon formal review. In no circumstances should related discussion by staff represent a final disposition on the preliminary proposal at hand.

1. Neighborhood group and/or noticed area determination. The DRC, with lead guidance form the Community Development Department representative, shall upon consideration of the information received during the pre-application meeting, instruct as to whether early notification of the subject proposal by the applicant to a neighborhood group(s) (recognized group(s)) and/or noticed area shall be necessary prior to formal application and submittal of the development proposal to the city. The criteria used by staff to determine notice need may include, but not be limited to the following:

   a. Development that is likely to cause significant traffic impacts due to limited roadway access or a potential decrease in level of service based on the subject roadway's design.

   b. Potential land use conflicts resulting from proposed land use distribution adjacent to existing development of a differing land use classification such as proposed commercial uses adjacent to low density residential uses.

   c. Known neighborhood concerns on tangible and reasonable development issues that could be mitigated through design alternatives. An example of a concern congruent to this criterion is anticipated development consistency with surrounding development styles as they may relate to lot size/dimension transitions, roadway widths out of character with adjacent development, etc. An example of a concern not congruent to the criterion is disapproving development on private vacant property due to the elimination of "open space" or development of private vacant property because one's view may be compromised,

2. Early notification exception. DRC determination of early notice need which shall include an open invitation to discuss the proposal at a meeting, shall not pre-empt the Planning and Zoning Commission, City Council upon appeal or other reviewing bodies with approval (recommending or final action) authority from thereafter requiring an additional meeting(s). Criteria used by the applicable reviewing body shall be at their discretion and may or may not follow the criteria identified in the preceding provision. Significant deviation of plan proposal post neighborhood group and/or noticed area meeting may subject the applicant from thereafter participating in another meeting to inform and discuss revisions. Changes addressing neighborhood concerns shall not necessarily subject the applicant to another meeting; however, an omission in the proposal that is added post meeting and deemed significant by Community Development staff is a candidate for reconsideration by the notified neighborhood prior to consideration by any formal reviewing body.

3. Early notification recipients. Notification recipients shall include registered neighborhood groups, and/or associations, identified on the applicable Community Development Department's web page. In the event an identified association or group does not exist or cover an adequate area surrounding the proposal, both the neighborhood group/association and the property owners within 500 feet shall be notified. If no association or group exists within the notification boundary, notification to property owners shall take place using the same distance threshold. Measurement shall be made radially from the outermost property boundary where the subject proposal is located. Any association/group boundary or property boundary that falls either partially or entirely within said radius based on the qualifying standards of this subsection shall receive notification. Contact and mailing information for associations, groups and property owners to be notified shall be provided by the Community Development Department. Mailing preparation, expenses and materials are the responsibility of the developer, applicant and/or representative. Notification shall take place no later than fifteen (15) calendar days prior to the date of submittal. In the event a meeting is called for pursuant to item (4) that follows, may cause delay with the proposal's submittal in order to accommodate the agreed upon meeting schedule and other factors necessary to meet submittal content.

4. Early notification form and content. All required notification shall be sent via regular, non-certified, first class mail and the content of the notice shall include at minimum:

   a. A detailed description (to the extent possible) of what is being pursued in terms of development.

   b. Information as to how the developer, applicant, or representative for the development action may be contacted.

   c. A statement as to how the proposal may impact the neighborhood(s) surrounding the subject property where the development is to occur.

   d. An open offer to participate in a meeting with the association(s)/group(s) and/or property owners at a mutually agreed upon date, time and location in order to discuss the proposal more fully.

   e. A need to provide a WRITTEN meeting request (if desired) to the development representative, copying Community Development staff either in a letter or email format within the stated fifteen (15) calendar day threshold. Requests for a meeting within the fifteen (15) calendar day period shall render the meeting need mandatory prior to submittal whether or not the meeting takes place inside or

beyond this fifteen (15) calendar day period. Requests that come in after said period do not compel the applicant to entertain a meeting prior to submittal; however, a meeting with those requesting one is advisable prior to formal review of the proposal by a recommending or decision making body.

f. Community Development staff contact information for any related correspondence or general inquiry.

5. Neighborhood group/neighborhood meeting. It shall be the responsibility of the representative for the proposal to supply any and all materials necessary to convey development parameters as applicable. Additionally, the representative shall be responsible for minute transcription (summary or verbatim) which clearly indicates the date, time and location of the meeting and the general nature of conversation that tool place regarding the proposal. Information shall at minimum identify key points that convey support for or the lack thereof for the proposal as presented

B. For purposes of the pre-application process, a written application or fee is not required, nor does this pre-application procedure require formal approval.

(Ord. No. 1798, § I, 6-19-00)

Sec. 37-144. Submittal of an infill development process application.

A. The application indicating the type of action being requested, along with the necessary support information may be submitted to the community development department at any time. The submittal shall be reviewed by the appropriate staff within eight business hours, and if all required items have been submitted, the application shall be accepted for review. If a submittal is found to be incomplete, the applicant shall correct the deficiencies and resubmit the application. The proposal will then be scheduled for review by the planning and zoning commission at a public hearing on the first Tuesday following the public notice period.

B. The subdivision administrator, the development review committee or the planning and zoning commission shall have the authority to waive or add submittal requirements if it is determined that the additional items and resulting information is necessary in order to accomplish the objectives of this chapter. Additional requirements may include a neighborhood group and/or noticed area meeting.Any request for additional submittal requirements shall be justified in writing by the requesting entity.

(Ord. No. 1798, § I, 6-19-00; Ord. No. 1929, §§ I, II, 8-5-02)

Sec. 37-145. Approval of infill subdivisions under the infill development process.

A. Following staff review, a written report shall be provided to the planning and zoning commission with a recommendation that the proposal be approved, conditionally approved, postponed, or disapproved. The development review committee shall state reasons for their recommendation on the proposal to the Planning and Zoning Commission.

1. Public notice requirements for the IDP:

a. *Agenda.* The agenda for the planning and zoning commission public hearing shall

be made available no later than fifteen (15) calendar days prior to the public hearing.

b. *Posting.* Notice of the proposed development shall be posted in conspicuous places on the property site by the property owner, applicant or representative at least fifteen (15) calendar days prior to the planning and zoning commission public hearing. A sign measuring four (4) feet by four (4) feet shall be used and secured with appropriate supporting hardware made available by Community Development staff. When the property has multiple street frontages, one sign per frontage shall be posted. Large properties may require a greater number of signs which shall be determined by Community Development staff. It shall be the responsibility of the property owner, applicant or representative to ensure continuous posting throughout the public hearing processes. Processes for purposes of this provision shall start with the Planning and Zoning Commission and cease when a final determination is made on the proposal regardless of the number of reviewing entities involved. In that multiple reviewing entities may be involved, Community Development staff will inform the property owner, applicant or representative of necessary changes needed on the sign to reflect the appropriate reviewing entities, meeting dates and venues.

c. *Notice.* Notice on all proposed subdivisions shall be sent by regular, non-certified, first class mail for subdivision related matters. If zoning related issues are part of the IDP request, notice for those items shall follow Article II, Section 38-10, E. to all property owners (as shown on the records of the county assessor) within the proposed area of development and within 500 feet of the area of the proposed subdivision, including streets, alleys, channels, canals, other public rights-of-way and railroad rights-of-way. The community development department is responsible for the list of property owners and the preparation of the mail. Regular, non-certified, first class mail shall also be sent to all recognized neighborhood groups within five hundred (500) feet of the subject property. Notice for purposes herein shall be mailed at least fifteen (15) calendar days prior to the public hearing. Notice of the time and place of the public hearing shall be published in a newspaper of general circulation in the city at least 15 calendar days prior to the meeting.

B. The planning and zoning commission shall review the proposal, report, comments and recommendations received from the development review committee, the presentation from the subdivider or the subdivider's representative, and comments from any interested citizens, at a public hearing scheduled as needed, in accordance with section 38-1605 of the municipal code. Action from the planning and zoning commission shall be in the form of an approval, conditional approval, postponement or disapproval. Action from the planning and zoning commission shall be recorded in the minutes of the meeting. A copy of the notice of decision that includes any changes or conditions from the planning and zoning commission as done at the public hearing shall be furnished to all appropriate parties in accordance with section 37-11(b).

(Ord. No. 1798, § I, 6-19-00; Ord. No. 1929, §§ I, II, 8-5-02)

Sec. 37-146. Preapplication procedure for the infill subdivision method.

A. The subdivider that is following the infill subdivision method shall, prior to the filing of an application for approval of a final plat, submit a conceptual plan of the proposed development for formal review. Upon receipt of the submittal, the community development department shall issue a receipt for same. The subdivision administrator shall then have eight business hours to review the submittal for completeness. If all of the required items have been submitted, and the conceptual plan submittal contains all necessary items as per section 37-144 of this chapter, the subdivision administrator shall accept the submittal for review. A proposed conceptual plan shall not be accepted for review if incomplete. All items required on a conceptual plan must be present for acceptance. If a submittal is found to be incomplete, the applicant shall have eight business hours to correct the deficiencies and still meet the submittal deadline, if applicable.

B. Any proposed ISM causing need for public notification, review and approval by the Planning and Zoning Commission shall first have a concept plan reviewed at a meeting of the Development Review Committee (DRC) that is to be scheduled within nine (9) calendar days of acceptance by the Community Development staff (note: a conceptual plan is not required if following the infill development process). The purpose of the review is to determine whether it is consistent with the intents and purposes set forth in sections 37-3 and 37-141 of this chapter and to gauge whether early notification is warranted. A written report shall ultimately be provided to the subdivider indicating any changes that may be needed or potential concerns that may arise during the final plat and construction drawing review process. Upon completion of the review, the DRC will provide a recommendation on the proposal for the Planning and Zoning Commission. Due to this process, a representative for the proposed development action shall attend the DRC meeting and discuss the proposal in general terms, providing enough specifics to allow attending staff representing the DRC an opportunity to gauge and determine neighborhood and/or community impacts and development related issues.

1. Neighborhood group and/or noticed area determination. The DRC, with lead guidance form the Community Development Department representative, shall upon consideration of the information received during the pre-application meeting, instruct as to whether early notification of the subject proposal by the applicant to a neighborhood group(s) (recognized group(s)) and/or noticed area shall be necessary prior to formal application and submittal of the development proposal to the city. The criteria used by staff to determine notice need may include, but not be limited to the following:

    a. Development that is likely to cause significant traffic impacts due to limited roadway access or a potential decrease in level of service based on the subject roadway's design.

    b. Potential land use conflicts resulting from proposed land use distribution adjacent to existing development of a differing land use classification such as proposed commercial uses adjacent to low density residential uses.

c. Known neighborhood concerns on tangible and reasonable development issues that could be mitigated through design alternatives. An example of a concern congruent to this criterion is anticipated development consistency with surrounding development styles as they may relate to lot size/dimension transitions, roadway widths out of character with adjacent development, etc. An example of a concern not congruent to the criterion is disapproving development on private vacant property due to the elimination of "open space" or development of private vacant property because one's view may be compromised,

2. Early notification exception. DRC determination of early notice need which shall include an open invitation to discuss the proposal at a meeting, shall not pre-empt the Planning and Zoning Commission, City Council upon appeal or other reviewing bodies with approval (recommending or final action) authority from thereafter requiring an additional meeting(s). Criteria used by the applicable reviewing body shall be at their discretion and may or may not follow the criteria identified in the preceding provision. Significant deviation of plan proposal post neighborhood group and/or noticed area meeting may subject the applicant from thereafter participating in another meeting to inform and discuss revisions. Changes addressing neighborhood concerns shall not necessarily subject the applicant to another meeting; however, an omission in the proposal that is added post meeting and deemed significant by Community Development staff is a candidate for reconsideration by the notified neighborhood prior to consideration by any formal reviewing body.

3. Early notification recipients. Notification recipients shall include registered neighborhood groups, and/or associations, identified on the applicable Community Development Department's web page. In the event an identified association or group does not exist or cover an adequate area surrounding the proposal, both the neighborhood group/association and the property owners within 500 feet shall be notified. If no association or group exists within the notification boundary, notification to property owners shall take place using the same distance threshold. Measurement shall be made radially from the outermost property boundary where the subject proposal is located. Any association/group boundary or property boundary that falls either partially or entirely within said radius based on the qualifying standards of this subsection shall receive notification. Contact and mailing information for associations, groups and property owners to be notified shall be provided by the Community Development Department. Mailing preparation, expenses and materials are the responsibility of the developer, applicant and/or representative. Notification shall take place no later than fifteen (15) calendar days prior to the date of submittal. In the event a meeting is called for pursuant to item (4) that follows, may cause delay with the proposal's submittal in order to accommodate the agreed upon meeting schedule and other factors necessary to meet submittal content.

4. Early notification form and content. All required notification shall be sent via regular, non-certified, first class mail and the content of the notice shall include at minimum:

   a. A detailed description (to the extent possible) of what is being pursued in terms of development.

   b. Information as to how the developer, applicant, or representative for the development action may be contacted.

   c. A statement as to how the proposal may impact the neighborhood(s) surrounding the subject property where the development is to occur.

   d. An open offer to participate in a meeting with the association(s)/group(s) and/or property owners at a mutually agreed upon date, time and location in order to discuss the proposal more fully.

   e. A need to provide a WRITTEN meeting request (if desired) to the development representative, copying Community Development staff either in a letter or email format within the stated fifteen (15) calendar day threshold. Requests for a meeting within the fifteen (15) calendar day period shall render the meeting need mandatory prior to submittal whether or not the meeting takes place inside or beyond this fifteen (15) calendar day period. Requests that come in after said period do not compel the applicant to entertain a meeting prior to submittal; however, a meeting with those requesting one is advisable prior to formal review of the proposal by a recommending or decision making body.

   f. Community Development staff contact information for any related correspondence or general inquiry.

5. Neighborhood group/neighborhood meeting. It shall be the responsibility of the representative for the proposal to supply any and all materials necessary to convey development parameters as applicable. Additionally, the representative shall be responsible for minute transcription (summary or verbatim) which clearly indicates the date, time and location of the meeting and the general nature of conversation that tool place regarding the proposal. Information shall at minimum identify key points that convey support for or the lack thereof for the proposal as presented.

(Ord. No. 1798, § I, 6-19-00; Ord. No. 1929, §§ I, II, 8-5-02)

Sec. 37-147. Submittal of an infill subdivision method application.

A. Following a concept plan review by the DRC, if required, the final plat and supplemental material shall be submitted to the community development department. Upon submittal, the subdivision administrator shall have eight hours to review the submittal for completeness. If all of the required items have been submitted, and the final plat submittal contains all necessary items per section 37-147, the submittal will be accepted for review. A proposed final plat shall not be accepted for review if incomplete or

substantially inaccurate.

B. The subdivision administrator, the development review committee or the planning and zoning commission shall have the authority to waive or add submittal requirements if it is determined that the additional items and resulting information is necessary in order to accomplish the objectives of this chapter. Additional requirements may include a neighborhood group and/or noticed area meeting. Any request for additional submittal requirements shall be justified in writing by the requesting entity.

C. Final plats shall be processed to the development review committee and other governmental agencies, if applicable, for review, comments and recommendations. The development review committee shall review the final plat to determine if it is consistent with the intent and purpose set forth in sections 37-3 and 37-141 of this chapter.

(Ord. No. 1798, § I, 6-19-00; Ord. No. 1929, §§ I, II, 8-5-02)

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Sec. 37-148. Approval of infill subdivisions under the infill subdivision method.

A. Following staff review, a written report shall be provided to the Planning and Zoning Commission with a recommendation that the final plat be approved, conditionally approved, postponed, or disapproved. The development review committee shall inform the planning and zoning commission of the reasons for their recommendation on the final plat.

B. Public notice requirements for the infill subdivision method:

1. *Agenda.* The agenda for the planning and zoning commission public hearing shall be made available no later than fifteen (15) calendar days prior to the public hearing.
2. *Posting.* Notice of the proposed development shall be posted in conspicuous places on the property site by the property owner, applicant or representative at least fifteen (15) calendar days prior to the Planning and Zoning Commission public hearing. A sign measuring four (4) feet by four (4) feet shall be used and secured with appropriate supporting hardware made available by Community Development staff. When the property has multiple street frontages, one sign per frontage shall be posted. Large properties may require a greater number of signs which shall be determined by Community Development staff. It shall be the responsibility of the property owner, applicant or representative to ensure continuous posting throughout the public hearing processes. Processes for purposes of this provision shall start with the Planning and Zoning Commission and cease when a final determination is made on the proposal regardless of the number of reviewing entities involved. In that multiple reviewing entities may be involved, Community Development staff will inform the property owner, applicant or representative of necessary changes needed on the sign to reflect the appropriate reviewing entities, meeting dates and venues.
3. *Notice.* Notice on all proposed subdivisions shall be sent by regular, non-certified, first class mail to all property owners (as shown on the records of the county assessor) within the proposed area of development and within 500 feet of the area of the proposed subdivision, excluding streets, alleys, channels, canals, other public rights-of-way and railroad rights-of-way. Regular, non-certified, first class mail shall also be sent to all recognized niehgborhood groups within five hundred (500) feet of the subject property. The community development department is responsible for the list of property owners and preparation of regular mail. Notice for purposes herein, shall be mailed at least fifteen (15) calendar days prior to the public hearing. The subdivision administrator shall execute an affidavit verifying the list of persons to whom notice was mailed. Notice of the time and place of the public hearing shall be published at least fifteen (15) calendar days prior to the public hearing in a newspaper of general circulation in the city.

C. The Planning and Zoning Commission shall review the final plat, report, comments and recommendations from the development review committee, presentation from the applicant or the applicant's representative and from any interested citizens. Action from the Planning and Zoning Commission shall be in the form of an approval, conditional approval, postponement, or disapproval. Action from the Planning and Zoning Commission shall be recorded in the minutes of the meeting. A copy of the notice of decision that includes any changes or conditions from the Planning and Zoning Commission, as approved at the public hearing, shall be furnished to all appropriate

parties in accordance with section 37-11(b). All approvals by the Planning and Zoning Commission are conditioned upon final review and approval of outstanding staff comments.

(Ord. No. 1798, § I, 6-19-00; Ord. No. 1929, §§ I, II, 8-5-02)

Sec. 37-149. Additional approval requirements for the infill development process or infill subdivision method.

A. It is a requirement of the Planning and Zoning Commission that no infill development process or infill subdivision method proposal shall be reviewed unless either the subdivider or the subdivider's representative is present at the Planning and Zoning Commission meeting. If the applicant or representative is not present at the public hearing, the proposal shall be tabled until the next available Planning and Zoning Commission meeting.

B. Upon final approval of the infill development process or the infill subdivision method proposal, the subdivider may submit applications for construction permits and/or a form of security for the filing of the plat. The final plat shall not be filed until all construction improvements have been completed by the developer and approved by the city or a form of security has been established and approved. It shall be the subdivision administrator's responsibility to obtain the necessary signatures of city officials after final plat approval. The subdivision administrator shall be responsible for filing the final plat at the county clerk and recorder's office.

C. Final plat approval shall be effective for no more than three years from the date of approval. If the subdivision improvements have not been completed or a form of security established and approved, the final plat shall be resubmitted for final plat approval. Prior to the expiration date, the developer may submit a request for extension, if desired. The request will be reviewed by the development review committee for consideration. All plat extensions shall be automatically conditioned to required compliance with all city codes, regulations and specifications in place at the time of development of the plat in question.

D. No changes, revisions, erasures, or modifications shall be made on the final plat. No final plat shall be filed and recorded prior to the satisfaction of all requirements and conditions.

E. Appeals. Any person, department, committee, commission, board or bureau that is affected by a decision of an administrative official, committee, or board in the administration or enforcement of this chapter or any other adopted resolution, rule, or regulation may appeal the decision. The appeal must be initiated in writing and delivered to the subdivision administrator within 15 calendar days after all other procedures established by this chapter have been exhausted. For details on the appeal process, refer to section 37-13, "procedures for appealing decisions if staff, the development review committee and the planning and zoning commission."

(Ord. No. 1798, § I, 6-19-00)

Sec. 37-150. Infill subdivision submittal requirements for the infill development process or infill subdivision method.

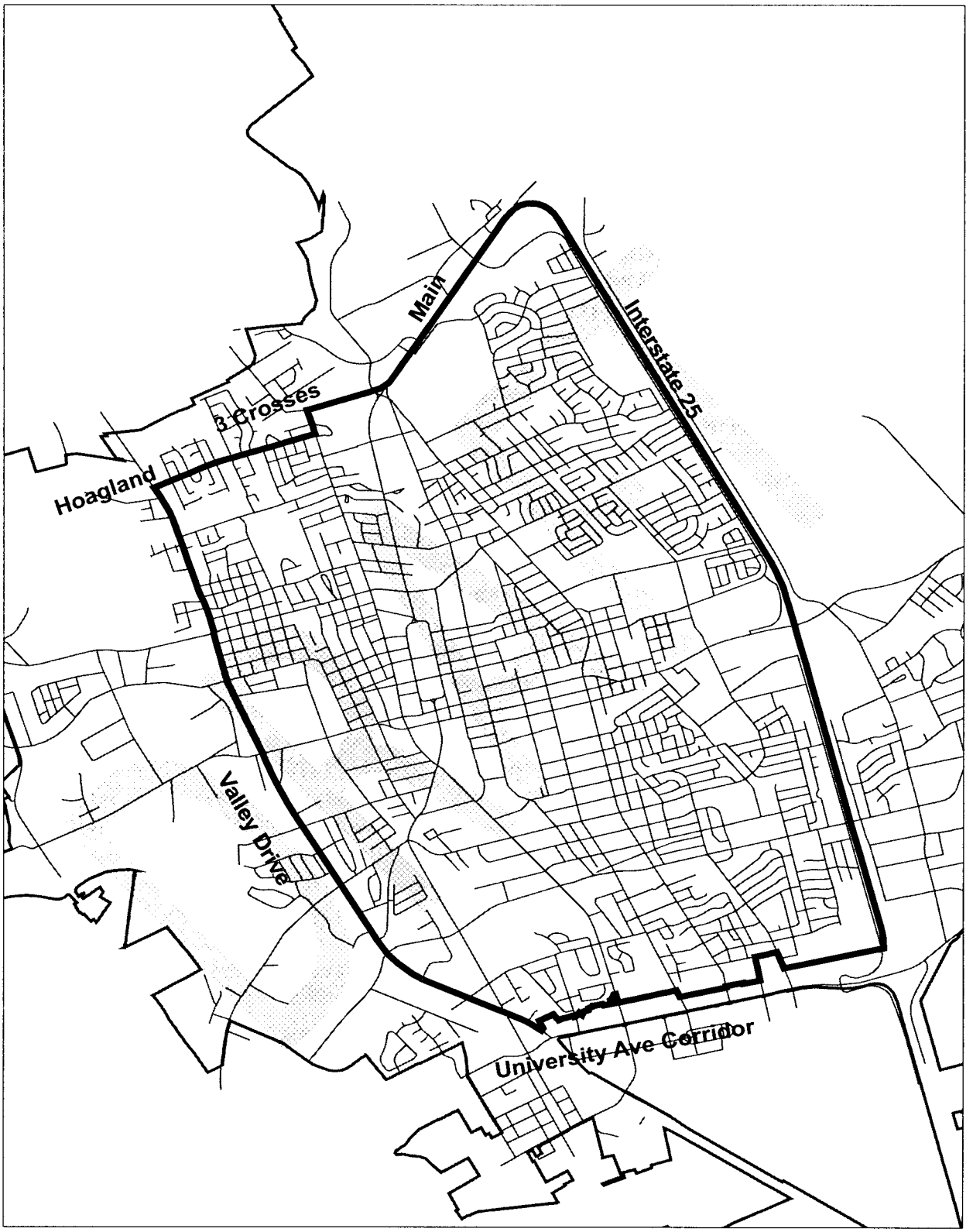
A. Conceptual plan requirements. Preapplication procedure for infill subdivisions utilizing the ISM requires the submittal of a conceptual plan, which shall be prepared in accordance with the master plan requirements stated in section 37-46.

B. Final plat and supplemental material requirements. After review of the conceptual plan, if required, the subdivider shall submit the following for final plat approval.
   1. Application for final plat:
      a. The application shall be signed by all property owners (including all parties having an equitable interest, trustees of an estate or all persons having a specific power of attorney) of the subject property as recorded in the county clerk's office.
      b. Any pending litigation of any final order entered by any court of law regarding the ownership of the subject property shall be disclosed by the applicant at the time that the application is submitted.
   2. Submittal fee, unless utilizing the IDP.
   3. Filing fee shall be required of the applicant at the time of plat filing.
   4. A final plat conforming to section 37-114 of this chapter.
   5. Copy of early notification letter to neighborhood group(s) and/or noticed area and copy of minutes (summary or verbatim) from any subsequent neighborhood group(s) and/or noticed area meeting as may have been required.
   6. Address plat. The address plat shall be drawn with permanent ink or produced by a photographic process on a linen or polyester (Mylar) film. The address plat shall be prepared on 18-inch × 24-inch sheets at a scale that adequately represents the information (preferred scale: 1 inch = 100 feet). Copies provided shall be legible. The following information shall be required:
      a. Title of subdivision.
      b. Approved lot layout.
      c. Lot and block numbers.
      d. Street name.
      e. Address for each lot. (Community development department will provide the addresses.)
      f. Neighborhood delivery and collection box unit location, if applicable.

(Ord. No. 1798, § I, 6-19-00; Ord. No. 1929, §§ I, II, 8-5-02)

Secs. 37-151--37-175. Reserved.

FIGURE 1: Infill Area



ARTICLE VI.
ALTERNATE SUMMARY PROCESS

Sec. 37-176. The purpose of the alternate summary process.

A. When a subdivision consists of no more than two parcels of land or is a replat of a previously-filed subdivision application that does not increase the total number of lots, the subdivision administrator may review and approve the subdivision, including subdivisions that propose to dedicate a right-of-way.

B. The subdivision administrator may also approve replats that decrease the number of lots of contiguous parcels in a previously-filed subdivision, provided that street dedications and utility easements are not being proposed to be vacated by the action.

C. The subdivision administrator shall have the authority to determine whether a replat of a previously-approved subdivision or a subdivision of two parcels shall be approved by summary procedure or be brought before the planning and zoning commission. The determination shall be final unless overruled by the development review committee, the city planning and zoning commission or city council action. (See section 37-13, "procedures for appealing decisions of staff, the development review committee and the planning and zoning commission")

D. The alternate summary procedure shall be used only once on any one property unless the property has been master-planned for creating commercial, office or industrial subdivisions and the streets within those subdivisions have been dedicated and accepted by the city, including previously-platted lots (See article II: Master Plan). If the streets within a subdivision have not been dedicated and accepted by the city, the subdivider must follow the master plan procedures of this chapter before utilizing the alternate summary procedure more than once (See article II: Master Plan).

(Ord. No. 1798, § I, 6-19-00)

Sec. 37-177. Pre-application procedure for final plats submitted under Sec. 37-176 (a) (increase of no more than two lots) or Sec. 37-176 (c) (creation of two parcels from a previously approved subdivision).

A. Any proposed final plat under Sec. 37-176 (a) (increase of no more than two lots) or Sec. 37-176 (c) (creation of two parcels from a previously approved subdivision) causing need for public notification, review and approval by the Planning and Zoning Commission shall first be reviewed at a pre-application meeting scheduled and held by the Community Development staff. A representative for the proposed development action shall attend the pre-application meeting and discuss the proposal in general terms, providing enough specifics to allow attending staff an opportunity to gauge and determine neighborhood and/or community impacts. In that this represents an initial and informal discussion, information provided to the representative regarding procedural nuances or other regulatory related information shall be considered preliminary feedback based on information received, and shall not represent a complete disclosure of all regulatory measures that may apply upon formal review. In no circumstances should related

discussion by staff represent a final disposition on the preliminary proposal at hand.

1. Neighborhood group and/or noticed area determination. Staff upon consideration of the information received during the pre-application meeting, will instruct as to whether early notification of the subject proposal by the applicant to a neighborhood group(s) (recognized group(s)) and/or noticed area shall be necessary prior to formal application and submittal of the development proposal to the city. The criteria used by staff to determine notice need may include, but not be limited to the following:

    a. Development that seeks the elimination of ROW that could potentially disrupt traffic flow within a neighborhood or if approved becomes inconsistent with the Major Thoroughfare Plan.

    b. Potential land use conflicts resulting from proposed land use distribution adjacent to existing development of a differing land use classification such as proposed commercial uses adjacent to low density residential uses.

    c. Known neighborhood concerns on tangible and reasonable development issues that could be mitigated through design alternatives. An example of a concern congruent to this criterion is anticipated development consistency with surrounding development styles as they may relate to lot size/dimension transitions, roadway widths out of character with adjacent development, etc. An example of a concern not congruent to the criterion is disapproving development on private vacant property due to the elimination of "open space" or development of private vacant property because one's view may be compromised,

2. Early notification exception. Staff determination of early notice need which shall include an open invitation to discuss the proposal at a meeting, shall not pre-empt the Planning and Zoning Commission, City Council or other reviewing bodies with approval (recommending or final action) authority from thereafter requiring an additional meeting(s). Criteria used by the applicable reviewing body shall be at their discretion and may or may not follow the criteria identified in the preceding provision. Significant deviation of plan proposal post neighborhood group and/or noticed area meeting may subject the applicant from thereafter participating in another meeting to inform and discuss revisions. Changes addressing neighborhood concerns shall not necessarily subject the applicant to another meeting; however, an omission in the proposal that is added post meeting and deemed significant by Community Development staff is a candidate for reconsideration by the notified neighborhood prior to consideration by any formal reviewing body.

3. Early notification recipients. Notification recipients shall include registered neighborhood groups, and/or associations, identified on the applicable Community Development Department's web page. In the event an identified association or group does not exist or cover an adequate area surrounding the proposal, both the neighborhood group/association and the property owners within 500 feet shall be

notified. If no association or group exists within the notification boundary, notification to property owners shall take place using the same distance threshold. Measurement shall be made radially from the outermost property boundary where the subject proposal is located. Any association/group boundary or property boundary that falls either partially or entirely within said radius based on the qualifying standards of this subsection shall receive notification. Contact and mailing information for associations, groups and property owners to be notified shall be provided by the Community Development Department. Mailing preparation, expenses and materials are the responsibility of the developer, applicant and/or representative. Notification shall take place no later than fifteen (15) calendar days prior to the date of submittal. In the event a meeting is called for pursuant to item (4) that follows, may cause delay with the proposal's submittal in order to accommodate the agreed upon meeting schedule and other factors necessary to meet submittal content.

4. Early notification form and content. All required notification shall be sent via regular, non-certified, first class mail and the content of the notice shall include at minimum:
   a. A detailed description (to the extent possible) of what is being pursued in terms of development.

   b. Information as to how the developer, applicant, or representative for the development action may be contacted.

   c. A statement as to how the proposal may impact the neighborhood(s) surrounding the subject property where the development is to occur.

   d. An open offer to participate in a meeting with the association(s)/group(s) and/or property owners at a mutually agreed upon date, time and location in order to discuss the proposal more fully.

   e. A need to provide a WRITTEN meeting request (if desired) to the development representative, copying Community Development staff either in a letter or email format within the stated fifteen (15) calendar day threshold. Requests for a meeting within the fifteen (15) calendar day period shall render the meeting need mandatory prior to submittal whether or not the meeting takes place inside or beyond this fifteen (15) calendar day period. Requests that come in after said period do not compel the applicant to entertain a meeting prior to submittal; however, a meeting with those requesting one is advisable prior to formal review of the proposal by a recommending or decision making body.

   f. Community Development staff contact information for any related correspondence or general inquiry.

5. Neighborhood group/neighborhood meeting. It shall be the responsibility of the representative for the proposal to supply any and all materials necessary to convey development parameters as applicable. Additionally, the representative shall be responsible for minute transcription (summary or verbatim) which clearly indicates the date, time and location of the meeting and the general nature of conversation that tool place regarding the proposal. Information shall at minimum identify key points that convey support for or the lack thereof for the proposal as presented.

Sec. 37-178. Preapplication procedure - general.

A. Prior to the filing of an application for approval of a final plat, the subdivider shall submit to the community development department a conceptual plan of the proposed development. A written application or fee is not required, nor does the preapplication procedure require formal approval.

B. The conceptual plan shall be processed to the subdivision administrator. The subdivision administrator shall discuss with the applicant or the applicant's representative the proposed final plat and shall indicate changes, if any, that will be required for the submittal process.

(Ord. No. 1798, § I, 6-19-00; Ord. No. 1929, §§ I, II, 8-5-02)

Sec. 37-179. Submittal procedure for the alternate summary process.

A. The final plat and supplemental material processed through the alternate summary procedure shall be submitted to the community development department any time during normal working hours. Upon receipt of the submittal, the community development department shall issue a receipt for same. The subdivision administrator shall then have eight business hours to review the submittal for completeness. If all the required items have been submitted, and the final plat submittal contains all of the necessary items as per section 37-114, the subdivision administrator shall accept the submittal for review. A proposed final plat shall not be accepted for review if incomplete or substantially inaccurate. All items required on a final plat must be presented for acceptance. If a submittal is found to be incomplete, the applicant shall have eight business hours to correct the deficiencies and still meet the submittal deadline, if applicable.

B. The subdivision administrator, the development review committee or the planning and zoning commission shall have the authority to waive or add submittal requirements in cases where it is determined that the additional items and resulting information is necessary in order to accomplish the objectives of this code. Additional requirements may include a neighborhood group and/or noticed area meeting. Any requests for additional submittal requirements shall be justified in writing by the requesting entity.

C. Final plats will be referred to the applicable city departments and other governmental agencies for review, comments and recommendations. Each department shall have five business days to complete the review. Written reports, with their comments and recommendations, shall be forwarded to the subdivision administrator.

D. Whenever comments received by the city departments are in conflict, or the subdivider is in disagreement with the comments, the subdivision administrator shall be the authority to determine and resolve non-engineering or utility comment(s). The subdivision administrator may defer this authority to the development review committee. The development review committee decisions shall be final unless overruled by appeal to department directors, the planning and zoning commission, arbitration or city council, as applicable.

E. The subdivision administrator shall review all comments for applicability and appropriateness to the final plat requirements and shall forward any comments to the subdivider or the subdivider's representative for revision and completion. Final plats or replats that receive comments shall be resubmitted and reviewed until the provisions set forth in this chapter are met. At that time, the final plat or replat shall be approved, and notice of decision shall be furnished to the applicant and the applicant's representative in accordance with section 37-11(b).

F. Upon final approval of the final plat or replat, the applicant may submit applications for construction permits and/or a form of security for the filing of the plat. The final plat or replat shall not be filed until all construction improvements have been completed and approved by the city, or a form of security has been established and approved. It shall be the subdivision administrator's responsibility to obtain the necessary signatures of city officials after final plat or replat approval. The subdivision administrator and the applicant or their representative shall be responsible for filing the final plat or replat at the office of the county clerk.

G. Final plat approval shall be effective for no more than three years from the date of approval as described on the approval action form. If the subdivision improvements have not begun or a form of security established and approved, the final plat shall be resubmitted for approval. The subdivider may submit a request for extension of approval prior to the expiration date, if desired. The request will be reviewed by the subdivision administrator for consideration. All plat application extensions shall be automatically conditioned to require compliance with all city codes, regulations and specifications in place at the time of development of the plat in question.

H. An applicant who proposes a subdivision for the purpose of mortgage, which is processed through the alternate summary procedure, is required to submit a plat of survey and a legal description with a note that clearly states that the subdivision is for mortgage purposes only and does not allow for the conveyance of the property in question. Upon submittal, the subdivision administrator shall transmit a letter to the property owner stating that the subdivision created is for mortgage purposes only and does not grant the authority to sell the divided parcel as shown on the plat of survey. If the property owner desires to sell the divided parcel by mortgage, he/she is responsible for meeting all requirements, as stated in this chapter. Once the property owner provides a written response to the subdivision administrator's letter that said property owner understands the conditions of the subdivision by mortgage and is not dividing said parcel for the purpose of sale, the subdivision administrator will approve the plat of survey.

I. Appeals. Any person, department, committee, commission, board or bureau affected by a decision of an administrative official, committee, or board in the administration or enforcement of this chapter, or by any other adopted resolution, rule, or regulation, may appeal the decision. The appeal must be initiated in writing and delivered to the community development department within 15 calendar days after all other procedures established by this chapter have been exhausted. Refer to section 37-13, "procedures for appealing decisions of staff, the development review committee and the planning and zoning commission," for details on the appeal process.

(Ord. No. 1798, § I, 6-19-00; Ord. No. 1929, §§ I, II, 8-5-02)

Sec. 37-180. Alternate summary process submittal requirements.

A. Subdivisions that follow the alternate summary process shall conform to the following requirements:
   1. *Application.*
      a. The application shall be signed by all property owners (including all parties having an equitable interest, trustees of an estate and all persons having a specific power of attorney) of the subject property, as recorded in the county clerk's office.
      b. Any pending litigation of any final order entered by any court of law regarding the ownership of the subject property shall be disclosed by the applicant at the time that the application is submitted.
   2. *Submittal fee.*
   3. Documentation from the county assessor's office that the current year's property taxes are paid and that no taxes are owed on the property.
   4. A final plat conforming to section 37-114 of this code.
   5. Releases by affected utility companies for replats submitted for approval by the alternate summary procedure.
   6. Address plat. The address plat shall be drawn using permanent black ink or produced by a photographic process on a linen or polyester (Mylar) film. The address plat shall be prepared on 18-inch x 24-inch sheets at a scale that adequately represents the information (preferred scale: 1 inch = 100 feet). Copies provided shall be legible. The following information shall be required:
      a. Title of subdivision;
      b. Approved lot layout;
      c. Lot and block numbers;
      d. Street name;
      e. Address of each lot (Community development department will provide the addresses).
      f. Neighborhood delivery and collection box unit location, if applicable.
   7. Filing fee at time of plat filing.
   8. Copy of early notification letter to neighborhood group(s) and/or noticed area and copy of minutes (summary or verbatim) from any subsequent neighborhood group(s) and/or noticed area meeting as may have been required.

(Ord. No. 1798, § I, 6-19-00; Ord. No. 1929, §§ I, II, 8-5-02)

Secs. 37-181--37-205. Reserved.

ARTICLE VII.
REPLATS

Sec. 37-206. Replat--Defined.
A replat occurs when changes take place on a previously-filed subdivision plat. The process to follow when replatting a subdivision of lots within a subdivision varies and depends on the type(s) of changes being made.
(Ord. No. 1798, § I, 6-19-00)

Sec. 37-207. Process to follow when replatting.

A. A replat of a previously-filed subdivision that does not increase the total number of lots (moving or removing existing lot lines) may follow the procedures established in article VI, alternate summary procedure.

B. Replats that increase the total number of lots of a previously-filed subdivision shall follow procedures appropriate to those given in Final Plats.

C. Replats proposing waivers to this chapter and/or design standards shall follow the appropriate procedures regardless of whether said waiver(s) were approved with the original subdivision plat.

D. Replats and vacation plats may be submitted simultaneously and as one plat, if deemed appropriate by the subdivision administrator (Refer to Vacations). The application shall be processed to the city council for consideration when all requirements of this chapter have been met.

E. Appeals. Any person, department, committee, commission, board or bureau affected by a decision of an administrative official, committee, or board in the administration or enforcement of this chapter, or of any other adopted resolution, rule or regulation, may appeal the decision. The appeal must be initiated in writing and delivered to the city community development department within 15 calendar days after all other procedures established by this chapter have been exhausted. For details on the appeal process, refer to section 37-13, "procedures for appealing decisions of staff, the development review committee and the planning and zoning commission."

Sec. 37-208. Pre-application procedure for final plats submitted under Sec. 37-207 (b) (increase of lots of a previously filed subdivision or Sec. 37-207 (d) (vacation plats).

A. Any proposed final plat under Sec. 37-207 (b) (increase of lots of a previously filed subdivision or Sec. 37-207 (d) (vacation plats) causing need for public notification, review and approval by the Planning and Zoning Commission or City Council shall first be reviewed at a pre-application meeting scheduled and held by the Community Development staff. A representative for the proposed development action shall attend the pre-application meeting and discuss the proposal in general terms, providing enough specifics to allow attending staff an opportunity to gauge and determine neighborhood and/or community impacts. In that this represents an initial and informal discussion,

information provided to the representative regarding procedural nuances or other regulatory related information shall be considered preliminary feedback based on information received, and shall not represent a complete disclosure of all regulatory measures that may apply upon formal review. In no circumstances should related discussion by staff represent a final disposition on the preliminary proposal at hand.

1. Neighborhood group and/or noticed area determination. Staff upon consideration of the information received during the pre-application meeting, will instruct as to whether early notification of the subject proposal by the applicant to a neighborhood group(s) (recognized group(s)) and/or noticed area shall be necessary prior to formal application and submittal of the development proposal to the city. The criteria used by staff to determine notice need may include, but not be limited to the following:

    a. Development that seeks the elimination of ROW that could potentially disrupt traffic flow within a neighborhood or if approved becomes inconsistent with the Major Thoroughfare Plan.

    b. Potential land use conflicts resulting from proposed land use distribution adjacent to existing development of a differing land use classification such as proposed commercial uses adjacent to low density residential uses.

    c. Known neighborhood concerns on tangible and reasonable development issues that could be mitigated through design alternatives. An example of a concern congruent to this criterion is anticipated development consistency with surrounding development styles as they may relate to lot size/dimension transitions, roadway widths out of character with adjacent development, etc. An example of a concern not congruent to the criterion is disapproving development on private vacant property due to the elimination of "open space" or development of private vacant property because one's view may be compromised,

2. Early notification exception. Staff determination of early notice need which shall include an open invitation to discuss the proposal at a meeting, shall not pre-empt the Planning and Zoning Commission, City Council or other reviewing bodies with approval (recommending or final action) authority from thereafter requiring an additional meeting(s). Criteria used by the applicable reviewing body shall be at their discretion and may or may not follow the criteria identified in the preceding provision. Significant deviation of plan proposal post neighborhood group and/or noticed area meeting may subject the applicant from thereafter participating in another meeting to inform and discuss revisions. Changes addressing neighborhood concerns shall not necessarily subject the applicant to another meeting; however, an omission in the proposal that is added post meeting and deemed significant by Community Development staff is a candidate for reconsideration by the notified neighborhood prior to consideration by any formal reviewing body.

3. Early notification recipients. Notification recipients shall include registered neighborhood groups, and/or associations, identified on the applicable Community

Development Department's web page. In the event an identified association or group does not exist or cover an adequate area surrounding the proposal, both the neighborhood group/association and the property owners within 500 feet shall be notified. If no association or group exists within the notification boundary, notification to property owners shall take place using the same distance threshold. Measurement shall be made radially from the outermost property boundary where the subject proposal is located. Any association/group boundary or property boundary that falls either partially or entirely within said radius based on the qualifying standards of this subsection shall receive notification. Contact and mailing information for associations, groups and property owners to be notified shall be provided by the Community Development Department. Mailing preparation, expenses and materials are the responsibility of the developer, applicant and/or representative. Notification shall take place no later than fifteen (15) calendar days prior to the date of submittal. In the event a meeting is called for pursuant to item (4) that follows, may cause delay with the proposal's submittal in order to accommodate the agreed upon meeting schedule and other factors necessary to meet submittal content.

4. Early notification form and content. All required notification shall be sent via regular, non-certified, first class mail and the content of the notice shall include at minimum:
   a. A detailed description (to the extent possible) of what is being pursued in terms of development.

   b. Information as to how the developer, applicant, or representative for the development action may be contacted.

   c. A statement as to how the proposal may impact the neighborhood(s) surrounding the subject property where the development is to occur.

   d. An open offer to participate in a meeting with the association(s)/group(s) and/or property owners at a mutually agreed upon date, time and location in order to discuss the proposal more fully.

   e. A need to provide a WRITTEN meeting request (if desired) to the development representative, copying Community Development staff either in a letter or email format within the stated fifteen (15) calendar day threshold. Requests for a meeting within the fifteen (15) calendar day period shall render the meeting need mandatory prior to submittal whether or not the meeting takes place inside or beyond this fifteen (15) calendar day period. Requests that come in after said period do not compel the applicant to entertain a meeting prior to submittal; however, a meeting with those requesting one is advisable prior to formal review of the proposal by a recommending or decision making body.

f. Community Development staff contact information for any related correspondence or general inquiry.

5. Neighborhood group/neighborhood meeting. It shall be the responsibility of the representative for the proposal to supply any and all materials necessary to convey development parameters as applicable. Additionally, the representative shall be responsible for minute transcription (summary or verbatim) which clearly indicates the date, time and location of the meeting and the general nature of conversation that tool place regarding the proposal. Information shall at minimum identify key points that convey support for or the lack thereof for the proposal as presented.Sec. 37-208.

(Ord. No. 1798, § I, 6-19-00; Ord. No. 1929, §§ I, II, 8-5-02)

Secs. 37-209--37-235. Reserved.

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ARTICLE VIII.
VACATION PLATS

Sec. 37-236. Purpose of vacation platting.

A. The vacation process is to be followed when a request is made to rescind all or part of a recorded subdivision plat of land that has been legally dedicated. A vacation petitioner shall file a vacation plat on any land being vacated that is recorded in the county clerk's office, unless determined by the subdivision administrator that such action is not required. If a vacation plat is not required, a plat of survey that is clear and concise in displaying the proposed vacation shall be submitted, in lieu of said plat,.

B. Vacation plats shall be prepared as a final plat in accordance with section 37-114 of this chapter. Said plat shall be prepared by, and have the seal of, a state registered land surveyor.

(Ord. No. 1798, § I, 6-19-00)

Sec. 37-237. Preapplication procedure for vacation plats.

A. Any proposed vacation plat causing need for public notification, review and approval by the City Council shall first be reviewed at a pre-application meeting scheduled and held by the Community Development staff. A representative for the proposed platting action shall attend the pre-application meeting and discuss the proposal in general terms, providing enough specifics to allow attending staff an opportunity to gauge and determine neighborhood and/or community impacts. In that this represents an initial and informal discussion, information provided to the representative regarding procedural nuances or other regulatory related information shall be considered preliminary feedback based on information received, and shall not represent a complete disclosure of all regulatory measures that may apply upon formal review. In no circumstances should related discussion by staff represent a final disposition on the preliminary proposal at hand.

1. Neighborhood group and/or noticed area determination. Staff upon consideration of the information received during the pre-application meeting, will instruct as to whether early notification of the subject proposal by the applicant to a neighborhood group(s) (recognized group(s)) and/or noticed area shall be necessary prior to formal application and submittal of the development proposal to the city. The criteria used by staff to determine notice need may include, but not be limited to the following:

   a. Development that seeks the elimination of ROW that could potentially disrupt traffic flow within a neighborhood or if approved becomes inconsistent with the Major Thoroughfare Plan.

   b. Potential land use conflicts resulting from potential sale of vacated property to adjacent property owners.

c. Known neighborhood concerns on tangible and reasonable development issues that could be mitigated through design alternatives. An example of a concern congruent to this criterion is the loss of pedestrian access as a result of vacated right of way.

2. Early notification exception. Staff determination of early notice need which shall include an open invitation to discuss the proposal at a meeting, shall not pre-empt the Planning and Zoning Commission, City Council or other reviewing bodies with approval (recommending or final action) authority from thereafter requiring an additional meeting(s). Criteria used by the applicable reviewing body shall be at their discretion and may or may not follow the criteria identified in the preceding provision. Significant deviation of plan proposal post neighborhood group and/or noticed area meeting may subject the applicant from thereafter participating in another meeting to inform and discuss revisions. Changes addressing neighborhood concerns shall not necessarily subject the applicant to another meeting; however, an omission in the proposal that is added post meeting and deemed significant by Community Development staff is a candidate for reconsideration by the notified neighborhood prior to consideration by any formal reviewing body.

3. Early notification recipients. Notification recipients shall include registered neighborhood groups, and/or associations, identified on the applicable Community Development Department's web page. In the event an identified association or group does not exist or cover an adequate area surrounding the proposal, both the neighborhood group/association and the property owners within 500 feet shall be notified. If no association or group exists within the notification boundary, notification to property owners shall take place using the same distance threshold. Measurement shall be made radially from the outermost property boundary where the subject proposal is located. Any association/group boundary or property boundary that falls either partially or entirely within said radius based on the qualifying standards of this subsection shall receive notification. Contact and mailing information for associations, groups and property owners to be notified shall be provided by the Community Development Department. Mailing preparation, expenses and materials are the responsibility of the developer, applicant and/or representative. Notification shall take place no later than fifteen (15) calendar days prior to the date of submittal. In the event a meeting is called for pursuant to item (4) that follows, may cause delay with the proposal's submittal in order to accommodate the agreed upon meeting schedule and other factors necessary to meet submittal content.

4. Early notification form and content. All required notification shall be sent via regular, non-certified, first class mail and the content of the notice shall include at minimum:
   a. A detailed description (to the extent possible) of what is being pursued in terms of development.

b. Information as to how the developer, applicant, or representative for the development action may be contacted.

c. A statement as to how the proposal may impact the neighborhood(s) surrounding the subject property where the development is to occur.

d. An open offer to participate in a meeting with the association(s)/group(s) and/or property owners at a mutually agreed upon date, time and location in order to discuss the proposal more fully.

e. A need to provide a WRITTEN meeting request (if desired) to the development representative, copying Community Development staff either in a letter or email format within the stated fifteen (15) calendar day threshold. Requests for a meeting within the fifteen (15) calendar day period shall render the meeting need mandatory prior to submittal whether or not the meeting takes place inside or beyond this fifteen (15) calendar day period. Requests that come in after said period do not compel the applicant to entertain a meeting prior to submittal; however, a meeting with those requesting one is advisable prior to formal review of the proposal by a recommending or decision making body.

f. Community Development staff contact information for any related correspondence or general inquiry.

5. Neighborhood group/neighborhood meeting. It shall be the responsibility of the representative for the proposal to supply any and all materials necessary to convey development parameters as applicable. Additionally, the representative shall be responsible for minute transcription (summary or verbatim) which clearly indicates the date, time and location of the meeting and the general nature of conversation that tool place regarding the proposal. Information shall at minimum identify key points that convey support for or the lack thereof for the proposal as presented.

Sec. 37-238. Submittal process for vacation plats.

A. The vacation plat and supplemental material shall be submitted to the community development department no later than 35 calendar days prior to the day of the regular meeting of the city council for approval consideration.

B. Upon receipt of submittal, the community development department shall issue a receipt for same. The subdivision administrator shall then have eight business hours to review the submittal for completeness. If all of the required items have been submitted, and the vacation plat submittal contains all necessary items, the subdivision administrator shall accept the submittal for review. A proposed vacation plat shall not be accepted for review if incomplete or substantially inaccurate. All items required on a vacation plat must be present for acceptance. If the submittal is found to be incomplete, the applicant shall have

eight business hours to correct the deficiencies and still meet the submittal deadline if applicable.

C. The subdivision administrator or the development review committee shall have the authority to waive or add submittal requirements if it is determined that the additional items and resulting information is necessary in order to accomplish the objectives of this code. Additional requirements may include a neighborhood group and/or noticed area meeting. Any request for additional submittal requirements shall be justified in writing by the requesting entity.

(Ord. No. 1929, §§ I, II, 3-3-03)

Sec. 37-238. Vacation plat approval process.

A. Vacation plats shall be submitted to the development review committee for review, comments and recommendations. The development review committee shall review the vacation plat to determine whether it is consistent with the intents and purposes set forth in this chapter.

B. A written report shall be provided to the city council with a recommendation that the vacation plat be either approved, denied or modified. The development review committee shall state reasons for their recommendation to the city council.

C. Public notice requirements:
   1. *Agenda.* The agenda of the city council meetings shall be made available no later than fifteen (15) calendar days prior to the meeting.
   2. *Notice.* Notice of the time and place of the city council meeting shall be published in a newspaper of general circulation in the city at least fifteen (15) calendar days prior to the meeting. Notice on all proposed vacations shall be sent by regular, non-certified, first class mail to all property owners (as shown on the records of the county assessor) within 500 feet of the proposed vacated right-of-way. Regular, non-certified, first class mail shall also be sent to all recognized neighborhood groups within 500 feet of the proposed vacated right-of way. The subdivision administrator shall execute an affidavit verifying the list of persons to whom notice was mailed. Notice to neighborhood group(s) and/or noticed area shall be mailed at least fifteen (15) calendar days prior to the meeting.

D. The city council shall review the vacation plat or request, comments and recommendations from the development review committee, the presentation from the petitioner or the petitioner's representative and from any interested citizens. Action from the city council shall be in the form of approval, denial, or modification. Action from the city council shall be recorded in the minutes of the meeting. An affirmative vote by four members of the city council is required for approval of a vacation plat or request. A copy of the city council notice of decision that includes any changes or conditions, as done at the public hearing, shall be furnished to all of the parties stated above in accordance with section 37-11(b).

E. It is the requirement of the city council that no vacation plat or request shall be reviewed

unless either the petitioner or the petitioner's representative is present at the city council meeting. If the applicant is not present at the public hearing, the vacation plat or request will be tabled until the next regular city council meeting.

F. No changes, revisions, erasures or modifications shall be made on the vacation plat after approval by the city council. No vacation plat shall be filed and recorded prior to the satisfaction of all requirements and conditions of this chapter. It shall be the subdivision administrator's responsibility to obtain the necessary signatures of city officials after vacation plat approval. The subdivision administrator shall be responsible for filing the vacation plat at the county clerk's and records office.

G. Appeals. The decision of the city council may be appealed to district court. The appeal must be filed within 30 calendar days of the decision of the city council. See section 37-13 for details on the appeal process.

(Ord. No. 1798, § I, 6-19-00)

Sec. 37-239. Vacation plat submittal requirements.

A. The following information shall be required.
   1. Application.
      a. The application shall be signed by all property owners (including all parties having an equitable interest, trustees of an estate or all persons having a specific power of attorney) of the subject property, as recorded in the county clerk's office.
      b. Any pending litigation of any final order entered by any court of law regarding the ownership of the subject property shall be disclosed by the applicant at the time that the application is submitted.
   2. Submittal fee.
   3. Filing fee at time of plat filing.
   4. Vacation plat (conforming to the provisions set forth in section 37-114), with the exception that signature blocks for the mayor and the city clerk be added in lieu of that of the city planning and zoning commission. In addition, all existing utilities and utility easements shall be shown on the plat.
   5. A petition signed and notarized by property owners in situations whereby access would be affected.
   6. A statement of vacation signed and notarized by the property owners.
   7. Copy of early notification letter to neighborhood group(s) and/or noticed area and copy of minutes (summary or verbatim) from any subsequent neighborhood group(s) and/or noticed area meeting as may have been required.

(Ord. No. 1798, § I, 6-19-00)

Secs. 37-240--37-265. Reserved.

ARTICLE IX.
ANNEXATIONS

Sec. 37-266. Purpose of annexation.
The purpose of an annexation is to redesignate property outside the city as being within the city limits, thereafter. Annexations can be used to maintain a unified urban area and to promote orderly growth utilizing city services.
(Ord. No. 1798, § I, 6-19-00)

Sec. 37-267. When an annexation plat is required.
An annexation plat conforming to this chapter shall be required for all annexation requests. A master plan identifying the purpose for which the property is intended to be used, and an initial zoning request, are also required. (Ord. No. 1798, § I, 6-19-00)

Sec. 37-268. Preapplication procedure.

A. Any proposed annexation causing need for public notification, review and approval by the Planning and Zoning Commission and City Council shall first be reviewed at a pre-application meeting scheduled and held by the Community Development staff. The applicant shall submit to the community development department a conceptual plan of the proposed development/annexation. A written application or fee is not required, nor does this preapplication procedure require planning and zoning commission approval. A representative for the proposed development action shall attend the pre-application meeting and discuss the proposal in general terms, providing enough specifics to allow attending staff an opportunity to gauge and determine neighborhood and/or community impacts. In that this represents an initial and informal discussion, information provided to the representative regarding procedural nuances or other regulatory related information shall be considered preliminary feedback based on information received, and shall not represent a complete disclosure of all regulatory measures that may apply upon formal review. In no circumstances should related discussion by staff represent a final disposition on the preliminary proposal at hand.

1. Neighborhood group and/or noticed area determination. Staff upon consideration of the information received during the pre-application meeting, will instruct as to whether early notification of the subject proposal by the applicant to a neighborhood group(s) (recognized group(s)) and/or noticed area shall be necessary prior to formal application and submittal of the development proposal to the city. The criteria used by staff to determine notice need may include, but not be limited to the following:

   a. Development that is likely to cause significant traffic impacts due to limited roadway access or a potential decrease in level of service based on the subject roadway's design.

   b. Potential land use conflicts resulting from proposed land use distribution adjacent to existing development of a differing land use classification such as proposed commercial uses adjacent to low density residential uses.

c. Known neighborhood concerns on tangible and reasonable development issues that could be mitigated through design alternatives. An example of a concern congruent to this criterion is anticipated development consistency with surrounding development styles as they may relate to lot size/dimension transitions, roadway widths out of character with adjacent development, etc. An example of a concern not congruent to the criterion is disapproving development on private vacant property due to the elimination of "open space" or development of private vacant property because one's view may be compromised,

2. Early notification exception. Staff determination of early notice need which shall include an open invitation to discuss the proposal at a meeting, shall not pre-empt the Planning and Zoning Commission, City Council or other reviewing bodies with approval (recommending or final action) authority from thereafter requiring an additional meeting(s). Criteria used by the applicable reviewing body shall be at their discretion and may or may not follow the criteria identified in the preceding provision. Significant deviation of plan proposal post neighborhood group and/or noticed area meeting may subject the applicant from thereafter participating in another meeting to inform and discuss revisions. Changes addressing neighborhood concerns shall not necessarily subject the applicant to another meeting; however, an omission in the proposal that is added post meeting and deemed significant by Community Development staff is a candidate for reconsideration by the notified neighborhood prior to consideration by any formal reviewing body.

3. Early notification recipients. Notification recipients shall include registered neighborhood groups, and/or associations, identified on the applicable Community Development Department's web page. In the event an identified association or group does not exist or cover an adequate area surrounding the proposal, both the neighborhood group/association and the property owners within 500 feet shall be notified. If no association or group exists within the notification boundary, notification to property owners shall take place using the same distance threshold. Measurement shall be made radially from the outermost property boundary where the subject proposal is located. Any association/group boundary or property boundary that falls either partially or entirely within said radius based on the qualifying standards of this subsection shall receive notification. Contact and mailing information for associations, groups and property owners to be notified shall be provided by the Community Development Department. Mailing preparation, expenses and materials are the responsibility of the developer, applicant and/or representative. Notification shall take place no later than fifteen (15) calendar days prior to the date of submittal. In the event a meeting is called for pursuant to item (4) that follows, may cause delay with the proposal's submittal in order to accommodate the agreed upon meeting schedule and other factors necessary to meet submittal content.

4. Early notification form and content. All required notification shall be sent via regular, non-certified, first class mail and the content of the notice shall include at minimum:

   a. A detailed description (to the extent possible) of what is being pursued in terms of development.

   b. Information as to how the developer, applicant, or representative for the development action may be contacted.

   c. A statement as to how the proposal may impact the neighborhood(s) surrounding the subject property where the development is to occur.

   d. An open offer to participate in a meeting with the association(s)/group(s) and/or property owners at a mutually agreed upon date, time and location in order to discuss the proposal more fully.

   e. A need to provide a WRITTEN meeting request (if desired) to the development representative, copying Community Development staff either in a letter or email format within the stated fifteen (15) calendar day threshold. Requests for a meeting within the fifteen (15) calendar day period shall render the meeting need mandatory prior to submittal whether or not the meeting takes place inside or beyond this fifteen (15) calendar day period. Requests that come in after said period do not compel the applicant to entertain a meeting prior to submittal; however, a meeting with those requesting one is advisable prior to formal review of the proposal by a recommending or decision making body.

   f. Community Development staff contact information for any related correspondence or general inquiry.

5. Neighborhood group/neighborhood meeting. It shall be the responsibility of the representative for the proposal to supply any and all materials necessary to convey development parameters as applicable. Additionally, the representative shall be responsible for minute transcription (summary or verbatim) which clearly indicates the date, time and location of the meeting and the general nature of conversation that tool place regarding the proposal. Information shall at minimum identify key points that convey support for or the lack thereof for the proposal as presented.

B. The subdivision administrator and the zoning administrator shall review all conceptual annexation requests and discuss with the petitioner(s) and/or the petitioners' representative any changes that will be required for the submittal process.

(Ord. No. 1798, § I, 6-19-00; Ord. No. 1929, §§ I, II, 8-5-02)

Sec. 37-269. Submittal of an annexation request.

A. The annexation petition, initial zoning request, master plan and annexation plat shall be submitted to the community development department no later than 48 calendar days prior to the day of the regular meeting of the planning and zoning commission for approval consideration.

B. Upon receipt of a submittal, the community development department shall issue a receipt for same. The subdivision administrator shall then have eight business hours to review the submittal for completeness. If all of the required items have been submitted, the subdivision administrator shall accept the submittal for review. A proposed annexation shall not be accepted for review if the annexation plat, the master plan and the zoning application are incomplete or substantially inaccurate. If a submittal is found to be incomplete, the applicant shall have eight business hours to correct the deficiencies and still meet the submittal deadline if applicable.

C. The subdivision administrator, the development review committee or the planning and zoning commission shall have the authority to waive or add submittal requirements if it is determined that the additional items and resulting information is necessary in order to accomplish the objectives of this code. Required information may include, but is not limited to, a neighborhood groups and/or noticed area meeting, traffic impact analysis, environmental analysis or other documentation or information necessary to meet the objectives of this chapter. Any request for additional submittal requirements shall be justified in writing by the requesting entity.

D. Annexation requests will be referred to the applicable city departments and other governmental agencies for review, comments and recommendations. Each department shall have five business days in which to complete the review. Written reports with their recommendations shall be forwarded to the subdivision administrator.

E. The subdivision administrator shall review all comments for applicability and appropriateness to the annexation requirements and shall forward any comments to the applicant or the applicant's representative for completion. Annexation requests that receive comments shall be resubmitted and reviewed until the provisions set forth in this chapter are met.

(Ord. No. 1798, § I, 6-19-00; Ord. No. 1929, §§ I, II, 8-5-02)

Sec. 37-270. Review and consideration of an annexation request.

A. Following initial staff review and review of the initial zoning request, the annexation request shall be forwarded to the development review committee for review, comment and recommendation. The development review committee shall review the annexation master plan in accordance with section 37-45 of this chapter. Following development review committee review, the master plan, and the annexation and initial zoning request, shall be scheduled for a public hearing for planning and zoning commission consideration. A written report shall be provided to the planning and zoning commission from the development review committee recommending that the master plan and the annexation and initial zoning request be either approved, conditionally approved,

postponed or disapproved. The development review committee shall state the reasons for their recommendation concerning the annexation and initial zoning request submitted to the planning and zoning commission.

B. Public notice requirements: The items indicated below shall be required for all annexation requests scheduled for planning and zoning commission action.
   1. *Agenda.* The agenda for the planning and zoning commission public hearing shall be made available no later than fifteen (15) calendar days prior to the public hearing.
   2. *Posting.* The community development department shall post a notice of the proposed annexation and initial zoning in a conspicuous place on the property at least fifteen (15) calendar days prior to the planning and zoning commission public hearing. A sign measuring four (4) feet by four (4) feet shall be used and secured with appropriate supporting hardware made available by Community Development staff. When the property has multiple street frontages, one sign per frontage shall be posted. Large properties may require a greater number of signs which shall be determined by Community Development staff. It shall be the responsibility of the property owner, applicant or representative to ensure continuous posting throughout the public hearing processes. Processes for purposes of this provision shall start with the Planning and Zoning Commission and cease when a final determination is made on the proposal regardless of the number of reviewing entities involved. In that multiple reviewing entities may be involved, , Community Development staff will inform the property owner, applicant or representative of necessary changes needed on the sign to reflect the appropriate reviewing entities, meeting dates and venues.
   3. *Notice.* Notice of the Planning and Zoning Commission public hearing shall be sent by certified mail to all property owners when one city block or less is under consideration for the activities listed, (except zone change-related cases, see Section 38-10B2b, where notice shall be sent by regular, non-certified, first class mail), as shown by the records of the County Assessor, within at least one hundred (100) feet of the subject property of the proposed request, excluding streets, alleys, channels, canals, railroads, and all other public rights-of-way. Thereafter, regular, non-certified, first class mail shall be sent to those properties that fall within a distance greater than one hundred (100) feet and no less than five hundred (500) feet of the subject property. The secondary distance of (>= 100' - <= 500') may include streets, alleys, channels, canals, railroads, and all other public rights-of-way.. Regular, non-certified, first class mail shall also be sent to all recognized neighborhood groups within five hundred (500) feet of the subject property. Notice shall be mailed at least fifteen (15) calendar days prior to the required public hearing. Notice of the time and place of the public hearing shall be published at least fifteen (15) calendar days prior to the public hearing in a newspaper of general circulation in the City.

C. The planning and zoning commission shall review the master plan, the annexation and initial zoning request report, comments, and recommendations received from the development review committee, as well as the presentation from the applicant and/or the applicant's representative, and from any interested citizens at a public hearing. The intent of the planning and zoning commission review is to allow for public input in the development process and to serve as a land-planning process. Review of the proposal

shall consist of zoning-related issues including, but not limited to, compliance with the comprehensive plan. Action from the planning and zoning commission shall be recorded in the minutes of the meeting. The annexation request shall be heard as one case, but separate action shall be taken on the master plan, the annexation plat and the initial zoning request. Action on the annexation plat and the initial zoning request will be in the form of a recommendation to the city council that the proposals be approved, conditionally approved, or disapproved.

D. It is the requirement of the planning and zoning commission that no annexation request shall be reviewed unless either the applicant or the applicant's representative is present at the public hearing. If neither is present at the public hearing, the request will be postponed until the next regular planning and zoning commission meeting.

E. Following action by the planning and zoning commission, the annexation request and the initial zoning request shall be forwarded to the city council for final action. The annexation request and the initial zoning request will be scheduled for the next available regular city council meeting once staff has received the minutes of the planning and zoning commission public hearing, and all public notice requirements of this chapter are met. A copy of the notice of decisions that include any changes or conditions the planning and zoning commission and city council made at public hearings shall be provided to all appropriate parties in accordance with section 37-11(b).

F. Appeals. Any person, department, committee, commission, board or bureau that is affected by a decision of an administrative official, committee, or board in the administration or enforcement of this chapter, or of any other adopted resolution, rule, or regulation, may appeal the decision. The appeal must be initiated in writing and delivered to the community development department within 15 calendar days after all other procedures established by this chapter have been exhausted. For details on the appeal process, refer to section 37-13, "procedures for appealing decisions of staff, the development review committee and the planning and zoning commission."

(Ord. No. 1798, § I, 6-19-00; Ord. No. 1929, §§ I, II, 8-5-02)

Sec. 37-271. Annexation request submittal requirements.

A. A request for annexation shall include the following:
   1. Application (to include annexation, initial zoning and master plan):
      a. The application shall be signed by all property owners (including all parties having an equitable interest, trustees of an estate or all persons having a specific power of attorney) of the subject property as recorded in the county clerk's office.
      b. Any pending litigation of any final order entered by any court of law regarding the ownership of the subject property shall be disclosed by the applicant at the time the application is submitted.
   2. Submittal fee.
   3. Petition. The petition shall contain the following information:
      a. Date;
      b. Description of property (certified by N.M.P.L.S.);

c. Acknowledgment by each property owner;
d. Name of each property owner;
e. Address of each property owner;
f. Notarized signature of each property owner;

4. Annexation plat. Conforming to the provisions set forth in section 37-114, the plat must also contain certification blocks for the mayor and the city clerk, as well as for recording information (book and page) for the annexation ordinance. An annexation plat must include all adjacent public rights-of-way.

   The plat shall, by note, reference all agreements related to water rights, and future payments, and must include the city council resolution number associated with the agreement.
5. Initial zoning request (see 1981 Las Cruces zoning code, as amended).
6. Master plan, conforming to the provisions set forth in section 37-46.
7. Letter of acknowledgment from the property owner(s) that the conveyance of water rights or payment in lieu of said rights shall be required at the time of development; and, adherence to the city's water rights ordinance, as amended.
8. Filing fee at time of plat and ordinance filing.
9. Copy of early notification letter to neighborhood group(s) and/or noticed area and copy of minutes (summary or verbatim) from any subsequent neighborhood group(s) and/or noticed area meeting as may have been required.

(Ord. No. 1798, § I, 6-19-00)

Secs. 37-272--37-297. Reserved.

ARTICLE X.
GUARANTEE OF IMPROVEMENTS

Sec. 37-298. Subdivision improvement requirements.

A. After final plat approval, the subdivider shall submit construction drawings to the community development department for review and approval for construction permits. Review of the construction drawings may transpire at any time after the submittal of the final plat. However, construction permits shall not be issued without appropriate approval of the final plat.

B. Designs for subdivisions within the corporate limits of the city shall conform to the provisions set forth in the city design standards, (chapter 32, LCMC).

C. Waivers to the design standards are discouraged and will be considered only if the subdivision application is processed through the planned unit development (P.U.D.) procedure, or whenever the subdivider has provided sound evidence in writing substantiating the need for a waiver to said standards.

(Ord. No. 1798, § I, 6-19-00; Ord. No. 1929, §§ I, II, 8-5-02)

Sec. 37-299. Application procedure.

A. The construction drawings and supplemental material shall be submitted to the community development department. Upon submittal, the community development department shall review the submittal for completeness. If all of the required items have been submitted, the community development department shall issue a receipt for same.

B. Construction drawings and supplemental material will be processed by the applicable city departments and other governmental agencies for review, comments and recommendations. Written reports, with their comments and recommendations, shall be forwarded to the community development department within ten business days for the first review and within five business days for each subsequent review.

C. The community development department shall forward any comments to the subdivider or the subdivider's representative for completion. Construction drawings and supplemental material that receive comments shall be resubmitted and reviewed until the provisions set forth in this chapter are met. At that time, the construction drawings shall be approved, the construction approval block signed by the appropriate authorities and a construction permit issued (if the final plat has received approval from the appropriate authority).

D. Conflict. Whenever comments received by the city departments are in conflict, or whenever the subdivider is in disagreement with the comment(s), the subdivision administrator will determine the appropriate procedure to be followed in order to resolve said conflict or disagreement. Conflicts or disagreements may be resolved by following the applicable appeal procedure.

E. Appeals.
   1. Appeals of staff decisions regarding nonutility engineering concerns with the construction drawings are resolved by the public works director. The appeal may be submitted at any time during the construction drawing review process. Appeals shall be submitted in writing to the subdivision administrator. The subdivision administrator shall schedule a meeting for review of the appeal. The meeting shall include the applicant, the development review committee, and the staff member whose decision is being appealed. After a review of the appeal, the public works director shall render a decision within three business days of the meeting.
   2. Appeals of staff decisions regarding utility concerns with the construction drawings are resolved by the utilities department director. The appeal may be submitted at any time during the construction drawing review process. Appeals shall be submitted in writing to the subdivision administrator. The subdivision administrator shall schedule a meeting for review of the appeal. The meeting shall include the applicant, the utilities director, the DRC and the staff member whose decision is being appealed. Upon review of the appeal, the utilities director shall render a decision within three business days of the meeting.
   3. Appeals to the decision of either the public works director or the utilities director regarding the construction drawings are resolved by arbitration. See section 37-13(d), "appeal of public works director or the utilities director."

(Ord. No. 1798, § I, 6-19-00; Ord. No. 1929, §§ I, II, 8-5-02)

Sec. 37-300. Construction drawing submittal requirements.

A. Subdivision requirements:
   1. Application;
   2. Submittal fee;
   3. A final plat conforming to section 37-114 of this chapter;
   4. Geotechnical soils investigation report. A complete geotechnical soils investigation and corresponding report may be required if the soil conditions are unknown, unreliable, or otherwise unusual. This requirement must be met when working in soils that are graded "expansive" or "very fine."

      Any geotechnical soils investigation must include, at a minimum, representative sampling and testing for:
      a. Soil classification (USCS);
      b. Sieve analysis;
      c. Structural design factors (R value and/or CBR value);
      d. Other parameters may be required, including but not limited to:
         i. Soil percolation tests (permeability);
         ii. Soil boring logs;
         iii. Water table elevations;
   5. Pavement design. A complete pavement design may be required for collectors, arterials, industrial parks/developments, or other areas subject to unusual traffic loadings. This requirement must be met whenever the soil to be worked in has been graded as "expansive" or "very fine." Pavement designs must include, at a minimum:
      a. Depth and type of subgrade preparation;

b. Depth and type of base course needed;
c. Depth and type of asphalt pavement needed: Note--Asphalt mix formula to be required from contractors.

6. Final drainage study. The final drainage study shall be a detailed report and analysis of the drainage in the proposed development. It shall include detailed calculations for all potential runoff within the proposed development, and detailed calculations supporting the design of all drainage structures within the development.

   Construction plans for all drainage structures, and grading plans for all street grades where applicable, shall also be considered as part of the final drainage study.

   Drawings and calculations comprising the final drainage study shall include, but not be limited to, the following information:

   a. Existing and proposed contours for proposed development. (Contour interval based on N.G.S. Datum--two-foot contour interval minimum.) Proposed development with relatively flat surfaces (e.g., river valley subdivisions) shall contain spot elevations or one-foot contour intervals.
   b. Location(s) and elevation(s) of city or U.S.G.S benchmark(s). All elevations shall be based on N.G.S. Datum.
   c. Property lines.
   d. Streets, R.O.W. limits, names and grades.
   e. Existing drainage facilities and structures, including existing irrigation ditches, roadside ditches, drainage ways, gutter flow directions, and culverts.

      All pertinent information such as size, slope, elevations and locations of existing drainage ways shall be included in order to facilitate review and approval of drainage plans.
   f. Overall drainage area boundaries and drainage sub-area boundaries.
   g. Proposed types of curbs and gutters and gutter flow directions, including crosspans (intersections).
   h. Proposed storm drains, open drainage ways and right-of-way requirements, including proposed inlets, manholes, culverts, erosion control and energy dissipation devices, and any other appurtenances necessary for drainage control.
   i. Proposed inflow and outfall point(s) for runoff from the study area.
   j. Routing and accumulative flows at various critical points for the initial (ten-year) and major (100-year) storm runoff.
   k. Minimum finished-floor elevation and ground-site elevations at all critical building locations for protection from major storm runoff.
   l. A 1-inch = 100-foot (preferable) scale map of the proposed development that shows the following information:
      i. Locations and sizes of all drainage structures;
      ii. General flow patterns within the development;
      iii. Minimum finished-floor or building-pad elevation of each building site;
      iv. 100-year flood level in all streets in which the curb would be overtopped during the 100-year storm;
      v. All drainage basins within the development (Note: The number of basins

should be limited to the smallest practical number.)

m. All floodplains and floodways within the proposed development. A copy of the current F.E.M.A. Floodplain Map is required showing project limits.

n. All drawings on 24-inch × 36-inch sheets.

o. Plan details. The following details shall be indicated on the drainage plans.
   i. Title block (lower right-hand corner preferred);
   ii. Scale;
   iii. Date and revisions;
   iv. Name and address of professional engineer (and firm);
   v. Professional engineer's seal;
   vi. Drawing number (sheet n/n);
   vii. Legend;
   viii. Approval block for appropriate reviewing departments and agencies;

p. Construction drawings. Construction drawings shall be prepared by a registered professional engineer licensed in the state. All drawings shall be on 24-inch × 36-inch sheets and shall show the following information:

Plan:

- North arrow;
- Property lines;
- Street names and easements (with locations and width dimensions);
- Existing utility lines, locations and depths (or heights):
  - Water;
  - Gas;
  - Storm drains;
  - Irrigation canals;
  - Sanitary sewers;
  - All existing and proposed public and private utilities.

Profile:

- Vertical and horizontal grids with scales identified;
- Ground surface grade (dashed line) and proposed grade (solid line);
- Existing utility lines where crossed;
- Benchmarks (N.G.S. Datum);

Proposed construction:

- *Pipes and culverts:*
  - Plan showing stationing;
  - Profile showing elevations at even stationing (at 50-foot intervals)
  - Size and length pipe, pipe composition (if applicable) and distances between manholes;
  - Slope of pipe;
  - Inlet and outlet details of all manholes and inlets, and connections to existing drainage systems (if applicable);
  - Manhole details, including station numbers, and invert and top elevations;
  - Typical bedding details for pipe for all bedding situations encountered on

project;

- *Open channels:*
  - Plan showing stationing;
  - Profile indicating elevations of invert of channel, top of lining (if any), and adjacent ground grade;
  - Profile showing elevations at even stationing (at 50-foot intervals);
  - Typical cross sections;
  - Construction notes;
  - Lining details;
  - Rip-rap and bedding details, with graduation requirements for same;
  - Details of all inflow and outflow structures and drop structures (includes subgrade and foundation design details);
- *Technical specifications:* Technical specifications shall be included on any drainage project permitted for construction within the city. Specifications shall meet the minimum guidelines for construction as outlined in the city standard specifications for roadway construction and design standards as amended. Additional specifications for construction shall be included, to the point at which there exists a clear understanding of the nature and quality of work to be performed on the project. Additional technical specifications for projects that will become city property or that will be involved in the city storm drainage maintenance program, may be required.

q. Street plan and profiles. The plan and profiles shall be prepared on 24-inch × 36-inch sheets by a registered professional engineer, licensed in the state. The scale of all plans and profiles shall be 1:5 vertical, 1:50 horizontal unless a grid break would result. In such cases, the scale may be 1:10 vertical, 1:100 horizontal. A grid shall be required in all cases.

Plan. The following information shall be indicated on the plans:

- Title block (lower right-hand corner preferred);
- Horizontal/vertical scale;
- Date and revisions;
- Name of professional engineer (and firm);
- Professional engineer's seal;
- Drawing number (sheet n/n);
- Legend;
- Construction approval block for appropriate reviewing departments and agencies;
- Street name;
- North arrow;
- Match lines with stationing and "see sheets" called out;
- Limits of construction;
- Centerline stationing;
- Stations at street intersections, curb returns and property lines;
- Sizes and locations of all utilities (existing and proposed) (stub-outs not

required);

- Rights-of-way widths;
- Adjacent block and lot numbers;
- Fire hydrant locations;
- Water and gas lines and valve locations;
- Sidewalk and wheelchair ramp locations;
- Curve centerline data;
- Stationing and locations or crown transition;
- Back-of-curb radius (P.C., P.T. and midpoint stations), or sidewalk if no curbing is required, if applicable;
- Curb/gutter locations, if applicable;
- Top-of-curb elevations, or of sidewalk if no curbing is required, and stations at each front lot corner;
- Drainage flow arrows at crosspans and nontypical intersections;
- Driveway locations and stations (if applicable);
- Proposed top-of-pavement spot elevations at and across from all intersections (at flowline extensions);
- A local benchmark based on N.G.S. datum, with description, location and elevation;
- Manhole locations;
- "No parking" sign locations (if applicable)

Profiles. The following information shall be indicated on the profiles:

- Proposed and existing grades 100 feet beyond limits of construction;
- Even stationing (at 50-foot intervals) and elevations on all profiles of top-of-curb, right and left, street centerline required if in a nontypical section;
- Stationing and elevation of the vertical point of intersection on all vertical curves, including, PVT, PVI, PVC, and K value;
- Top-of-curb elevations (or top-of-sidewalk elevations if no curbing is required at each lot corner);
- Sanitary and storm sewer pipe invert elevations;
- Slopes of sewer lines;
- Stationing of manholes;
- Pipeline locations, sizes and depths noted;
- Limits of construction;
- Grid at scale of 1:5 Vertical and 1:50 horizontal; scale can be 1:10 vertical and 1:100 horizontal if size will require a page break;

r. Grading plans. The plans shall be prepared by a registered professional engineer licensed in the state. The following information shall be required:

- Street names;
- Block and lot numbers;
- North arrow;
- Written and graphic scales;

- Existing contours based on project "as-builts," not plans, at 2-foot intervals (100 feet beyond project boundary if adjacent land is undeveloped and the property line of the adjacent land is developed). Proposed development with relatively flat surfaces (e.g., river valley subdivisions) shall provide spot elevations, or one-foot contour intervals;
- Retaining wall locations (and note if walls will be built at time of roadway construction) (See city design standards, chapter 32, LCMC);
- Top-of-curb elevations, or sidewalk if no curbing is required at each lot corner
- Pad elevations or finished floor elevations (for each lot);
- Spot elevations (minimum of six per lot showing high points and low points) or a typical lot detail if the proposed development has a relatively flat surface (e.g., river valley subdivision);
- Pond elevations: Top, bottom and dimension from property lines (if applicable);
- Barrow ditch elevations (if applicable);
- Drainage channel elevations (if applicable);
- Drainage flow arrows (and note if roof area will drain to ponding area);
- Retention/detention, basin, location and elevation;
- A project benchmark based on N.G.S. datum with description, location and elevation.
- Note: All grading, including lot grading, shall be done at time of roadway construction and to be maintained by subdivider.
- General notes for grading and construction, etc.;
- Off-site grading or slope grading limits (if applicable);
- All grading must comply with chapter 70 of the Uniform Building Code or an approved alternative. Alternative design may only be approved by the public works director.

  If grading will be performed on the land of an adjacent property owner(s), or construction vehicles may need to access the property, a copy of a letter must be provided to the city, signed by the adjacent property owner(s), stating that they understand the nature of the work and do not oppose the modification to their property and/or that they will allow temporary access to their property by the contractor;
- Show existing utilities.

s. Utility master plan. The Utility master plan shall include all phases of development and be prepared by a registered professional engineer, licensed in the state. The following information shall be required: If utilities are not in the standard location, i.e., street right-of-way, then preapproval is required by the utilities department.
   - Utilities for existing development: Size and type of pipe (existing and proposed), including underground electrical, telephone, cable TV, etc.;
   - Lot and block numbers;
   - Street names;
   - North arrow, written and graphic scale: Scale shall be no greater than 1-inch =

60-feet;
- Utility stubouts;
- Street light pad and conduit locations;
- Wire utility boxes;
- Fire hydrant locations;
- Water and gas valve locations;
- A local benchmark based on N.G.S. datum, with description, location and elevation;
- Manhole locations.

t. Detail sheet, to be prepared by a registered professional engineer licensed in the state. The following information shall be required, if applicable:
- Roadway construction notes and general notes;
- Utility construction notes;
- Manhole details;
- Typical utility stubout to lot detail;
- Street intersection detail (if applicable);
- Typical street cross-section(s) (including paving composition);
- Curb and gutter detail;
- Wheelchair ramp detail;
- Retaining wall detail, cut-off wall detail and all fencing details (if applicable);
- Drainage structure details;
- Light base details;
- Typical lot layout;
- Any other construction detail which may be needed for clarification purposes;
- Water and gas valve and line detail.

B. The subdivider of any approved subdivision shall be responsible for completing roads, drainage and utility improvements necessary for filing the final plat. Construction improvements shall include 100 percent coverage of all road, drainage and utility improvements within the subdivision and 50 percent coverage of roads adjacent to the subdivision. The subdivider shall be responsible for any necessary off-site utility extensions required to provide service, unless such extensions are already part of the utility capital improvement program.

(Ord. No. 1798, § I, 6-19-00; Ord. No. 1929, §§ I, II, 8-5-02)

Sec. 37-301. Installation and acceptance of improvements.

The improvements, both public and private, required with the approved subdivision application shall be constructed, installed and approved into the city's maintenance program (if applicable) prior to the filing of an approved final plat or provisions made to secure the completion of improvements. The subdivider may secure the improvements by furnishing a performance bond, an irrevocable letter of credit, a cashier's check, an escrow account, or other acceptable collateral and a guarantee of performance to the city in favor of the city, to secure actual construction of the improvements within a period of 34 months after the approval of the final plat. If the improvements have not been constructed in accordance with the approved plans and

specifications within the time frame prescribed by this chapter, the city may withdraw adequate monies from the securities to complete the construction of the subdivision.
(Ord. No. 1798, § I, 6-19-00)

Sec. 37-302. Guarantee of performance.

A. The community development department shall not file the final plat until all required improvements have been inspected and approved by the city, or until provisions are made to secure the completion of improvements. If the improvements are not completed by the completion date, the subdivision shall revert to preliminary plat status unless the final plat has received an approval extension.

B. A form of security, a guarantee of performance and a bid from the contractor may have to be filed with the city. The amount of such security must cover the projected cost of all required improvements agreed to by the subdivision administrator. The amount shall be based on the projected costs that the city would incur at the time improvements are scheduled for completion. Any of the following types of security shall be filed with the subdivision administrator:
   1. Performance bond: A surety bond acceptable to the city to cover estimated costs of improvements.
   2. Escrow account: An account established with a financial institution in the amount of the projected costs of improvements.
   3. Irrevocable stand-by letter of credit: Irrevocable authority to draw a draft for the projected cost of improvements.
   4. Cashiers check: An amount of security acceptable to the city to cover estimated costs of improvements.
   5. Any other form of security approved by the subdivision administrator and legal staff.
   6. An applicant subdividing a large tract of land as deemed appropriate by the development review committee, may with the approval of the subdivision administrator and the legal staff, submit a final plat for approval without providing any form of security if it is noted on the final plat that:
      a. The city has not accepted the dedications identified on the plat; and
      b. The applicant and future owners shall notify prospective purchasers in writing that the purchaser will be responsible for providing the necessary improvements and/or security.

The city shall not issue any building permits within the subdivision until such time security in form of those listed in 37-302(b)(1--5) has been provided to the city.

All forms of security and agreements shall be reviewed and approved by the subdivision administrator, and approved as to form by the attorney's office.
(Ord. No. 1798, § I, 6-19-00; Ord. No. 1866, § I, 5-7-01; Ord. No. 1929, §§ I, II, 8-5-02)

Sec. 37-303. Release of collateral.

If the developer wishes to provide a form of security, the following procedure for release of collateral shall apply:

As improvements are completed, the subdivider may apply to the subdivision administrator for a

release of part or all of the collateral deposited. Application for partial release shall include the contractor's invoice, showing the items and percentages of completion being billed. The subdivision administrator shall forward the request to the appropriate inspectors to verify that the work being billed has been completed. Upon inspection and approval by the city, the subdivision administrator may release said collateral. If the subdivision administrator determines that any of such improvements are not constructed in compliance with specifications, the city shall be entitled to withhold collateral sufficient to ensure such compliance. If the city determines that the subdivider will not construct any or all of the improvements in accordance with all of the specifications, the city may withdraw and employ from the deposit of collateral such funds as may be necessary to construct the improvements in accordance with the specifications. The subdivision administrator shall withhold 10% of any collateral for specific improvements until such time as the final approved record drawings are submitted to the subdivision administrator and the improvements are accepted by the city.
(Ord. No. 1798, § I, 6-19-00)

Sec. 37-304. Extension of guarantee of performance.

A. The subdivider may request an extension of the guarantee of performance with the city via a written request explaining the extension proposal and the reasons for said request. The subdivision administrator shall review the subdivider's request to determine whether the guarantee of performance and the security will be extended. If approved, the subdivider shall be responsible to furnish a revised guarantee of performance and a form of security that adequately secures the completion of improvements prior to the expiration date of the guarantee of performance contract.

B. Guarantee of performance extensions shall only be granted once, for a one-year period, if there has been substantial progress made in the construction of the improvements. Substantial progress, in this sense, means 50 percent completion, the extent to be determined by the subdivision administrator.

(Ord. No. 1798, § I, 6-19-00)

Sec. 37-305. Acceptance of improvements.

A. The subdivider may request the city to approve and accept the roadway, utility, and drainage improvements. For preliminary acceptance of utility improvements, and prior to connection to the city's utility system, the subdivider shall be required to submit utility blueline drawings for review and approval by city engineers. Such drawings shall be submitted to the utilities department projects administrator.

B. Upon completion of the development, the subdivider may make a written request to the subdivision administrator for final acceptance of all subdivision improvements. Along with the written request, the city shall require the submission of one set of Mylar record drawings (as-builts), a computer-aided drawing file on a 3.5-inch computer diskette or recordable CD, or other format accepted by the city, and a detailed material listing. The city shall inspect said improvements to determine whether the infrastructure is acceptable and whether it conforms to the approved final plat and construction drawings. The computer-aided drawing file on computer diskette or CD may be waived by the development review committee. Granting a waiver shall not serve as a convenience to the

applicant, but the waiver shall be the minimum necessary for relief due to some demonstrable hardship, and shall be granted only in cases where reasonable alternative means are not available to resolve the issue(s).

C. The computer-aided drawing file to be submitted shall be labeled with the contractor's name, the engineer's name, the subdivision name, the subdivision location, and the final inspection date. The computer-aided drawing file shall be the file used to generate the final record drawings (hard copy). The computer-aided drawing file shall depict the final Mylar as-builts with the rights-of-way and the subdivision tied to the state plane coordinates. The computer file drawing shall be in AutoCAD Version 11 or later, or in a similar 100 percent compatible and transferable file. Prior to submittal of the digital record drawings, the project engineer shall enter into a digital file agreement with the city. The purpose of the digital file agreement is to protect the project engineer from liability in the event that the drawings become altered in any manner not approved by the city and the project engineer.

D. Said Mylar drawings shall be signed and sealed by a registered engineer of the state. The Mylar drawings made from the design drawings based on the contractors' as-builts and the computer-aided drawing file shall provide the following information for city review:
   1. *Grade changes.* Reflect all changes in grading from the approved plan and profile sheets, including but not limited to curb elevations, property line elevations, drop inlets, curb return elevations, tops of manholes, and inverts.
   2. *Street alignment changes.* Designate any alignment change within a street right-of-way that deviates from that shown on the approved plan and the profile sheets.
   3. *Detail sheet changes.* Reflect any change in street cross sections, retaining walls or other general details that have been altered from the approved construction drawings.
   4. *Utility changes.* Designate all utility changes that deviate from the approved plan and profile sheets.

E. Additionally, a detailed material listing shall be required. The materials listing must be a tabular listing that includes, wherever appropriate, mains (sewer mains must include depth), valves, manholes, fire hydrants, number of service lines and number of drainage inlets. These materials must be represented in the listing by the standard measure or by the unit installed, e.g., linear foot, number of each. The listing must be separated by utility function for potable water, wastewater, storm drainage and gas. The listing must include:
   1. Developer's name;
   2. Subdivision name and location;
   3. Date of final inspection;
   4. Quantity and unit of materials installed (e.g., 250 linear feet, eight each);
   5. Material description, including size or dimensions (e.g., 4-inch PVC main).

F. The subdivision administrator, upon receipt of a written report of recommendation for acceptance and from:
   1. The public works director that all improvements have been installed in accordance with the plans, as approved, and are in conformity with the requirements of this

chapter; and

2. The utilities director that all utility improvements have been installed in accordance with the plans, as approved, and that they are in conformance with the requirements of this chapter;

May formally accept said public improvements for city maintenance. The subdivision administrator will notify the subdivider within ten business days after his/her request as to whether the improvements will be accepted for city maintenance. The subdivision will be accepted only with the concurrence of the subdivision administrator, public works department director and the utilities department director. Upon acceptance, the subdivider shall guarantee improvements for one year.

(Ord. No. 1798, § I, 6-19-00; Ord. No. 1929, §§ I, II, 8-5-02)

Secs. 37-306--37-331. Reserved.

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ARTICLE XI.
WAIVER OF REGULATIONS

Sec. 37-332. Waivers.

In the case of a particular proposed subdivision, whenever it can be shown that strict compliance with the requirements of this chapter would result in a substantial hardship to the subdivider because of exceptional topographic, soil or other surface or sub-surface conditions, or that such conditions would result in inhibiting the objectives of this code, the planning and zoning commission may vary, modify, or waive nonengineering-related requirements up to 15 percent of the required standard. Furthermore, any proposal containing three or more planning-related waivers shall be processed via the planned unit development process. The subdivision administrator may waive submittal requirements of this chapter. A waiver of engineering submittal requirements shall require the concurrence of the public works director. The public works director and the utilities director may vary, modify or waive engineering-related requirements as applicable and appropriate. No variance or waiver shall be allowed when such waiver is requested because the goals and objectives of the drainage section of the city's design standards are not being met. For example: A waiver shall not be granted if the developer is designing a drainage system that transfers problems from one location to another, that does not provide protection against regularly-occurring damage, or that creates major property damage or loss of life from runoff expected in a major storm event. Also, no waiver shall grant any variation or modification contrary to the mandatory requirements of state law.
(Ord. No. 1798, § I, 6-19-00; Ord. No. 1929, §§ I, II, 8-5-02)

Sec. 37-333. Waiver procedure.

A. Whenever the subdivider desires to request a waiver or variance from any nonengineering-related requirements of this chapter, the subdivider shall submit, in writing, the request for waiver at the time of master plan submittal or preliminary plat submittal, or at the time that a replat or an alternate summary processed subdivision is submitted. The request for waiver shall include, in detail, the reasons for supporting such a request.

B. The subdivision administrator shall schedule the requested waiver to be reviewed by the development review committee. The development review committee shall review the waiver request and recommend to the planning and zoning commission to approve, disapprove, or modify the waiver request.

C. The planning and zoning commission shall review the recommendations of the development review committee and approve, disapprove, or modify the waiver request. Any waiver requests greater than 15 percent of the required standard shall be forwarded to the city council with a recommendation by the planning and zoning commission that the waiver be either approved or denied. Any proposal requesting three or more planning-related waivers shall be processed via the planned unit development procedures and shall require city council approval.

D. When a proposal with waiver(s) requiring city council approval is submitted, the planning and zoning commission will review the proposal and provide a recommendation for approval or denial to the city council. The case will be forwarded to the city council for action.

E. The city council shall review the proposal and recommendations from the planning and zoning commission. Action by the city council shall be in the form of approval, denial, or modification. Action by the city council shall be recorded in the minutes of the meeting. An affirmative vote by four members of the city council is required for approval of a proposal. A copy of the city council notice of decision that includes any changes or conditions, as done at the public hearing, shall be furnished to all of the parties stated above in accordance with section 37-11(b).

F. Specifications or supplementary data required by this chapter for a master plan, a preliminary plat or a final plat may be waived whenever such specifications or data are determined by the planning and zoning commission to be unnecessary for the consideration of the plat.

Whenever the subdivider desires to request a waiver or variance from any engineering/utility requirements of this chapter, the subdivider may submit, in writing, to the subdivision administrator, the request for waiver at any time during the subdivision process. It is recommended that engineering-related waivers be submitted as early in the process as possible to avoid unnecessary delays. The request for waiver shall include, in detail, the reasons for supporting such a request.

The subdivision administrator shall submit the requested waiver to either the public works director or the utilities director, as applicable. Upon receipt of the request, the public works director or the utilities director shall meet with the development review committee at the next scheduled meeting to discuss the waiver request(s). The public works director or the utilities director, after consultation with the DRC, shall render a decision on the waiver or variance request within three business days.

(Ord. No. 1798, § I, 6-19-00; Ord. No. 1929, §§ I, II, 8-5-02)

Secs. 37-334--37-359. Reserved.

ARTICLE XII.
CONSTRUCTION STANDARDS

Sec. 37-360. General provisions.

A. Construction of all subdivisions (public and private improvements) within the corporate limits of the city shall conform to all applicable sections of the documents listed below. The regulations, policies and provisions governing the construction of required improvements include, but are not limited to, the following documents, as amended:
   1. City comprehensive plan;
   2. City zoning code (chapter 38, LCMC);
   3. City design standards (chapter 32, LCMC);
   4. MPO transportation plan;
   5. Stormwater management policy plan;
   6. Bicycle facilities and systems master plan;
   7. City standard specifications for road construction;
   8. Building code (chapter 30, LCMC);
   9. City standard specifications for water, sewer, and gas utilities;
   10. Any and all other rules, regulation, and policies adopted by the city governing construction standards.

(Ord. No. 1798, § I, 6-19-00)

Exhibit "B"

FINDINGS OF FACT:

1. The Public Involvement Plan and Toolkit for Las Cruces, dated June 2011 was prepared for the Picturing El Paseo project as part of EPA's Smart Growth Implementation Assistance Program. This toolkit identified many outreach and implementation tools to garner a more informed and interactive community. Several of the tools found in the toolkit are implemented either directly or indirectly through departmental policy or the subject draft proposals. Emphasis is in notification of stakeholders so that a more robust participatory environment can result.

2. State Law requiring notification of various planning and development related actions have been in place locally since the New Mexico Session Laws of 1927. Municipalities within New Mexico Must continue to meet at least the minimum standards for notification pursuant to State Statutes.

3. Las Cruces has implemented notification procedures since adoption of the 1930 Las Cruces Zoning Code.

4. The Metropolitan Planning Organization adopted a Public Participation Plan in September of 2008. Said plan also identifies tools and techniques to carry out public notification and engagement.

5. Recent planning initiatives such as Vision 2040, the Camino Real Regional Plan and the Joint Land Use Study all strongly consider measures to inform and engage stakeholders with the respective planning efforts.

6. City Council strongly encourages public participation which requires as a first step, notification of the public as necessary.

7. Two City Council work sessions have been held to solicit commentary and feedback on ways of improving public notification. Those suggestions and information presented by staff are included within the draft proposals.

City of Las Cruces

Community Development
Interoffice Memorandum

TO: Planning and Zoning Commission

FROM: Vincent M. Banegas - Deputy Director, Community Development Department

DATE: April 15, 2013

SUBJECT: Proposed Amendments to 2001 Las Cruces Zoning Code, as amended and the 2006 Las Cruces Subdivision Code, as amended regarding public notification provisions and minor administrative clean up.

M-13-103

Case ZCA-13-01: A request to amend various sections of the 2001 Las Cruces Zoning Code, as amended. The amendments specifically seek to change various provisions related to the public notification process for the various cases processed by the City pursuant to the code. Notification deadlines are proposed to be normalized and methods of notification and procedures for same involving neighborhoods and neighborhood groups/associations are being defined and/or modified. Submitted by the City of Las Cruces.

Case SA-13-01: A request to amend various sections of the 2006 Las Cruces Subdivision Code, as amended. The amendments specifically seek to change various provisions related to the public notification process for the various subdivision cases processed by the City pursuant to the code. Notification deadlines are proposed to be normalized and methods of notification and procedures for same involving neighborhood and neighborhood groups/associations are being defined and/or modified. Submitted by the City of Las Cruces.

SUPPORT INFORMATION:

- Exhibit "A" - Proposed legislative format draft – various sections 2001 Las Cruces Zoning Code, as amended
- Exhibit "B" - Proposed legislative format draft – 2006 Las Cruces Subdivision Code, as amended

DISCUSSION/BACKGROUND:

The two cases under consideration via this packet reflect the results of substantial discussion regarding improvement of the public notification processes within existing planning and development environments. One draft reflects proposed amendments to the 2001 Las Cruces Zoning Code, as amended and the other, proposed amendments to 2006 Las Cruces Subdivision Code, as amended. Both proposals reflect new emerging public notification policy that has been considered and asked for by the City Council. On two separate occasions, the City Council during scheduled work sessions, has heard information regarding both the current practice involving and potential changes to the City's public notification provisions. At the March 26, 2012 work session, staff presented information on all provisions outlined within the current zoning and subdivision codes regarding public notification when cases, plans and/or amendments are prepared for consideration and action by the various recommending and decision making bodies. The provisions in use were also compared to the existing State Statute provisions to reflect how the City is not only meeting statute requirements, but in many regards, exceeding them. It goes without saying that attached to the City Council packet were excerpts from the Planning and Zoning Commission meeting of February 28, 2012 wherein the Commission provided some recommendations on how to improve the public notification process. The recommendation, as you may recall, was to increase the notification threshold for mail out notice, agenda posting, newspaper advertisement, and sign posting on property to a blanket 21 day timeframe. Many questions were raised during the council work session leaving a clear understanding by staff that a more thorough investigation of potential changes for notification improvement was necessary.

As a result of that meeting, staff examined several issues regarding CLC public notification processes. Ultimately, a report entitled *Public Notification and Participation Report and Analysis of Options for a More Informed Community* was generated. This report examined and analyzed various methodologies and strategies for notification and discussed issues pertinent to each and how they might be adjusted to better serve the notification needs for the City. The methods examined both traditional and contemporary methods discussing pros and cons and how they might be adjusted to fit the City's needs. Ultimately, the report was intended to be used by the entire city organization, with each department selecting the methods that could be implemented for their respective operational structure.

To that end, a second draft document which is included in your packet, entitled *Citizen Notification Policy Manual for the CLC Community Development Department*, was prepared. This document is intended to go before the City Council for adoption via resolution and serve as the policy document from which the proposed ordinance changes are drawn. The report examines both traditional and contemporary notification methods and proposes specific changes to the current notification strategies in place for

the activities the department is charged with. Many of the strategies can be incorporated in ordinance form, hence the draft ordinance proposals included via this packet. Some strategies, are better left as policy direction and will be used (assumes approval by City Council) as a means to extend current practices thereby casting a broader notification net to the citizens our actions tend to affect.

On September 24, 2012, the two documents previously mentioned were submitted to Council for discussion. After discussion, Council seemed to reach agreement that the methods proposed should be codified as applicable. To that end, the two draft ordinance changes (zoning and subdivision codes) were prepared and presented at the March 19, 2013 Planning and Commission work session. Upon review and consideration, the Commission felt comfortable with proposed changes and as such, the drafts are now coming to the Commission for final recommendation consideration. Following this action both drafts will go before the City Council for action.

Applicable draft ordinance language is provided in track change format indicating the changes necessary to effect new and modified policy. Language to be added is reflected in underlined text and that which is subject to deletion is reflected in ~~struck~~ text. The margins also provide an indication of where changes are taking place.

STAFF RECOMMENDATION:

Staff recommends approval of the two cases.

FINDINGS OF FACT:

1. The Public Involvement Plan and Toolkit for Las Cruces, dated June 2011 was prepared for the Picturing El Paseo project as part of EPA's Smart Growth Implementation Assistance Program. This toolkit identified many outreach and implementation tools to garner a more informed and interactive community. Several of the tools found in the toolkit are implemented either directly or indirectly through departmental policy or the subject draft proposals. Emphasis is in notification of stakeholders so that a more robust participatory environment can result.

2. State Law requiring notification of various planning and development related actions have been in place locally since the New Mexico Session Laws of 1927. Municipalities within New Mexico Must continue to meet at least the minimum standards for notification pursuant to State Statutes.

3. Las Cruces has implemented notification procedures since adoption of the 1930 Las Cruces Zoning Code.

4. The Metropolitan Planning Organization adopted a Public Participation Plan in September of 2008. Said plan also identifies tools and techniques to carry out public notification and engagement.

5. Recent planning initiatives such as Vision 2040, the Camino Real Regional Plan and the Joint Land Use Study all strongly consider measures to inform and engage stakeholders with the respective planning efforts.

6. City Council strongly encourages public participation which requires as a first step, notification of the public as necessary.

7. Two City Council work sessions have been held to solicit commentary and feedback on ways of improving public notification. Those suggestions and information presented by staff are included within the draft proposals.

Exhibit 'A' (pt. 1) – P&Z

ARTICLE II. ADMINISTRATION OF THE ZONING CODE

Sec. 38-10. Planning and Zoning Commission

A. CREATED. A Planning and Zoning Commission is created by the City Council with the adoption of this Code. The Planning and Zoning Commission shall review the planning, zoning and platting of the City, investigate any related problems and make recommendations to the City Council.

B. DUTIES.

1. FINAL ACTION. The Planning and Zoning Commission shall take final action on the following:
   a. All Special Use Permits, Master Plans (except as part of an annexation request), Subdivisions (except Alternate Summary Plats and Final Plats as defined in the City's Subdivision Code and subdivisions requesting three or more waivers to planning-related issues), and Final Site Plans of Planned Unit Developments (unless the Final Site Plan is submitted with the Concept Plan),
   b. Within the Infill Areas, all Infill development proposals, and associated variances,
   c. All variances on property whether stand alone or that require a Special Use Permit or where a Planned Unit Development is proposed,
   d. All challenges to administrative decisions or interpretations of the Zoning Code, Sign Code, or Landscape provisions of the City Design Standards,
   e. Appeals of design-related interpretation disagreements between the City staff and the University Avenue Corridor Citizens' Design Review Committee,
   f. Appeals of City staff decisions on matters associated with the Avenida de Mesilla Gateway Overlay Zone District,
   g. Appeals of City staff decisions on matters associated with the Lohman Avenue Overlay District, and
   h. All matters submitted pursuant to Section 3-19-11 NMSA.

   Any decision of the Planning and Zoning Commission may be appealed to the City Council in accord with Section 38-13.

2. ———RECOMMENDATION TO CITY COUNCIL.

   a. The Planning and Zoning Commission, with the assistance of City staff and interested persons, shall recommend the Comprehensive Plan to the City Council. In discharging this duty, the Commission shall consult with and coordinate the planning activities of departments and agencies of the City to assist in the development of the Comprehensive Plan. In its planning activities, the Commission shall take due cognizance of the planning activities of adjacent units of government and other affected public agencies. The Commission shall periodically review the plan and recommend

amendments whenever necessary. The Plan may be prepared and adopted in sections, each of which relates to a major subject of the Plan or to a major geographical section of the City. Before adopting the Comprehensive Plan or any section of amendment of the Plan, the Commission shall hold at least one public hearing. The Comprehensive Plan or any section thereof shall be adopted by a majority of all members of the Commission. A copy of the Plan or of any section or amendment thereof adopted by the Commission shall be sent to the City Council for consideration. Until adopted by the City Council, the Plan shall constitute only the recommendation of the Planning and Zoning Commission.

b. The Planning and Zoning Commission shall recommend to the City Council approval, denial or modification of all requests for Zoning Code amendments, Sign Code amendments, zone changes, annexations (a master plan that is part of an annexation request), initial zonings, the Concept Plan (and Final Site Plans if submitted with the Concept Plan) of Planned Unit Developments, and associated variances. As noted in Sec. 38-10B.1.b, the Planning and Zoning Commission shall take final action on all requests regarding Infill Parcels.

c. When the Planning and Zoning Commission recommends denial of any matter on which the City Council takes final action, an appeal to City Council is not required.

d. Community Development Department staff may make a recommendation, if applicable, on any matter to come before the Planning and Zoning Commission.

C. PRE-APPLICATION PROCEDURES.

1. Development Proposal-- -Initial Discussion (Annexations, Zone Changes, Variances, Planned Unit Developments and Special Use Permits). Any proposed development related action (as listed herein) causing need for public notification, review and approval by a recognized board, committee, commission or council (excludes design or building permit submittals that may require design review committee consideration) shall first be required to have said proposal reviewed at a pre-application meeting scheduled and held by the Community Development staff. A representative for the proposed development action shall attend the pre-application meeting and discuss the proposal in general terms, providing enough specifics to allow attending staff an opportunity to gauge and determine neighborhood and/or community impacts. In that this represents an initial and informal discussion, information provided to the representative regarding procedural nuances or other regulatory related information shall be considered preliminary feedback based on information received, and shall not represent a complete disclosure of all regulatory measures that may apply upon formal review. In no circumstances should related discussion by staff represent a final disposition on the preliminary proposal at hand.

(a) Neighborhood group and/or noticed area (property owners within the notification distance) notification determination. Staff upon consideration of the information received during the pre-application meeting, will instruct as

to whether early notification of the subject proposal by the applicant to a neighborhood group(s) (recognized group(s)) and/or noticed area shall be necessary prior to formal application and submittal of the development proposal to the city. The criteria used by staff to determine notice need may include, but not be limited to the following:

(i) Development that is likely to cause significant traffic impacts due to limited roadway access or potentially a decrease in level of service based on the subject roadway's design.

(ii) Potential land use conflicts resulting from proposed land use distribution adjacent to existing development of a differing land use classification such as proposed commercial uses adjacent to low density residential.

(iii) Known neighborhood concerns on tangible and reasonable development issues that could be mitigated through design alternatives. An example of a concern congruent to this criterion is development consistency with surrounding development styles as they may relate to setback standards, architectural style, etc. An example of a concern not congruent to the criterion is disapproving development on vacant property due to the elimination of "open space" said vacant property provides or development of vacant property because one's view may be compromised,

(b) Early Notification exception. Staff determination of early notice need which shall include an open invitation to discuss the proposal at a meeting, shall not pre-empt the Planning and Zoning Commission, City Council or other reviewing bodies with approval (recommending or final action) authority from thereafter requiring an additional meeting(s). Criteria used by the applicable reviewing body shall be at their discretion and may or may not follow the criteria identified in the preceding provision. Significant deviation of plan proposal post neighborhood group/noticed area meeting may subject the applicant from thereafter participating in another meeting to inform and discuss revisions. Changes addressing concerns raised at said meeting shall not necessarily subject the applicant to another meeting; however, an omission in the proposal that is added post meeting and deemed significant by Community Development staff is a candidate for reconsideration by the notified neighborhood entities prior to consideration by any formal reviewing body.

(c) Early notification recipients. Notification recipients shall include registered neighborhood groups, and/or associations, identified on the applicable Community Development Department's web page. In the event an identified association or group does not exist or cover an adequate area surrounding the proposal, both the neighborhood group/association and the property owners within 500 feet shall be notified. If no association or group exists within the notification boundary, notification to property owners shall take place using the same distance threshold. Measurement shall be made radially from the

outermost property boundary where the subject proposal is located. Any association/group boundary or property boundary that falls either partially or entirely within said radius based on the qualifying standards of this subsection shall receive notification. Contact and mailing information for associations, groups and property owners to be notified shall be provided by the Community Development Department. Mailing preparation, expenses and materials are the responsibility of the developer, applicant and/or representative. Early notification shall take place no later than fifteen (15) calendar days prior to the date of submittal. Any party requesting a meeting pursuant to item (d) that follows, may cause delay with the proposal's submittal in order to accommodate the agreed upon meeting schedule and other factors necessary to meet submittal content.

(d) Early notification form and content. All required early notification shall be sent via regular, non-certified, first class mail and the content of the notice shall include at minimum:

(i) a detailed description of what is being pursued in terms of development
(ii) information as to how the developer, applicant, or representative for the development action may be contacted
(iii) a statement as to how the proposal may impact the neighborhood(s) surrounding the subject property where the development is to occur
(iv) an open offer to participate in a meeting with the association(s)/group(s) and/or property owners at a mutually agreed upon date, time and location in order to discuss the proposal more fully
(v) A need to provide a WRITTEN meeting request (if desired) to the development representative, copying Community Development staff either in a letter or email format within the stated fifteen (15) calendar day threshold. Requests for a meeting within the fifteen (15) calendar day period shall render the meeting need mandatory prior to submittal whether or not the meeting takes place inside or beyond this fifteen (15) calendar day period. Requests that come in after said period do not compel the applicant to entertain a meeting prior to submittal; however, a meeting with those requesting one is advisable prior to formal review of the proposal by a recommending or decision making body.
(vi) Community Development staff contact information for any related correspondence or general inquiry.

2. Neighborhood group/noticed area meeting. It shall be the responsibility of the applicant or representative for the proposal to conduct the meeting and supply any and all materials necessary to convey development parameters as applicable. Additionally, the representative shall be responsible for minute transcription (summary or verbatim) which clearly indicates the date, time and location of the meeting and the general nature of conversation that tool place regarding the proposal. Information shall at minimum identify key points that convey support for or the lack thereof for the proposal as presented.

DC. APPLICATION PROCEDURES.

Planning and Zoning Commission. Application for all zoning district changes, annexations, initial zonings, special use permits, planned unit developments, Sec. 38-10 variances, and Zoning Code and Sign Code text amendments shall be submitted to the Community Development Department. The submittal requirements for the above-listed requests include, but are not limited to, the following:

a. Zoning District Changes, Annexations (Refer to Chapter 37, Article IX: Annexations, of the Subdivision Code), Initial Zoning and Sec. 38-10 variances:
   1) Official Zoning application and Development Statement,
   2) Submittal fee,
   3) Notarized affidavit,
   4) Copy of property's survey and legal description:
      An accurate and complete boundary survey shall be made of the land to be developed. Property lines shall be shown giving the bearings in degrees, minutes and seconds. Distances shall be shown in feet and hundredths. Curved boundaries or lines on the survey shall provide sufficient data to enable the re-establishment of curves on the property. The location and description of all monuments set or found shall be included where applicable.
   5) Copy of site plan, if applicable:
      The site plan shall be at a scale that adequately represents the information as determined by the Community Development Director or designee. The plans shall be prepared on sheets of paper that are at least 8 1/2" x 11" in size. Copies provided shall be legible and of a good quality, with no limit to the number of sheets used. The plans shall indicate the following:
      a) Title of site plan.
      b) Total acreage of site.
      c) Date of preparation, north arrow, written and graphic scale.
      d) Identification of site by lot, block, subdivision, if applicable.
      e) Name and address of property owner.
      f) Name and address of applicant, if applicable.
      g) Name and address of consulting firm or representative, if applicable.
      h) Location and type of all land uses.
      i) All site improvements with all setbacks indicated.
      j) Dimensions of all buildings.
      k) Existing and proposed vehicular circulation systems, including parking areas, storage areas, service areas, loading areas, and major points of access, including street pavement width and right-of-way.
      l) A landscaping plan, to include the location, size, common name, and biological name of all landscaping materials.

m) Where applicable, pedestrian and bicycle circulation system, and its relation to surrounding circulation.

n) Where applicable, location and arrangement of all open space, common recreational space, and private open space.

o) Architectural renderings or artistic drawings. The drawings shall be prepared on sheets of paper that are at least 8 1/2" x 11" in size. Copies provided shall be legible and of a good quality, with no limit to the number of sheets used. The drawings shall illustrate the following:

(1) All new development illustrating all exterior building materials and colors.

(2) All new development illustrating relationships to neighboring uses, including site lighting.

(3) Sign location, materials, color, size, shape, and lighting.

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

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

r) A portion of the submittal requirements may not be required in all cases. Upon receipt of a written request justifying the deletion of required information, the Community Development Director or designee may waive any submittal requirement. The Planning and Zoning Commission may require additional information before acting on a request. The City Council may require additional information before acting on an appeal.

6) Description and justification of requested variances,

7) Request and justification to waive submittal requirements, and

8) An application that meets the following conditions:

a) The application shall be signed by all property owners of record (including all trustees of an estate or all persons that have a specific "power of attorney" for the subject property as recorded in the Dona Ana County Clerk's Office.) Persons who have an equitable interest in the subject property, but no legal title, shall not be deemed the "owners of record" of said property for purposes of this Code.

b) Any pending litigation or any Final Order entered by any Court of Law regarding the ownership of the subject property shall be disclosed by the applicant at the time the application is submitted.

c) The Community Development Director or designee may reject any application if the ownership of the subject property is not clearly established.

9) Copy of notification letter to neighborhood group and/or noticed area and copy of minutes (summary or verbatim) from meeting pursuant to Section 38-10 C. 1. (d) (v).

b. Special Use Permits and Sec. 38-10 variances: See Sec. 38-54. Also refer to C.a.9. above if applicable.

c. ~~e.~~ Planned Unit Developments and Sec. 38-10 variances: See Sec. 38-49~~55~~. Also refer to C.a.9. above if applicable.

d. Infill Development proposals excluding building permit development pursuant to Section 38-48. Also refer to C.a.9. above as applicable.

e. University District proposals excluding building permit development pursuant to Section 38-44. Also refer to C.a.9. above as applicable.

f. Avenida de Mesilla Gateway Zone Overlay District excluding building permit development pursuant to Section 38-44. Also refer to C.a.9. above as applicable.

g. Airport Overlay Zone District excluding building permit development pursuant to Section 38-46. Also refer to C.a.9. above as applicable.

h. Lohman Avenue Overlay Zone District excluding building permit development pursuant to Section 38-47. Also refer to C.a.9. above as applicable.

i. North Mesquite Neighborhood Overlay Zone District excluding building permit development pursuant to Section 38-49.1. Also refer to C.a.9. above as applicable.

j. South Mesquite Neighborhood Overlay Zone District excluding building permit development pursuant to Section 38-49.2. Also refer to C.a.9. above as applicable.

k. Alameda Depot Neighborhood Overlay Zone District excluding building permit development pursuant to Section 38-49.3. Also refer to C.a.9. above as applicable.

~~d~~l. Zoning Code and Sign Code Text Amendments: Submit fee and a draft of the proposed code text amendment to the Community Development Department. The Community Development Director or designee may require that a proposed text amendment to the Comprehensive Plan, affected Plan element or other affected plans be submitted with the code text amendment.

Submittal requirements may be waived by the Community Development Director or designee. The staff may require more information before processing a request. The

Planning and Zoning Commission and/or the City Council may require additional information and/or require a neighborhood group and/or noticed area meeting at any point in the consideration of the proposal before the affected body before acting on a request and/or appeal.

E~~D~~. PUBLIC HEARING AND NOTICE REQUIREMENTS.

1. Public Hearing - The Planning and Zoning Commission shall conduct a public hearing at a regular or special meeting on the following:
   a. Proposed amendment to the Comprehensive Plan, Plan element, other plans required to be reviewed,
   b. Proposed amendment to the Zoning Code and Sign Code,
   c. Zoning district change, with or without conditions,
   d. Special Use Permit,
   e. Planned Unit Development,
   f. Annexation and Initial zoning,
   h. Variances (See Sec. 38-10G), and
   i. Infill Development Proposals.

2. Agenda - The agenda for Planning and Zoning Commission meetings shall be available no later than fifteen (15)~~six (6)~~ calendar days prior to any meeting.

3. Posting - Notice of the public hearing about a request shall be posted in conspicuous places on the property by the property owner, applicant or representative ~~Community Development Department staff~~ at least fifteen~~ten (10)~~(15) calendar days prior to the Planning and Zoning Commission meeting. A sign measuring four (4) feet by four (4) feet shall be used and secured with appropriate supporting hardware made available by Community Development staff. When the property has multiple street frontages, one sign per frontage shall be posted. Large properties may require a greater number of signs which shall be determined by Community Development staff. It shall be the responsibility of the property owner, applicant or representative to ensure continuous posting throughout the public hearing processes. Processes for purposes of this provision shall start with the initial reviewing entity and cease when a final determination is made on the proposal regardless of the number of reviewing entities involved. In that multiple reviewing entities may be involved, Community Development staff will inform the property owner, applicant or representative of necessary changes needed on the sign to reflect the appropriate reviewing entities, meeting dates and venues.

4. Notice –
   a. Notice of the Planning and Zoning Commission public hearing shall be sent by certified mail to all property owners when one city block or less is under consideration for the activities listed, (except zone change-related cases that are recommended to City Council and subdivision related cases, see Section 38-10B2b, where notice shall be sent by regular, non-certified, first class mail), as shown by the records of the County Assessor, within at least ~~two~~ one hundred (~~2~~100) feet of the subject property of the proposed request, excluding streets, alleys, channels, canals, railroads, and all other public

rights-of-way. Thereafter, regular, non-certified, first class mail shall be sent to those properties that fall within a distance greater than one hundred (100) feet and no less than five hundred (500) feet of the subject property. The secondary distance of (>= 100' - <= 500') may include streets, alleys, channels, canals, railroads, and all other public rights-of-way.~~A minimum of fifteen (15) property owners shall be notified even if there are fewer than fifteen within the mandatory 200 foot radius~~. Regular, non-certified, first class mail shall also be sent to all recognized neighborhood groups within five hundred (500) feet of the subject property. Notice shall be mailed at least ~~ten~~fifteen (1~~0~~5) calendar days prior to the required public hearing. Notice of the time and place of the public hearing shall be published at least fifteen (15) calendar days prior to the public hearing in a newspaper of general circulation in the City.

b. Notice of the City Council public hearing regarding zone change-related ~~cases,~~cases see Section 38-10B2b, shall be sent by certified and/or regular, first class, non-certified mail as outlined ~~and shall comply with the other requirements of~~ in paragraph E4a.

F~~E~~. SPECIAL NOTIFICATION. The Community Development Department shall provide notification, by certified mail, to the Town of Mesilla of all cases presented to the Planning and Zoning Commission. Notification shall be required for only those cases south and west of Interstate Highway 10, north of Union Avenue and east of Motel Boulevard (N.M. State Highway 292). For notification area, see Figure 1: Town of Mesilla Special Notification Area Map at the end of this Article.

G~~F~~. ANNEXATION AND INITIAL ZONING.

A petition for annexation shall include an annexation plat, master plan and initial zoning request. Annexation plat, master plan and initial zoning shall be heard as one case, but separate action shall be taken on the annexation plat, master plan and initial zoning. The City Council shall take final action on the annexation plat, master plan and the initial zoning request after the Planning and Zoning Commission provides a timely recommendation. For detailed information about annexation, refer to Chapter 37, Article IX: Annexations, of the Subdivision Code.

~~G.~~ H——ZONING DISTRICT CHANGES WITHOUT CONDITIONS (Unconditional Zoning).

A zoning district change or rezoning is a change in classification of property. When approved by the City Council and the thirty (30) calendar day appeal period has expired, the zoning district change shall be recorded and shown on the appropriate zoning district map within the "Official Zoning District Atlas." Approved initial zoning shall be shown on the appropriate zoning district map within the Official Zoning District Atlas. Special Use Permits shall not be considered a zoning district change. No condition that restricts the use of land beyond that otherwise provided by district provisions shall be concurrently imposed with the approval of a zoning district change, except as outlined in Sec. 38-10H. However, a variance may be recommended by the Planning and Zoning Commission and granted by the City Council as part of a zoning district change request.

I~~H~~. ZONING DISTRICT CHANGES WITH CONDITIONS (Conditional Zoning).

1. AUTHORIZATION. Zoning district changes may be approved subject to one or more conditions that restrict the use of land beyond that otherwise provided by the district. Variances may be recommended by the Planning and Zoning Commission and granted by the City Council as part of conditional zoning consideration.

2. PURPOSE AND INTENT. A rezoning subject to a condition is to be used only in circumstances where the proposed change of district is appropriate to allow certain uses which are in accordance with the Comprehensive Plan, and which are not incompatible with the surrounding neighborhood.

3. SCOPE. It shall be unlawful to utilize, sell, or lease property rezoned with conditions without first providing to any prospective buyer or lessee a disclosure statement stipulating the conditions and the time limitation prescribed, if any, and without filing a copy of said disclosure with the office of the Doña Ana County Clerk. A condition attached to a zoning district change shall be consistent with the goals, objectives and policies of the Comprehensive Plan, Plan elements or other plans adopted by the City Council and may

   a. Limit the use of property affected so that one or more of the uses which would otherwise be permitted in the district being adopted shall not be permitted in the specific district as conditioned, and/or
   b. Require compliance with such design standards or time limitations relating to the construction, placement and size of buildings, landscaping, streets, roadways, pathways, utilities, drainage ways, and other site design features as may be necessary to protect the community from the impact of future development.

4. LIMITATION ON USING CONDITIONAL ZONING. Any use or structure that requires a Special Use Permit under Sec. 38-54 shall not be permitted by using conditional zoning.

5. INITIATION OF CONDITIONAL ZONING. Conditional Zoning may be initiated by the Community Development Director or designee, the Planning and Zoning Commission, City Council, or by the applicant. Requests shall specify those uses, site design features, time limitations, or other conditions for the conditional zoning.

6. PLANNING AND ZONING COMMISSION ACTIONS. The Planning and Zoning Commission shall follow procedures specified in this Section when acting on proposed zoning district changes with conditions. The Planning and Zoning Commission may consider and take action on all aspects of the proposed conditions and limitations. The substance of all proposals, site plans, and other pertinent information with regard to conditional zoning shall be made a permanent part of the action recommending approval of said conditional zoning.

7. AMENDMENT OF OFFICIAL ZONING DISTRICT ATLAS. The Official Zoning District Atlas shall be amended as necessary to reflect the existence of zoning changes with conditions. Areas affected by conditions shall be identified by the use of the suffix "C" and shall be clearly distinguished from areas in like zoning district that are not subject to special limiting conditions. The action creating a district subject to conditions and a copy of all conditions shall be available in the Community Development Department as a supplement to the Official Zoning District Atlas.

8. CONDITIONAL ZONING CONTROL. Conditions attached to a zoning district change shall govern over any less restrictive zoning regulations unless specifically provided otherwise. All other regulations not specifically affected by a condition shall apply in the same manner as if the property were not subject to conditions.

9. REVOCATION OF CONDITIONAL ZONING DESIGNATION. A conditional zoning designation shall be revoked and revert to the previous zoning district designation if the designated property is not used or developed in accordance with the conditions and all other applicable regulations within two (2) years from the date of City Council approval. Upon a formal request from the property owner, the Community Development Director or designee may grant a one (1) time, one (1) year extension as deemed appropriate. When the only conditions placed upon a zoning designation are prohibitions (such as No billboards allowed or No medical offices allowed), the conditions shall run with the land and shall not be subject to the two (2) year development window previously stated. Futhermore, these prohibitive conditions shall only be removed if~~until the property is either used in a fashion contrary to the stated prohibition or~~ a re-zoning action causes the condition to be removed. If compliance with ~~used contrary to~~ the "non-prohibitive" conditions are not made whole, the property shall revert back to the prior designation unless the Community Development Director or designee certifies~~d~~ in writing that remedial action can bring about compliance with approved conditions in a timely fashion. Reversion shall cause the use of the property to follow appropriate zoning requirements as applicable. When conditions speak to performance criteria (i.e. requirement for opaque screen along north property line or height limitations

established, etc.) upon development, conversion of property or expectation thereof, the two (2) year revocation period shall apply.

J~~I~~. VARIANCES. The Planning and Zoning Commission and the Public Works Director or designee (See Sec. 38-10I.1) are authorized to grant variances.

1. A variance shall be defined as a variation in the numerical requirements of this Code, the Sign Code, or the Design Standards (landscaping). Numerical variances to the clear sight triangle requirements shall be considered, reviewed, denied, or approved by the Public Works Director or designee, as per Article III of Chapter 26.

2. A variance proposal to be acted on by the Planning and Zoning Commission may either be part of a request for rezoning, initial zoning, special use permit or planned unit development, or be submitted independent of such proposals and heard based on the individual merits of the request. Use variances, which are non-numerical, as well as numerical variances to the provisions of this Code, may be granted by the Planning and Zoning Commission only in accordance with the Infill Development Process (IDP), Sec. 38-48. Administrative decisions on or interpretations of the Zoning Code or the Sign Code by staff may be affirmed, reversed, or modified pursuant to this section and appealed to the City Council in accord with Sec. 38-13, except as provided in Sec. 38-4D.

3. In the event of a denial decision by the Planning and Zoning Commission and/or City Council, there shall be no reapplication for the exact same variance, which was properly advertised and acted on, for a period of one (1) year after the date of the decision of the Planning and Zoning Commission and/or City Council. A modified variance request processed through the IDP, Sec. 38-48, may be resubmitted at any time following action by the Planning and Zoning Commission.

4. A variance shall be automatically revoked if a building permit, sign permit or business registration/license for the approved variance has not been obtained within one (1) year. Upon a formal request from the property owner, the Community Development Director or designee may grant a one (1) time, one (1) year extension as deemed appropriate.

K~~J~~. CRITERIA FOR DECISIONS.

The Planning and Zoning Commission shall review each request in relation to the goals, objectives and policies of the Comprehensive Plan, Plan elements, other applicable plans, and the purpose and intent of this Code, Sec. 38-2 and 36-1 of the Sign Code, when appropriate, and determine whether the request is consistent or inconsistent with stated criteria. Members of the Planning and Zoning Commission shall state the factual basis and the findings for their vote.

Furthermore, granting any variance shall not merely serve as a convenience to the applicant, but the variance shall be the minimum necessary for relief in order to accomplish the stated objective(s) of the applicant's request or demonstrable hardship. Hardships are not considered personal or monetary. In addition to criteria already referenced, decisions may consider:

1. A physical hardship relative to the property (i.e., topographic constraints or right-of-way takes resulting reduced development flexibility, etc.) in question.

2. The potential for spurring economic development at a neighborhood or city-wide level if requested allowances are granted.

3. Monetary considerations not as a whole, but relative to options available to meet the applicant's stated objectives when such options cause considerable monetary hardship under strict application of code provisions.

| L~~K~~. NOTICE OF DECISION.

Upon making a recommendation to the City Council or taking final action on matters for which the Planning and Zoning Commission has been granted final authority, the Community Development Department shall promptly

1. Prepare a written decision that includes an order stating the factual basis and the findings of the Planning and Zoning Commission which support the order
   a. Recommending the granting or denying of relief, or
   b. Granting or denying relief;
2. File the written decision with the City Clerk's Office;
3. Send by certified mail a document with appropriate signatures that includes a copy of the written decision of the Planning and Zoning Commission to all parties whose rights are adjudged by the decision and that contains the requirements for filing an appeal;
4. Send by regular mail, or otherwise provide, a copy of the document that includes a copy of the written decision of the Planning and Zoning Commission to every person who has filed a written request with the Community Development Department for notice of the decision.

| L~~M~~. APPEAL TO CITY COUNCIL.

Decisions of the Planning and Zoning Commission may be appealed to the City Council in accord with the provisions of Sec. 38-13.

| N~~M~~. RESUBMITTAL OF REQUEST.

A request denied by the Planning and Zoning Commission and/or the City Council shall not be resubmitted or reconsidered for a period of one (1) year. However, after meeting with Community Development Department staff, a different request on the same property may be submitted no less than six (6) months after such denial decision. Special use permits or planned unit developments processed through the IDP that are denied by the Planning and Zoning Commission may be modified and resubmitted at any time following action by the Planning and Zoning Commission.

Sec. 38-11. Reserved

Sec. 38-12. Reserved

Sec. 38-13. City Council

A. FINAL ACTION. After recommendation from Community Development Department staff, if applicable, and the Planning and Zoning Commission, the City Council shall take final action on the following:

1. Comprehensive Plan, Plan elements, other plans sent from the Planning and Zoning Commission and all amendments,
2. Zoning district change requests,
3. Initial zoning requests,
4. Concept Plan and Final Site Plans submitted with the Concept Plan of Planned Unit Developments (subdivisions requesting three or more waivers to planning-related issues become planned unit developments),
5. Associated variances with A.2 through A.4 above,
6. Zoning Code and Sign Code amendments, and
7. Appeals of decisions of the Planning and Zoning Commission.

B. CHANGING AND RECONSIDERATION OF PETITIONED ZONING PROPOSALS. A zoning district change or initial zoning request may be amended by the City Council to be more restrictive. Such amendment and reconsideration shall not require readvertisement or notice to surrounding property owners if considered by the City Council at the original (first) Public Hearing. Subsequent public hearings shall require readvertisement and notice to surrounding property owners unless the hearing is continued or the request is postponed to a specific date.

C. GROUNDS FOR APPEAL TO CITY COUNCIL. Any person, or any department, commission, board or bureau of the City that is affected by a decision of an administrative official, commission, committee, or board in the administration or enforcement of this Code, or any other resolution, rule or regulation adopted pursuant to Sections 3-21-1 through 3-21-12 and 3-21A New Mexico State Statutes Annotated, 1978 Compilation, may appeal such decision to the City Council. Such appeal must be initiated in writing within fifteen (15) calendar days after the decision and after all other procedures established by this Code have been exhausted. Any person that is a party to an appeal may request a "Battershell" due process proceeding in place of the automatic standard due process.

D. STAY OF PROCEEDINGS. An appeal shall stay all proceedings in furtherance of the action appealed unless the officer, official, commission, committee, or board from whom the appeal is taken certifies that by reason of facts a stay would cause imminent peril of life and property. Upon certification, the proceedings shall not be stayed except by order of District Court after notice to the official, commission, committee, or board from whom the appeal is taken.

E. APPELLANT RESPONSIBILITY IN APPEALS. All appellants under this Section are required to submit to the Community Development Department a detailed written statement of the grounds of their appeal, including findings, no later than fifteen (15) calendar days after the decision is filed with the City Clerk's Office. The appeal shall state all issues to be considered. Only the issues stated shall be considered during the applicable proceeding.

F. APPEAL NOTICE. Notice on all appeals, except Zoning and Sign Code amendments and interpretations, on decisions of the Planning and Zoning Commission shall be sent in complete accordance with Section 38-10, E. 4. a. With the exception of subdivision related matters, the specified exclusion referencing Section 38-10 B. 2. b. shall not apply for appeals under this section.~~by certified mail to all property owners, as shown on the records of the County Assessor, within two hundred (200) feet of the area of the proposed change, excluding streets, alleys, channels, canals, other public rights-of-way and railroad rights-of-way. A minimum of fifteen (15) property owners shall be notified even if there are fewer than fifteen within the mandatory 200 foot radius. Notice to said property owners shall be mailed at least ten (10) calendar days prior to the meeting. Notice of the time and place of the meeting shall be published in a newspaper of general circulation in the City at least fifteen (15) calendar days prior to the meeting.~~ Notice of the time and place of the appeal shall be posted in conspicuous places on the property by Community Development Department staff at least ~~ten~~ fifteen (1~~0~~5) calendar days prior to the appeal public hearing.

G. AUTHORITY OF THE CITY COUNCIL. When an appeal alleges that there is error in any order, requirement, decision or determination by an administrative official, commission, committee, or board in the enforcement of this ordinance, or any other resolution, rule or regulation adopted pursuant to the above stated State Statutes, the City Council, by a majority vote of all its members may, after all other procedures established by the provisions of this Code have been exhausted, reverse or affirm any order, requirement, decision or determination of an administrative official, commission, committee or board; or make any change in an order, requirement, decision, or determination of an administrative official, commission, board, or committee.

Members of the Planning and Zoning Commission shall not participate in any way in an appeal before the City Council of any decision of their Commission. The minutes of each Commission meeting are the public record that indicates each Commission member's participation. This restriction applies to members of other groups or committees, e.g., University Avenue Corridor Citizens' Design Review Committee, when the group or committee is required to make a recommendation to the Planning and Zoning Commission.

H. NOTICE OF DECISION. Upon City Council making any final decision, the Community Development Department shall promptly

1. Prepare a written decision that includes an order stating the factual basis and the findings of the City Council which support the order;
2. File the written decision with the City Clerk's Office;

3. Send by certified mail a document with appropriate signatures that includes a copy of the written decision of the City Council to all parties to the appeal submitted to the City Council, including persons who had filed a formal protest as an aggrieved person, and that contains the requirements for filing an appeal;
4. Send by regular mail, or otherwise provide, a copy of the document that includes a copy of the written decision of the City Council to every person who has filed a written request with the City Clerk for notice of the decision.

I. AMENDMENT, REPEAL, AND REVIEW OF THE ZONING CODE.

1. The City Council, after a public hearing and after a recommendation from the Planning and Zoning Commission, may amend, supplement, or repeal any portion or all of this Code.
2. There shall be a continuous evaluation of the provisions of this Code, and amendments shall be submitted to the City Council as deemed necessary.

Sec. 38-14. Appeal to District Court

Any person dissatisfied with an order or determination of the Planning and Zoning Commission, after review of the order or determination by City Council; may commence an appeal in District Court pursuant to the provisions of Section 12-8A-1 NMSA 1978, as amended, and Section 39-3-1.1 NMSA 1998, as amended.

Any person aggrieved by a determination of the City Council may appeal to the District Court within thirty (30) calendar days after the final decision of the City Council has been filed with the City Clerk's Office.

Sec. 38-15. Violations of the Zoning Code

A. VIOLATIONS. It shall be a violation of this Code for any person, firm, or corporation to neglect, refuse to comply with, or resist the enforcement of any provision of this Code or any requirement pursuant thereto, or in any way use, change, or construct a building or structure in non-conformance with zoning approval. Each day that such violation exists shall constitute a separate offense. Any violation herein described is governed by the provisions of the Las Cruces Municipal Code and its subsequent amendments.

B. PENALTIES. The Las Cruces Municipal Court shall impose the penalties for each day the violation of this Code exists. In addition to fines, the Las Cruces Municipal Court may grant injunctive relief in accordance with the provisions of the Las Cruces Municipal Code and its amendments.

C. OTHER REMEDIES. Nothing herein shall limit the City from seeking other remedies at law or equity to enforce the Zoning Code. Violations of this Code shall be brought into compliance, abated, removed, and/or pursued in the applicable court of law. In all such cases that the Court rules to allow non-conformance with this Code, there shall be a pro forma action by the Planning and Zoning Commission permitting such non-conformance. Such action shall be consistent with the Court's ruling, and thereafter said non-

conformance shall be considered legal non-conforming and be subject to the provisions thereof.

Sec. 38-16. Enforcement Provisions

A. DUTY TO ENFORCE. The official(s) designated by the City Manager shall enforce this Code.

B. BUILDING PERMITS AND PLANS. No building or structure, except those exempted by the City's Building Code, shall be erected, enlarged, or structurally altered until a building permit has been issued and zoning approval of all plans has been granted by the Community Development Director or designee.

C. CERTIFICATE OF OCCUPANCY. Certificate of Occupancy approving a structure or use of land shall be required for all of the following prior to occupancy:
1. Occupancy and use of a building hereafter erected or structurally altered;
2. Change in use of an existing building to a use of a different classification;
3. Occupancy and use of vacant land;
4. Change in the use of land to use of a different zoning district classification;
5. Change in the use of a non-conforming use, including the alteration or expansion of a non-conforming use or structure.

D. LEGAL DOCUMENTS TO INSURE COMPLIANCE. The Community Development Director or designee may require affidavits, disclosure statements, deed restrictions, or other legal documents to assure compliance with the provisions of this Code. Such documents may be approved for use in specific cases by the City Attorney.

Sec. 38-17. Fees

All fees relating to this Code shall be adopted by resolution of the City Council.

Sec. 38-18 -- 38-19. Reserved.

Figure 1: Town of Mesilla Special Notification Area, see page 14

Exhibit 'A' pt. 2 – P&Z

Sec. 38-49. PUD - Planned Unit Development

A. PURPOSES.

The purposes of planned unit developments (PUD) are to:

(1) Comply with Growth Management Policy as established in the Land Use Element, other applicable elements and all companion documents to the Comprehensive Plan.

(2) Produce more flexibility in development than would result from a strict application of this Code.

(3) Permit design flexibility that will encourage a more creative approach to the development of land and that will result in more efficient and aesthetically desirable alternatives to the housing and other development needs of the community.

(4) Permit flexibility in land use, density, placement of buildings, arrangement of open space, circulation facilities, and off-street parking areas, and maximize the potential of individual sites under development.

(5) Promote the infill of vacant land.

(6) Create developments that balance the benefits to the community with the developer's interests.

B. GENERAL PROVISIONS.

(1) The PUD process shall be required for those proposed developments that are to be subdivided and multi-phased and that request three (3) or more deviations to planning-related minimum development standards, e.g., setbacks. An applicant whose proposed development is not required to follow the PUD process may request to use the PUD process.

(2) The Infill Development Process (IDP) described in Section 38-48 authorizes the Planning and Zoning Commission to take final action on PUD's. However, proposed development in Infill Areas is not required to use the PUD process, but may use the Infill Development Process.

(3) Proposed deviations to engineering standards, e.g., street construction standards, will be acted on by the Public Works Department Director or designee with appeal to the Engineering Review Committee. However, the PUD process shall not be used if only deviations to engineering standards are proposed.

(4) A developer shall not be granted a deviation to planning-related minimum standards (private incentive) without providing a public benefit to the City/community. The Land Use Element of the City's Comprehensive Plan provides guidance in determining appropriate public benefits in relation to private incentives. One or more public benefits are to be provided for each private incentive. For example, the private incentive request to reduce the amount of open space below the standard shall result in an equivalent amount of recreation equipment being provided or a combination of benefits that relate to the private incentive requested.

(5) A PUD may be used to correct any legal nonconforming situation. However, a PUD shall not be used to make an illegal situation legal.

(6) All contiguous property owned or legally controlled by the developer shall be included within the PUD.

C. SPECIFIC PROVISIONS.

A Planned Unit Development shall meet minimum development standards. The existing development standards, e.g., Zoning Code requirements, shall be met, or minimum development standards, as proposed by the applicant, and approved as part of the PUD, shall be met. The applicant shall clearly describe the PUD in terms of all of the following specific provisions. In addition, the Community Development Director or designee may recommend conditions and the Planning and Zoning Commission or the City Council may impose conditions and require compliance with such other standards as deemed necessary.

(1) Land Use. A PUD may contain any land use or combination of land uses.

(2) Location. A PUD may be located anywhere within the City except within the University Avenue Corridor Plan Overlay Zone District. However, the PUD process shall not be used to circumvent the requirements of any overlay zoning district.

(3) Size. There is no acreage minimum or maximum.

(4) Density. There is no minimum or maximum number of dwelling units per acre.

(5) Intensity. There is no minimum or maximum square footage requirement for nonresidential uses.

(6) Off-Site Roadway and Intersection Improvements. Contributions to or the provision of off-site roadway and intersection improvements shall be required based on the proportionate share of the PUD's impact on off-site roadway segments and intersections. Off-site roadway and intersection improvements necessary in whole or in part because of the PUD's impacts shall be provided according to the improvements schedule outlined in the required traffic impact analysis called for in the Transportation Element of the Comprehensive Plan (Policy 1.5 of Goal 7, Growth Management, of the Transportation Element of the Comprehensive Plan). Furthermore, improvements shall be consistent with Growth Management policy of the Land Use Element.

(7) Architecture. PUD architecture shall be compatible with and enhance the existing architecture on adjacent property.

(8) Design. The City may alter the design of the proposed PUD to insure the public health, safety, and welfare.

(9) Context. The City may alter the proposed PUD to insure compatibility with existing and potential land uses adjacent to the proposed PUD.

(10) Antennas, Towers, Communication Structures, and Other Vertical Structures. See Section 38-59.

(11) Height. See Section 38-31D and Section 38-32D.

(12) Landscaping. See Chapter 32 of the Municipal Code.

(13) Mobile Home Parks/Recreational Vehicle Parks. See Section 38-57.

(14) Open Space. See Chapter 32 of the Municipal Code.

(15) Off-Street Parking. See Section 38-58.

(16) Roadway Access. See Chapter 26, Article III, Access and Median Cuts. The proposed PUD shall be accessed by at least one paved roadway (meeting the City of Las Cruces Standard Specifications for Road Construction) within the minimum right-of-way for the roadway width having the capacity necessary to serve the first phase of the PUD. Additional access may be required before other phases of the PUD are allowed to proceed.

(17) Setbacks/Bufferyards/Screens. (See Matrix 1 at the end of this section)

(18) Signage. See Chapter 36 of the Municipal Code.

(19) Walls and Fences. See Section 38-60.

(20) Accessory Uses and Structures. See Section 38-51.

(21) Private Incentives/Public Benefits. For each private incentive (deviation to existing Municipal Code planning-related minimum standards listed above) requested, one or more public benefits shall be provided. For example, a private incentive request to reduce the amount of open space below the standard shall result in an equivalent amount of recreation equipment being provided or a combination of benefits that relate to the private incentive requested.

D. REVIEW PROCEDURES.

(a) Authorization. A Planned Unit Development (PUD) is a zoning district change and is not permitted by right in any zoning district. The procedures and requirements in this Article shall govern the development of a PUD.

For each PUD, there shall be a Pre-Application Conference, Concept Plan, one or more Final Site Plans and, if required, one or more Final Plats. The following table summarizes actions to be taken on a PUD:

	Staff	P & Z	City Council
Pre-App. Conf.	R		
Concept Plan	R	R (FA*)	FA (A*)
Final Site Plan	R	FA (R**)	A (FA**)
Final Plat***	FA	A	A

Recommendation (R), Final Action (FA), and Appeal (A)

* The Planning and Zoning Commission is authorized to take final action using the Infill Development Process within Infill Areas.

** The City Council shall take final action on final site plans when one or more is submitted along with the Concept Plan.

*** A Final Plat may not be required in every case.

(b) Pre-Application Conference. Any proposed PUD shall first be reviewed at a pre-application meeting scheduled and held by the Community Development staff. The pre-application process shall be subject to the provisions provided for in Section 38-10 C.~~Before an application for a PUD may be submitted, the applicant shall meet with the City Community Development Department staff to review the proposed project.~~ This meeting does not require a written application or fee. ~~Based on the information made available before or at the pre-application conference by the applicant, the staff shall review the development proposal and advise the applicant concerning the compatibility of the proposal with the intent, goals, objectives, policies and standards of all City plans and codes.~~ The results of this meeting shall not obligate the Planning and Zoning Commission or City Council.

(c) Concept Plan Review.

(1) Concept Plan Application

The Concept Plan is similar to, and replaces, a subdivision master plan in that it is intended to serve as a tool that can assist in identifying the appropriateness of a proposed development within the context of its surroundings. The Concept Plan forms the basis for approval of the PUD.

The Concept Plan and supplemental material shall be submitted to the Community Development Department no later than sixty (60) calendar days prior

to the date of the regular meeting of the Planning and Zoning Commission. The staff shall review the submittal for completeness. If all the required items have been submitted as per Section 38-49E, the Community Development Department shall issue a receipt for submittal. A Concept Plan and supplemental material shall not be accepted for review if incomplete. All items required on a Concept Plan must be present for acceptance unless accompanied by a written request justifying the deletion of required information. The Community Development Director or designee may waive any submittal requirement. However, after reviewing the Concept Plan, the Community Development Director or designee, the Planning and Zoning Commission and/or the City Council may require additional items and resulting information in addition to the submittal requirements as per Section 38-49E. Additional items and/or information requested by staff may include, but not be limited to, the need for early notification to a neighborhood group(s) and/or defined noticed area. ~~other information in addition to the submittal requirements as per Section 38-49E.~~ Additional ~~information~~ requests~~requested~~ by staff shall be justified in writing.

A written staff report with recommendations shall be provided to the Planning and Zoning Commission along with the Concept Plan. The report shall recommend that the Concept Plan be approved, conditionally approved, disapproved, or postponed.

(2) Concept Plan Public Hearing(s)

Public hearing and notice requirements shall be in accord with provisions of Section 38-10. The applicant or applicant's representative shall be present at the public hearing for the proposal to be considered. If the applicant or representative is not at the public hearing, the Concept Plan shall be postponed until the next regular Planning and Zoning Commission meeting or City Council meeting.

The Planning and Zoning Commission shall review the Concept Plan, staff report, applicant presentation, and information submitted by interested citizens. Action by the Planning and Zoning Commission shall be a recommendation to the City Council for approval, conditional approval, or disapproval. The Planning and Zoning Commission is authorized to take final action on a PUD using the Infill Development Process within Infill Areas. An Official Notification of Decision that describes the decision of the Planning and Zoning Commission and/or City Council shall be furnished to the applicant in compliance with State law.

The Concept Plan may be approved only if it includes the following findings:

a. The proposed construction and use of the PUD will not be detrimental to the health, safety, or welfare of the community or adjacent neighborhood;
b. There is or will be adequate sewage capacity, roadway capacity, energy supply, and potable water supply to serve the PUD at the time a certificate of occupancy or letter of acceptance, as applicable, is to be issued;
c. The PUD conforms to the intent, goals, objectives, policies, and standards of all City plans and codes;

d. The uses proposed, including their density and intensity, are appropriate to the character of the neighborhood and will have a positive aesthetic effect on the neighborhood in which the PUD will be located; and

e. The proposed uses will not subject surrounding properties and pedestrians to significant hazardous traffic conditions.

Final approval may be granted subject to compliance with such conditions required by the Planning and Zoning Commission and/or the City Council. The conditions that the Planning and Zoning Commission and/or City Council find necessary shall be made part of the terms under which the PUD is granted. The Planning and Zoning Commission and/or the City Council may require such conditions to be included as covenants or deed restrictions in any subsequent conveyances of PUD property. Such covenants and deed restrictions shall be properly recorded with the Dona Ana County Clerk. Furthermore, the Planning and Zoning Commission and/or City Council may require that all or part of any utility corridor, roadway, walkway, bike facility, park, playground, or other public area shown on the Concept Plan be dedicated for public use as an easement, right-of-way, or other conveyance.

If the Concept Plan is approved or conditionally approved by the Planning and Zoning Commission and/or the City Council, the PUD shall be shown on the Official Zoning District Map as PUD replacing the existing zoning districts.

(3) Concept Plan Effective Period

The approval of the Concept Plan shall be effective for a period of five (5) years. If a Final Site Plan for all or part of the area has not been approved by the Planning and Zoning Commission and/or City Council by the expiration of the five (5) year period, the Concept Plan approval shall expire. The zoning of the property shall automatically revert to the underlying zoning districts that existed for the property at the time the Concept Plan was approved. Prior to the expiration date, the staff may approve a request for an extension of time of up to two (2) years. After the first time extension, the Planning and Zoning Commission and/or City Council shall consider any other time extension request. When at least one Final Site Plan has been approved, the Concept Plan shall remain effective until amended.

(4) Concept Plan Amendment

Any substantial change proposed that would affect the approved Concept Plan shall require re-submittal of the Concept Plan in its entirety. Minor changes are those changes that are not substantial and may be approved by the staff; however, staff may determine that any proposed change should be reviewed by the Planning and Zoning Commission and City Council. Substantial changes to the Concept Plan are subject to the same requirements as the original application. Substantial changes shall include but are not limited to:

a. Any change that would increase the intensity of the land uses;

b. Fifteen (15) percent cumulative increase in vehicular traffic to any roadway segment or intersection;
c. Fifteen (15) percent cumulative increase in residential density;
d. Fifteen (15) percent cumulative increase in nonresidential square footage;
e. Any change in private incentives and public benefits;
f. Increase in size of property;
g. Any reduction in screening, bufferyards and setbacks at the PUD property line;
h. Fifteen (15) percent cumulative increase in the buildable area for structures including signs; and
i. Fifteen (15) percent cumulative reduction in open space.

(d) Final Site Plan Review.

(1) Final Site Plan Application, Public Hearing and Effective Period

A Final Site Plan shall substitute for a subdivision preliminary plat when an applicant must otherwise comply with the subdivision requirements. Upon approval of the Concept Plan, the applicant may submit a Final Site Plan for part or all of the land area covered by a Concept Plan for Planning and Zoning Commission consideration. However, an applicant may submit a Final Site Plan along with the Concept Plan. One or more final site plans submitted with the Concept Plan shall be submitted along with the Concept Plan to the City Council for final consideration. Subsequent final site plans shall be submitted to the City Council for final consideration.

The Final Site Plan and supplemental material shall be submitted to the Community Development Department no later than sixty (60) calendar days prior to the date of the regular meeting of the Planning and Zoning Commission. The staff shall review the submittal for completeness. If all the required items have been submitted as per Section 38-49E, the Community Development Department shall issue a receipt for submittal. A Final Site Plan and supplemental material shall not be accepted for review if incomplete. All items required on a Final Site Plan must be present for acceptance unless accompanied by a written request justifying the deletion of required information. The staff may waive any submittal requirement. However, after reviewing the Final Site Plan, the Planning and Zoning Commission and or the City Council may require additional items and resulting~~other~~ information in addition to the submittal requirements as per Section 38-49E. Additional items and/or information requested by staff may include, but not be limited to, the need for early notification to a neighborhood group(s) and/or defined noticed area. Additional requests shall be justified in writing.

A written staff report with recommendations about the Final Site Plan shall be provided to the Planning and Zoning Commission along with the Final Site Plan. The report shall recommend that the Final Site Plan be approved, conditionally approved, disapproved, or postponed.

The review procedures for the Final Site Plan shall be the same as for the Concept Plan except that:

a. The Planning and Zoning Commission shall take final action instead of the City Council unless a Final Site Plan has been submitted along with the Concept Plan. One or more final site plans submitted with the Concept Plan shall be submitted along with the Concept Plan to the City Council for final consideration. Subsequent final site plans shall be submitted to the City Council for final consideration.
b. No findings are required except that the Final Site Plan conforms to the Concept Plan.
c. A Final Site Plan shall be effective for two (2) years from the date of approval. When at least one Final Plat or at least one Building Permit has been approved, the Final Site Plan shall be effective until amended.

Approval of a Final Site Plan shall not constitute approval of a Final Plat when a Final Plat is required. Such approval shall constitute the permission to prepare and submit a Final Plat for part or all of the land area covered by the Final Site Plan and construction drawings of all improvements for the Final Site Plan land area. Final platting shall not be considered until a Final Site Plan is approved. If a Final Plat is not required, an approved Final Site Plan shall allow for a building permit to be issued that is in compliance with Chapter 30, Buildings and Building Regulations. Notation on documents shall clearly indicate that the project receiving the building permit is part of a PUD and is subject to the approved Concept Plan and approved Final Site Plan.

In granting approval of a Final Site Plan, the Planning and Zoning Commission shall require adequate guarantees of compliance with all conditions of approval. Such guarantees may include, but are not limited to, performance bonds, lien agreements, or escrow deposits in an amount sufficient to ensure compliance. Moreover, the construction of a PUD following approval of a Final Site Plan shall be in accordance with the Concept Plan and Final Site Plan conditions. Failure to comply with such conditions and standards shall be deemed a violation of this Code.

(2) Final Site Plan Amendment

Any substantial change proposed that would affect the approved Final Site Plan shall require re-submittal of the Final Site Plan in its entirety. Minor changes are those changes that are not substantial and may be approved by the staff; however, staff may determine that any proposed change should be reviewed by the Planning and Zoning Commission and City Council. Substantial changes are subject to the same requirements as the original application. Substantial changes shall include but are not limited to:

a. Increased drainage impact;
b. Change in location and size of utilities and easements;

c. Change in required, specific landscape features such as buffers, screens and setbacks at the PUD property line;
d. Change in proposed roadways above major local class;
e. Change in structure location, including signs, by more than five (5) feet; and
f. Change in architectural style or character.

(e) Final Plat Review and Contents.

If required, the Final Plat(s) review procedures and contents shall comply with Article IV of Chapter 37, the City's Subdivision Code.

E. SUBMITTAL REQUIREMENTS.

(a) Concept Plan Submittal Requirements. A request for review of a Concept Plan shall include the following information:

(1) Official Application and Development Statement
(2) Submittal Fee
(3) Waiver request and justification to delete submittal information, if applicable.
(4) Descriptions of deviations to planning-related development standards and the public benefits to be provided.
(5) Association by-laws (may be submitted with each Final Site Plan.)
(6) Concept Plan. The following information shall be provided on the Concept Plan and supporting maps and drawings:
   a. Name of Concept Plan.
   b. Name, address and telephone number(s) of property owner(s), developer(s) and consultant(s) preparing the Concept Plan.
   c. Detailed area map showing the surrounding area within a half mile and the PUD in relationship to adjacent parcels, existing roadways, and natural or man made features that may impact or be impacted by the PUD.
   d. North arrow, date of preparation, and written and graphic scale.
   e. Legal description.
   f. Boundary lines of Concept Plan area with approximate length of lines and boundary lines of phases.
   g. For each lot, parcel, or tract, list proposed land uses and acreage and show building area boundaries within which each structure will be located:
      1. Maximum number of dwelling units and maximum density.
      2. Maximum square footage of nonresidential uses.
   h. Proposed screening and bufferyard/setback distances along the PUD property line.
   i. Existing land uses and zoning on adjacent lots, parcels, or tracts.
   j. Name of adjacent subdivisions (including the filing date, book and page numbers), property owners, and zoning. If not subdivided, name of property owner.
   k. Twenty foot (20) contour intervals minimum or as appropriate.

l. Proposed alignment of roadways and how they relate to the Metropolitan Planning Organization (MPO) Transportation Plan and the Transportation Element of the Comprehensive Plan and the impacts created on the area road network, neighborhood, and other land uses. Impact data shall include the anticipated traffic volume generated by the proposed development, identification of the affected road network, and the additional traffic volumes associated for each road. If required, provide a Traffic Impact Study, including a roadway improvement schedule, consistent with the requirements of the Transportation Element of the Comprehensive Plan (Policy 1.5 of Goal 7, Growth Management, of the Transportation Element) and based on the latest recommendations from the Institute of Traffic Engineers. Thoroughfare System: Identification of adjacent roadways and other transportation lines by functional classification; proposed location, length, width of all roadways, bikeways, trails, walkways, and any other transportation lines. Identify existing and proposed classification of roadways as per City of Las Cruces Design Standards and based on the current Las Cruces MPO Transportation Plan and the Transportation Element of the Comprehensive Plan.

m. Location and sizes of existing and proposed utilities.

n. Significant natural features, such as arroyos and 100-year flood plains.

o. All easements.

p. Tabular Information:

1. Land uses of each lot, parcel, or tract.
2. Total acreage of the PUD, acreage for each land use, and acreage of each land use by phase.
3. Maximum number of dwelling units and maximum density by phase.
4. Total square footage of nonresidential uses by phase.
5. Total acreage for open space, private and public facilities, and right-of-way.
6. Maximum height of proposed structures for each lot, parcel or tract.

q. Approval block signifying the final approved Concept Plan to be signed by the Zoning Administrator upon approval by the City Council and resolution of all outstanding staff comments.

(7) Other Impact Studies, if required by the Planning and Zoning Commission, are to be submitted prior to City Council consideration:

a. Impacts on any public facilities outside the PUD area. Impact data shall include expected population generated by the proposed development, identification of public facilities, e.g., utilities, parks, that are anticipated for use by said population and level of capacity of said utilized public facilities.

b. Impacts on air quality, specifically solid particulates known as PM10. (Small airborne particulates, particulate matter less than or equal to 10 microns in diameter, are an important health concern because they are far more likely than larger particles to be inhaled deep into the lungs. This particulate matter is a respiratory irritant, can aggravate asthma and other lung diseases, and act as a medium of transport that allows the body to

absorb heavy metals through oxidation. These small, suspended particulates also play some role in obscuring light, thus degrading visibility.) Impact data shall include identification of proposed uses that generate air pollution substances into the environment and the projected impact.

c. Impacts on views and noise to adjacent property. Impact data shall include identification of proposed uses that generate excessive noise, anticipated maximum height for proposed structures, identification of existing physical features that are viewed from the PUD and adjacent properties, and how these views will be altered by the PUD. Proposals to mitigate impacts shall be provided.

d. Geological and Soils Hazards: Report on the Geologic and Soils Hazards in relation to slope conditions, drainage problems and suitability for septic system use, if applicable, as identified by the Soil Survey of Dona Ana County Area, New Mexico. This report shall also include either an aerial photograph or a map with existing contours at an appropriate interval to establish accurate ground contour of the PUD area.

(8) Copy of early notification letter to neighborhood group(s) and/or defined noticed area and copy of minuts (summary or verbatim) from any required meeting pursuant to Section 38-10 C. 1. (d) (v).

(b) Final Site Plan Submittal Requirements. A request for review of a Final Site Plan (FSP) shall include the following information:

(1) Official Application and Development Statement

(2) Submittal Fee

(3) Waiver request and justification to delete submittal information if applicable.

(4) Master Drainage Study consistent with Section 37-81of the Subdivision Code and Article III, Drainage, of the City Design Standards.

(5) Master Utilities Report and Plan consistent with Section 37-81 of the Subdivision Code.

(6) A Final Site Plan. A FSP shall be at a scale that adequately represents the required information. A FSP shall be prepared on 18" x 24" sheets of paper. Copies shall be legible with no limit to the number of sheets provided. A FSP and supporting maps and drawings shall show existing conditions and all proposals, including the following:

a. Name of the FSP.

b. Total acreage of the FSP area to the nearest 1/10 of an acre.

c. Date of preparation, north arrow, written and graphic scale.

d. Vicinity Map to locate the FSP within the Concept Plan area. The Vicinity Map shall show relationship to existing major roadways.

e. Name and address of applicant.

f. Name and address of the person, corporation, or organization preparing the FSP.

g. Number to identify each lot. Letter of the alphabet to identify each tract or parcel.

h. Proposed lot lines and right-of-way lines; rights-of-way and street widths; rights-of-way and easement widths for public services or utilities and any limitations thereof.

i. Dimensions, acreage, and purposes of tracts or parcels.

j. Sites and acreage for any multi-family dwellings or nonresidential uses.

k. Dimension of all buildings, setbacks, bufferyards, parking, walkways, lighting, signs, landscaping, walls, fences, open space, and recreation areas.

l. Architectural elevation drawings of all buildings, signs, and other structures.

(7) Copy of early notification letter to neighborhood group(s) and/or defined noticed area and copy of minuts (summary or verbatim) from any required meeting pursuant to Section 38-10 C. 1. (d) (v).

m. On separate sheets, if necessary, include existing conditions of the proposed FSP area. If applicable, include the following:
   1. FSP name.
   2. Location, width, and purpose of all easements on site.
   3. Public rights-of-way on and within 150 feet of the site: name, width, and classification.
   4. Utilities on and adjacent to the site: Location and size of water wells, water reservoirs, water lines, sanitary and storm drains, and drainage facilities; location of all irrigation channels and drains; location of gas lines, fire hydrants, electric and telephone poles, and street lights. If water mains and sewers are not on or adjacent to the tract, indicate the direction, distance, and size of nearest lines.
   5. Existing topography guidelines:
      i. For land with average slope of less than five percent (5%), show contour lines at intervals of not more than two (2) feet.
      ii. For land with average slope of more than five percent (5%), show contour lines at intervals of not more than five (5) feet.
   6. Conditions on adjacent land significantly affecting design of the FSP: direction and gradients of ground slope, character and location of development, access points from adjacent points, and building types.

n. Approval block signifying the Final Site Plan approved to be signed by the Zoning Administrator upon approval by the Planning and Zoning Commission and resolution of all outstanding staff comments.

F. EXISTING PLANNED UNIT DEVELOPMENTS.

A PUD existing on the effective date of this Code may continue to develop based on the approved PUD conceptual plan and final site plan. However, a proposed substantial change as defined in this Division shall require that an existing PUD comply with all the requirements of this Code.

Exhibit 'A' (pt. 3) – P&Z

Sec. 38-54. Special Use Permits

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

1. PRE-APPLICATION PROCEDURES. Any proposed Special Use Permit shall first be reviewed at a pre-application meeting scheduled and held by the Community Development staff. The pre-application process shall be subject to the provisions provided for in Section 38-10 C. This meeting does not require a written application or fee. The results of this meeting shall not obligate the Planning and Zoning Commission or City Council.

2~~1~~. APPLICATION PROCEDURES. An official application, including the Development Statement, for a Special Use Permit shall be obtained from the Community Development Department. Application requirements shall include, but not be limited to:

a. A letter of intent stating the following:

1) A statement of the purpose and use of the property,
2) All property improvements to be made, and
3) A development schedule indicating the approximate dates at which construction or phases of construction will begin and end.

b. An accurate and complete boundary survey shall be made of the land to be developed. Property lines shall be shown giving the bearings in degrees, minutes and seconds. Distances shall be shown in feet and hundredths. Curved boundaries or lines on the survey shall provide sufficient data to enable the re-establishment of curves on the property. The location and description of all monuments set or found shall be included where applicable. If only part of the property is to be used for the Special Use, the limits or boundary of the Special Use shall be described in addition to the entire property.

c. Site Plans. The site plans shall be at a scale that adequately represents the information as determined by the Community Development Director or designee. The plans shall be prepared on sheets of paper that are at least 8 1/2" x 11" in size. Copies provided shall be legible and of a good quality, with no limit to the number of sheets used. The plans shall indicate the following:

1) Title of site plan.
2) Total acreage of site.
3) Date of preparation, north arrow, written and graphic scale.
4) Identification of site by lot, block, subdivision, if applicable.

5) A statement of ownership, signed by the property owner, that complies with Section 38-10.C.8).
6) Name and address of property owner.
7) Name and address of applicant, if applicable.
8) Name and address of consulting firm or representative, if applicable.
9) Location and type of all land uses.
10) All site improvements with all setbacks indicated.
11) Dimensions of all buildings.
12) Existing and proposed vehicular circulation systems, including parking areas, storage areas, service areas, loading areas, and major points of access, including street pavement width and right-of-way.
13) A landscaping plan, to include the location, size, common name, and biological name of all landscaping materials.
14) Where applicable, pedestrian and bicycle circulation system, and its relation to surrounding circulation.
15) Where applicable, location and arrangement of all open space, common recreational space, and private open space.

d. Architectural renderings or artistic drawings. The drawings shall be prepared on sheets of paper that are at least 8 1/2" x 11" in size. Copies provided shall be legible and of a good quality, with no limit to the number of sheets used. The drawings shall illustrate the following:

1) All new development illustrating all exterior building materials and colors.
2) All new development illustrating relationships to neighboring uses, including site lighting.
3) Sign location, materials, color, size, shape, and lighting.

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

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

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

Special Use Permit applications processed via the IDP for residential uses may exclude the landscaping plan and schedule as part of the submittal. All landscaping requirements of the City Design Standards shall be complied with at time of construction.

e. Copy of early notification letter to neighborhood group(s) and/or defined noticed area and copy of minuts (summary or verbatim) from any required meeting pursuant to Section 38-10 C. 1. (d) (v).

32. PUBLIC HEARING AND NOTICE PROCEDURE. A public hearing shall be held by the Planning and Zoning Commission for all Special Use Permits in accordance with the provisions of Section 38-10 of this Code.

~~3~~4. REVIEW AND APPROVAL PROCEDURES. The Planning and Zoning Commission may deny a Special Use Permit request or may grant final approval including the minimum conditions listed in Paragraph 38-54B. Also, approval may be granted with additional conditions imposed which are deemed necessary to implement the Comprehensive Plan and Plan elements and to insure that the purpose and intent of this Code are met to protect and provide safeguards for persons and property in the vicinity. Appeal of a Planning and Zoning Commission decision may be made to the City Council in accord with the provision of Section 38-13.

5~~4~~. TIME LIMITATIONS, REVOCATIONS, AND DEVELOPMENT STANDARDS. In addition to the imposition of conditions, the Planning and Zoning Commission may impose a time limitation on the Special Use Permit. If a Special Use is discontinued for a period of one (1) year, said permit shall automatically be revoked. If a certificate of occupancy and/or a business registration is not issued for the property with the Special Use Permit within two years from the date of Planning and Zoning Commission approval, or if appealed, City Council approval, the Special Use Permit shall be revoked automatically. All improvements shall be in accord with the development standards within the district, except as otherwise authorized by the Special Use Permit. There shall be no major revisions in the approved Special Use site plan, except as approved by the Planning and Zoning Commission, or if appealed, approved by City Council.

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

a. Any change in land use,
b. Fifteen (15) percent cumulative increase in land use or building square footage,
c. Fifteen (15) percent cumulative increase in vehicular traffic on any roadway segment or intersection,
d. Any increase or decrease in size of the Special Use area,
e. Any reduction in screening, bufferyards and setbacks at the Special Use boundary line,
f. Fifteen (15) percent cumulative increase in the buildable area for structures including signs, and
g. Reduction or elimination of time limitations.
h. Renewal of the Special Use Permit.

6~~5~~. RECORDING OF THE SPECIAL USE PERMIT. After approval, the Special Use Permit shall be issued by the Community Development Director or designee and shall

include all information, conditions, reference to site plans, and other provisions of the Special Use. The Special Use Permit shall be filed in the Dona Ana County property records. The Special Use Permit shall not become effective until adequate evidence of filing in County records has been provided to the Community Development Director or designee. Approval of a Special Use Permit is not a zoning district change.

B. SPECIAL USES ENUMERATED. The following are special uses that may be approved by the Planning and Zoning Commission in accord with the provisions and conditions of this Section. The Planning and Zoning Commission may, at its discretion, impose additional conditions when deemed necessary. Such uses may be approved only within the districts stipulated.

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

1. Such uses are located at a minimum of 1,000 feet from a property line of a:
   a. school;
   b. church;
   c. nursery/day care;
   d. public park or recreational facility; and
   e. residential zoning district;

2. These uses shall be permitted provided such uses are located at a minimum of 500 feet from the property line of a liquor establishment. The distance shall be measured from the Adult Bookstore/Video Store or the Adult Amusement Establishment to the property line of the liquor establishment; and

3. The operator of an Adult Bookstore/Video Store or Adult Amusement Establishment shall affix a sign to the exterior wall nearest the primary entrance to the structure in which such enterprise is located. Such signs shall be 36" x 18", shall have red lettering (letters shall be 2" in width and 3" in height) on a white background and it shall state as follows:

WARNING:

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

or

WARNING:

ADULT AMUSEMENT ESTABLISHMENT.
THE BUSINESS WITHIN IS SEXUALLY ORIENTED.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Sec. 38-55. RESERVED

Exhibit 'A' (pt. 3) – P&Z

Sec. 38-54. Special Use Permits

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

1. PRE-APPLICATION PROCEDURES. Any proposed Special Use Permit shall first be reviewed at a pre-application meeting scheduled and held by the Community Development staff. The pre-application process shall be subject to the provisions provided for in Section 38-10 C. This meeting does not require a written application or fee. The results of this meeting shall not obligate the Planning and Zoning Commission or City Council.

2~~1~~. APPLICATION PROCEDURES. An official application, including the Development Statement, for a Special Use Permit shall be obtained from the Community Development Department. Application requirements shall include, but not be limited to:

a. A letter of intent stating the following:

1) A statement of the purpose and use of the property,
2) All property improvements to be made, and
3) A development schedule indicating the approximate dates at which construction or phases of construction will begin and end.

b. An accurate and complete boundary survey shall be made of the land to be developed. Property lines shall be shown giving the bearings in degrees, minutes and seconds. Distances shall be shown in feet and hundredths. Curved boundaries or lines on the survey shall provide sufficient data to enable the re-establishment of curves on the property. The location and description of all monuments set or found shall be included where applicable. If only part of the property is to be used for the Special Use, the limits or boundary of the Special Use shall be described in addition to the entire property.

c. Site Plans. The site plans shall be at a scale that adequately represents the information as determined by the Community Development Director or designee. The plans shall be prepared on sheets of paper that are at least 8 1/2" x 11" in size. Copies provided shall be legible and of a good quality, with no limit to the number of sheets used. The plans shall indicate the following:

1) Title of site plan.
2) Total acreage of site.
3) Date of preparation, north arrow, written and graphic scale.
4) Identification of site by lot, block, subdivision, if applicable.

5) A statement of ownership, signed by the property owner, that complies with Section 38-10.C.8).
6) Name and address of property owner.
7) Name and address of applicant, if applicable.
8) Name and address of consulting firm or representative, if applicable.
9) Location and type of all land uses.
10) All site improvements with all setbacks indicated.
11) Dimensions of all buildings.
12) Existing and proposed vehicular circulation systems, including parking areas, storage areas, service areas, loading areas, and major points of access, including street pavement width and right-of-way.
13) A landscaping plan, to include the location, size, common name, and biological name of all landscaping materials.
14) Where applicable, pedestrian and bicycle circulation system, and its relation to surrounding circulation.
15) Where applicable, location and arrangement of all open space, common recreational space, and private open space.

d. Architectural renderings or artistic drawings. The drawings shall be prepared on sheets of paper that are at least 8½" x 11" in size. Copies provided shall be legible and of a good quality, with no limit to the number of sheets used. The drawings shall illustrate the following:

1) All new development illustrating all exterior building materials and colors.
2) All new development illustrating relationships to neighboring uses, including site lighting.
3) Sign location, materials, color, size, shape, and lighting.

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

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

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

Special Use Permit applications processed via the IDP for residential uses may exclude the landscaping plan and schedule as part of the submittal. All landscaping requirements of the City Design Standards shall be complied with at time of construction.

e. Copy of early notification letter to neighborhood group(s) and/or defined noticed area and copy of minuts (summary or verbatim) from any required meeting pursuant to Section 38-10 C. 1. (d) (v).

32. PUBLIC HEARING AND NOTICE PROCEDURE. A public hearing shall be held by the Planning and Zoning Commission for all Special Use Permits in accordance with the provisions of Section 38-10 of this Code.

~~3~~4. REVIEW AND APPROVAL PROCEDURES. The Planning and Zoning Commission may deny a Special Use Permit request or may grant final approval including the minimum conditions listed in Paragraph 38-54B. Also, approval may be granted with additional conditions imposed which are deemed necessary to implement the Comprehensive Plan and Plan elements and to insure that the purpose and intent of this Code are met to protect and provide safeguards for persons and property in the vicinity. Appeal of a Planning and Zoning Commission decision may be made to the City Council in accord with the provision of Section 38-13.

~~5~~4. TIME LIMITATIONS, REVOCATIONS, AND DEVELOPMENT STANDARDS. In addition to the imposition of conditions, the Planning and Zoning Commission may impose a time limitation on the Special Use Permit. If a Special Use is discontinued for a period of one (1) year, said permit shall automatically be revoked. If a certificate of occupancy and/or a business registration is not issued for the property with the Special Use Permit within two years from the date of Planning and Zoning Commission approval, or if appealed, City Council approval, the Special Use Permit shall be revoked automatically. All improvements shall be in accord with the development standards within the district, except as otherwise authorized by the Special Use Permit. There shall be no major revisions in the approved Special Use site plan, except as approved by the Planning and Zoning Commission, or if appealed, approved by City Council.

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

a. Any change in land use,
b. Fifteen (15) percent cumulative increase in land use or building square footage,
c. Fifteen (15) percent cumulative increase in vehicular traffic on any roadway segment or intersection,
d. Any increase or decrease in size of the Special Use area,
e. Any reduction in screening, bufferyards and setbacks at the Special Use boundary line,
f. Fifteen (15) percent cumulative increase in the buildable area for structures including signs, and
g. Reduction or elimination of time limitations.
h. Renewal of the Special Use Permit.

~~6~~5. RECORDING OF THE SPECIAL USE PERMIT. After approval, the Special Use Permit shall be issued by the Community Development Director or designee and shall

include all information, conditions, reference to site plans, and other provisions of the Special Use. The Special Use Permit shall be filed in the Dona Ana County property records. The Special Use Permit shall not become effective until adequate evidence of filing in County records has been provided to the Community Development Director or designee. Approval of a Special Use Permit is not a zoning district change.

B. SPECIAL USES ENUMERATED. The following are special uses that may be approved by the Planning and Zoning Commission in accord with the provisions and conditions of this Section. The Planning and Zoning Commission may, at its discretion, impose additional conditions when deemed necessary. Such uses may be approved only within the districts stipulated.

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

1. Such uses are located at a minimum of 1,000 feet from a property line of a:
   a. school;
   b. church;
   c. nursery/day care;
   d. public park or recreational facility; and
   e. residential zoning district;

2. These uses shall be permitted provided such uses are located at a minimum of 500 feet from the property line of a liquor establishment. The distance shall be measured from the Adult Bookstore/Video Store or the Adult Amusement Establishment to the property line of the liquor establishment; and

3. The operator of an Adult Bookstore/Video Store or Adult Amusement Establishment shall affix a sign to the exterior wall nearest the primary entrance to the structure in which such enterprise is located. Such signs shall be 36" x 18", shall have red lettering (letters shall be 2" in width and 3" in height) on a white background and it shall state as follows:

WARNING:

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

or

WARNING:

ADULT AMUSEMENT ESTABLISHMENT.
THE BUSINESS WITHIN IS SEXUALLY ORIENTED.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Sec. 38-55. RESERVED

Exhibit 'B' – P&Z

CITY OF LAS CRUCES

SUBDIVISION CODE

(Chapter 37, Las Cruces Municipal Code)

Adopted: March 27, 2006

Printed: April 2006

CITY OF LAS CRUCES
SUBDIVISION CODE

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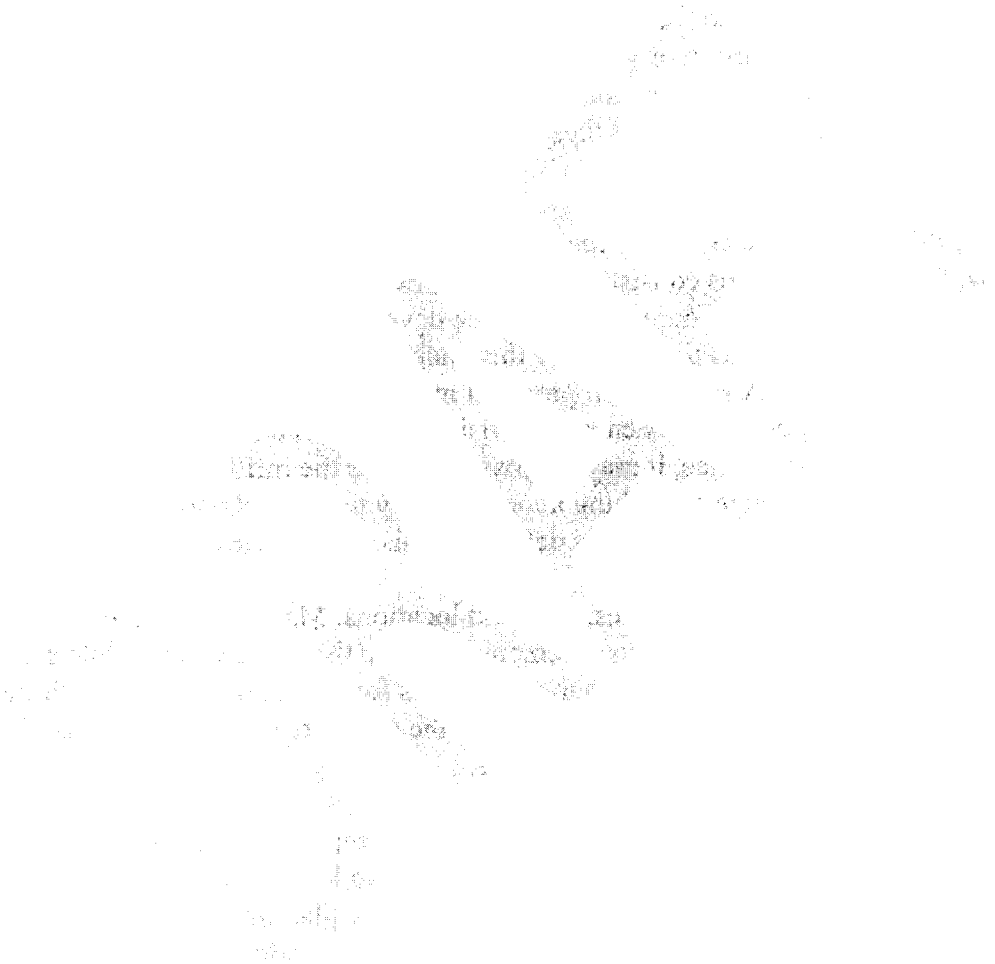


ARTICLE I: GENERAL PROVISIONS

Sec. 37-1. Introduction.

This chapter applies to anyone wishing to divide a parcel of land into two or more parts or to eliminate or adjust lot lines between two or more existing parcels. The required information and the steps to be taken vary and depend on certain characteristics of the proposal, such as the desired number of lots, the intended use of each, the location and legal description. The following information will help determine the process and the requirements necessary for dividing the property.

Why subdivide? People subdivide land for many reasons, the most common being for resale. For example, you may wish to sell a portion of your land to another person. Other reasons for subdividing land might include such transactions as long-term leasing or the mortgaging of a portion of a lot. In order to accomplish any of these, it is necessary to follow the procedures outlined in this chapter.

What is a subdivision? Just as there are many reasons for subdividing land, there are also many ways to subdivide. Some subdivisions consist of just one to two lots and can utilize the alternate summary process. Others consist of hundreds of lots to be developed in phases of a few lots at a time and must follow the processes as illustrated by this chapter's procedures for master plans, preliminary plats, and final plats. A subdivision proposal may contain multiple lots but also may change the uses of the property as well. When a subdivision is proposed in the central part of the city to utilize existing roads and utilities, it may be possible to use the infill subdivision process. Often subdivisions propose to change something about property that has already been subdivided; this would be considered a replat, as defined in this chapter's section on replats.

Subdivisions come in a variety of shapes, sizes, uses and locations. Many require the construction of streets, sidewalks or other improvements to serve the lots created; while some utilize existing infrastructure. Therefore, this chapter provides four basic processes to suit the wide variety of possibilities involved in subdividing land; the alternate summary process, Replat, infill subdivision process and major subdivision process.

One or two lots. The alternate summary process (article VI) and replat (article VI and VII) are followed when a subdivision of land consists of no more than two lots. While larger subdivisions consisting of three lots or more are required to be approved by the planning and zoning commission at a public hearing, the alternate summary process is intended to streamline the processing of small subdivisions by allowing them to be approved administratively.

In the central part of the city. The infill subdivision process (article V) is designed to make desirable the development of vacant land in the central part of the city. The boundary of the infill area is generally bordered by Interstate 25, University Avenue, Valley Drive, and North Main Street. All subdivision proposals within this boundary would be considered infill subdivisions. There are two methods of processing subdivisions within the infill area. One is the infill development process, an expedited procedure which allows variances, special use permits, and other land use issues to be addressed. The second method is the infill subdivision method, also an

expedited method for subdivision-related cases only and for properties which do not qualify to use the infill development process. See article V, infill subdivision process, for more details regarding these two processes. Subdivision proposals in the infill area consisting of just one or two lots may follow the alternate summary process.

Major subdivisions. A subdivision that does not meet the criteria under the alternate summary process, Replat procedures or infill subdivision process is considered a major subdivision. This name is somewhat deceiving in that a major subdivision may range from just three lots to a multi-phased development consisting of hundreds of lots. The typical major subdivision is required to follow both the preliminary plat (article III) and final plat (article IV) procedures. More complex proposals, such as phased development, development with multiple land uses and large developments (over 40 lots), will be required to follow the master plan (article II) process in addition to the preliminary and final platting processes. The master plan is also required when a property owner with property outside the city wishes to annex his/her property into the city limits.

City subdivision process. No matter which type of subdivision you may be proposing, the basic process is the same. The subdivision plat must be prepared by a surveyor licensed to practice in the state. The subdivision plat and related materials will be submitted to the city community development department. The city's subdivision administrator will review the materials and, if complete, accept the submittal for formal staff review. The proposal is distributed to various city departments and other governmental agencies for review and comment. These comments, if applicable, are returned to the consulting surveyor to be addressed. Once all comments have been addressed, the subdivision administrator will schedule the proposal for approval consideration by the appropriate body. Depending on the type of subdivision, the approval consideration may come from the subdivision administrator, the development review committee, or the planning and zoning commission.

Once the final plat is approved, you can proceed to construct any required improvement necessary to allow the plat to be filed in the county courthouse. It is possible to provide a form of financial security to cover the cost of the required improvements in order to file the plat before completing roads and utilities. The city's subdivision administrator will oversee the proposal from the time it is submitted until the plat is filed and/or all improvements are constructed.
(Ord. No. 1798, § I, 6-19-00; Ord. No. 1929, §§ I, II, 8-5-02)

Sec. 37-2. The title of this document.
This chapter shall be known and shall be cited as the "Subdivision Code" of the City of Las Cruces, New Mexico.
(Ord. No. 1798, § I, 6-19-00)

Sec. 37-3. The purpose of this chapter.
The purpose and intent of this chapter are to promote the health, safety, convenience and general welfare of the citizens of the city through the implementation of a readable and understandable set of subdivision regulations outlining the processing of subdivision applications. More specifically, provisions of this chapter are designed to achieve the following objectives in newly-subdivided areas:

- Ensure orderly, efficient and integrated development within the city pursuant to guidelines established by the elements of the city comprehensive plan and all other applicable city policies, rules and regulations.
- Promote proper street location, width and design in order to facilitate vehicle circulation and to minimize adverse growth impacts in accordance with the metropolitan planning organization (MPO) transportation plan, the transportation element of the comprehensive plan and city design standards.
- Provide for the protection and preservation of natural resources and the promotion of natural beauty within the city.
- Provide for adequate air circulation, lighting, public open spaces, utility services, traffic movement, drainage and public facilities.
- Ensure that proposed development is suitable for a given parcel of land, based on its location and environmental characteristics.
- Strive for a customer service approach to subdivision application processing.

(Ord. No. 1798, § I, 6-19-00)

Sec. 37-4. The city authority to require subdivision regulations.

A. This chapter is created and adopted pursuant to the authority set forth in NMSA § 3-19-6, as amended, and shall be applicable to all property within the corporate limits of the city, except for state and federal land being used for public purposes.

B. The city council, the planning and zoning commission, the development review committee (DRC) and the subdivision administrator (SA) are the review and/or approval bodies for this chapter to regulate the subdividing of land within the corporate limits of the city.

(Ord. No. 1798, § I, 6-19-00)

Sec. 37-5. Severability.
If any article, section, paragraph, sentence, phrase or part of this chapter is declared unconstitutional or otherwise invalid, the remaining portions shall not be affected.
(Ord. No. 1798, § I, 6-19-00)

Sec. 37-6. Interpretation and conflict.

A. *Minimum requirements.* The provisions of this chapter shall be considered to be the minimum requirements to meet the purpose expressed in section 37-3 of the Code; nothing herein prohibits the review/approval bodies from imposing greater requirements to ensure the promotion of health, safety and welfare of the citizens of the city and to achieve the goals and objectives of the comprehensive plan.

B. *Local conflict.* Where the provisions of any local ordinance or regulation impose greater

restrictions than those of this chapter, the provisions of such document shall prevail.

C. *Federal and state conflict.* Any provisions of U.S. or state law that impose a greater duty, standard or requirement than those contained herein shall supersede the provisions of this chapter.

D. *Conflict within this chapter.* When two or more provisions of this chapter are in conflict, the most restrictive provision shall apply.

E. *Interpretation of meaning.* The subdivision administrator shall interpret the meaning of the provisions of this chapter. Disagreement with an interpretation may be appealed to the development review committee. The decisions of that committee may be appealed to the planning and zoning commission, and the commission decision may be appealed to the city council.

(Ord. No. 1798, § I, 6-19-00)

Sec. 37-7. Repeal.

All subdivision regulations of the city effective prior to the adoption of this chapter are hereby repealed. Such repeals shall not affect nor prevent the prosecution or punishment of any person for the violation of any regulations repealed for an offense committed prior to the repeal.

(Ord. No. 1798, § I, 6-19-00)

Sec. 37-8. Changes and amendments.

This chapter may be changed and amended by the city council. Such changes or amendments shall not become effective until after a public hearing has been held on the amendments by the planning and zoning commission and recommendations from the commission have been forwarded to the city council. ~~Before such hearings, notice of same must be published in a newspaper of general circulation in the city at least 15 calendar days before the hearing.~~

A. Notice Requirements:

1. Agenda - The agenda for Planning and Zoning Commission meetings shall be available no later than fifteen (15) calendar days prior to the meeting.

2. Notice - Notice regarding the time and place for the Planning and Zoning Commission public hearing shall be published at least fifteen (15) calendar days prior to the meeting. in a newspaper of general circulation in the City.

3. Notice of the City Council public hearing regarding proposed changes and agenda availability shall follow the City Clerk time frames and processes.

(Ord. No. 1798, § I, 6-19-00)

Sec. 37-9. Penalties.

A. *Penalty for use of unapproved or unrecorded plat.* Any owner, or agent of the owner, of any land located within the city who transfers or sells such land prior to approval and recording of the necessary plat with the county clerk, as required in this chapter, shall be

deemed guilty of a misdemeanor, and upon conviction shall be penalized in the manner prescribed by law. The description of the land by metes and bounds in the instrument of transferring of land shall not exempt parties to the transaction from such penalties.

B. *Penalty for improper recording.* Any person who records with the county clerk any plat in violation of this chapter shall be deemed guilty of a violation of this chapter and of state law, and upon conviction shall be punished by a fine of not less than $100.00. Also, all city-provided utilities and services may be withheld or withdrawn from the property until such time as this chapter is complied with. (Ord. No. 1798, § I, 6-19-00)

Sec. 37-10. Fees.

A. A fee is required to offset the costs associated with processing and reviewing the subdivision application, excluding subdivisions processed through the infill development process.

B. All fees related to this chapter shall be adopted by resolution of the city council.

(Ord. No. 1798, § I, 6-19-00)

Sec. 37-11. Processing subdivision applications.

A. Following all prerequisite steps identified for the application types that are listed elsewhere in this code. All subdivision applications including submittal materials and fees are to be submitted to the community development department. The subdivision administrator will review the submittal and, if accepted, the submittal will be processed for review. When the review process is completed, the subdivision administrator will schedule the submittal for consideration by the appropriate review/approval officials or bodies and follow the submittal through to final action.

B. Notice of decision. Upon making a recommendation to the city council or taking final action on matters for which the planning and zoning commission has been granted final authority, the community development department shall promptly:
   1. Prepare a written decision that includes an order and a statement of the factual and legal basis for the order:
      a. Recommending the granting or denying of relief; or
      b. Granting or denying relief.
   2. File the written decision with the city clerk.
   3. Send by certified mail, to all parties whose rights will be determined by the decision, a document containing original signatures that includes a copy of the written decision of the planning and zoning commission. Also, this document shall state the requirements for filing an appeal.
   4. Send by regular mail, or otherwise provide a copy of the document that includes a copy of the written decision of the planning and zoning commission to every person who has filed a written request with the community development department for notice of the decision.

(Ord. No. 1798, § I, 6-19-00; Ord. No. 1929, §§ I, II, 8-5-02)

Sec. 37-12. Review/approval bodies.

The city council, the planning and zoning commission, the development review committee (DRC) and the subdivision administrator (SA) are the review/approval bodies of this chapter. Depending on the type of subdivision application submitted, any of the four review/approval bodies may be the one to grant final approval of the subdivision submittal.

A. *Subdivision administrator.* The subdivision administrator is a representative of the city whose objective it is to simplify the subdivision process for the applicant, while at the same time addressing all concerns related to the proposal on behalf of the city. The SA is the source of information for the general public, the development community and the staff regarding the subdivision process and its requirements. The SA shall facilitate the processing of all subdivision submittals from preapplication meetings to final acceptance of subdivision improvements.

1. *Authority of the subdivision administrator.* The SA shall have the authority to waive or add submittal requirements in cases in which it is determined that the additional information is necessary to accomplish the objectives of this code. Waiver of engineering/utilities-related submittal requirements shall require the concurrence of the public works director or the utilities director, as appropriate. The SA shall justify, in writing, his/her request for additional submittal requirements.

   The SA shall have the authority to determine the applicability of comments returned by the reviewing staff and to override such comments if it is determined that the comments do not apply to the type of submittal under consideration or that it is inconsistent with city policy, rules and/or regulations. The SA may, with concurrence from the development review committee, approve subdivisions processed through the alternate summary procedure.

2. *Responsibilities of subdivision administrator.*
   a. Address questions from the general public/developers/consultants and staff related to all areas of subdividing/developing land.
   ~~a.~~b. Ensure that all notification measures are carried out pursuant to applicable provisions either codified (Subdivision Code) or within approved policy.
   ~~b.~~c. Accept or reject submittals.
   ~~c.~~d. Facilitate communication between reviewers and developers/subdividers/consultants.
   ~~d.~~e. Resolve issues/problems arising from a staff review of a subdivision.
   ~~e.~~f. Schedule meetings and prepare agendas for the development review committee.
   ~~f.~~g. Prepare staff recommendations and reports for cases requiring planning and zoning commission approval.
   ~~g.~~h. Monitor the progression of construction activities in subdivision improvements and associated performance guarantees or similar agreements through final inspections and acceptances of subdivisions.
   ~~h.~~i. Identify, as staff liaison to the development review committee, the subdivisions that are required to be reviewed by the development review committee.

B. *Development review committee.* The development review committee (DRC) is a formal

group of representatives employed by the city or its representatives empowered to act on behalf of their respective departments on subdivision development related applications.

1. Membership of the development review committee shall consist of at least one representative from each of the following:
   a. Public works department;
   b. Community development department;
   c. Utilities department;
   d. Fire department;
   e. Facilities department;
2. The purposes of the development review committee are:
   a. To identify and address major issues that may affect a proposal, and to provide general oversight of the reviews of subdivision- and development-related proposals;
   b. To resolve conflicting comments, recommendations, and design differences between reviewing departments and subdividers/developers regarding planning-related issues that have been appealed from the decision of the subdivision administrator.
   c. To make recommendations to the planning and zoning commission for approval, conditional approval, denial or postponement of master plans, preliminary plats and final plats.
3. Authority and procedure of the development review committee. The development review committee shall have final authority for approval of infill concept plans, alternate summaries, and replats that do not increase the number of lots in an existing subdivision. The development review committee's decision shall be final unless it is overruled by appeal to the director or directors responsible for the area of disagreement and/or further appealed to the planning and zoning commission or city council.

   The development review committee shall meet at the same time each week as needed to review subdivision application submittals, potential submittals or other development-related issues that may require DRC review. The notice of the DRC meeting shall appear in the public meeting schedule. The subdivision administrator shall set the agenda for DRC meetings and abide by all notification requirements pursuant to approved policy~~, which shall be made available 24 hours prior to the development review committee meeting~~. Minutes will be taken during DRC meetings and will become available to interested parties in the form of staff review comments.

C. *Planning and zoning commission.* The planning and zoning commission is a seven-member board appointed by the city council.

1. Authority of the planning and zoning commission:
   a. Final authority on master plans, preliminary plats and, as appropriate, final plats and on all issues referred to the Commission by the development review committee.
   b. Recommendation to city council on amendments to this chapter.
   c. The commission may recommend that any subdivision proposal be reviewed by the city council.

d. All other authority is granted to the commission in accordance with section 38-66 of the city municipal code, and ordinance no. 1267.

2. A notice of the decision of the planning and zoning commission shall be provided in accordance with section 37-11(b).

D. *City council.* The city council is a seven member board of elected officials that is the governing body of the city.

1. Authority of the city council. The city council, as it pertains to this chapter, has the authority to:
   a. Resolve appeals of decisions made by the planning and zoning commission and the development review committee.
   b. Grant final approval of amendments to this chapter.
   c. Grant approval of any development proposal in which the planned unit development process is used or any proposal in which a planning-related waiver greater than 15 percent of the required standard is requested.
2. A notice of the decision of the city council shall be provided in accordance with section 37-11(b).

(Ord. No. 1798, § I, 6-19-00; Ord. No. 1929, §§ I, II, 8-5-02)

Sec. 37-13. Procedures for appealing decisions of the staff, the development review committee and the planning and zoning commission.

A. *Basis for appeals.* Any person, department, committee, commission, board or bureau that is affected by a decision of an administrative official, committee, or board in the administration or enforcement of this chapter or any other adopted resolution, rule, or regulation may appeal the decision. The appeal must be initiated in writing and delivered to the community development department within 15 calendar days after the decision and all other procedures established by this chapter have been exhausted. The appeal shall state all issues to be considered.

B. *How decisions are appealed.* The city council, the planning and zoning commission, the development review committee, the public works director and the utilities director are responsible for hearing appeals at designated stages of the subdivision process.

C. *Appeal of staff decisions.* Staff decisions may be appealed at any time during the subdivision application process. Appeals of staff decisions may fall under one of two categories, engineering/utility issues and planning related issues. The subdivision administrator shall determine whether the appeal should be to an engineering/utility issue or to a planning-related issue, and shall notify the appropriate body to review the appeal.

1. *Appeal of engineering opinions.* Engineering/utility related opinions are related, but not limited to: design specifications for roadways, grading, drainage, utilities, or other issues determined by the subdivision administrator and/or the public works director to be engineering-related.

   Appeals of staff decisions regarding engineering/utility-related issues are resolved by the public works director or the utilities director, respectively. The appeal may be submitted at any time during the subdivision application process. Appeals shall be

submitted in writing to the subdivision administrator. The subdivision administrator shall schedule a meeting for a review of the appeal. The meeting shall include the applicant, public works director and/or the utilities director, as appropriate and the staff member whose decision is being appealed. Upon review of the appeal, the public works director or the utilities director shall render a decision within three business days of the meeting.

2. *Appeal of planning related issues.* Planning related issues are issues related to, but not limited to: lot configuration, street network, right-of-way requirements, land use, density, phasing of development, suitability of location, or other issues determined by the subdivision administrator to be planning-related.

   Appeals of staff decisions regarding planning related issues are resolved by a committee of at least three of the following: the community development director, facilities director, public works director, utilities director and fire chief. The appeal may be submitted at any time during the subdivision application process.

   Appeals shall be submitted in writing to the subdivision administrator. The subdivision administrator shall schedule a meeting for review of the appeal. The meeting shall include at least three department directors, the DRC and the staff member whose decision is being appealed. Upon review of the appeal the directors shall render a decision on the appeal at the meeting.

D. *Appeal of engineering/utility decisions of the public works director or the utilities director.*

1. Appeals of the public works director or the utilities director's decision regarding engineering or utility related issues are resolved by arbitration. The appeal shall be submitted to the subdivision administrator within 15 calendar days of the decision of the public works director or the utilities director.
2. Arbitration defined. Arbitration is the final appeal process used to resolve only engineering or utility related issues that have been reviewed and acted on by the development review committee, public works director or the utilities director.
3. Arbitration procedure. When an appeal alleges that there is fault in a decision made by either the public works director or the utilities director with regard to an engineering- or utility-related issue, the appeal shall be resolved by an arbitration committee. The appellant shall submit the appeal in writing to the subdivision administrator within 15 calendar days of the decision of either the public works director or the utilities director. The arbitration committee shall review the engineering or utilities related issue under question and any pertinent information within 30 calendar days of the appeal submittal. The appellant shall be responsible for all costs associated with the arbitration board.
4. Arbitration committee. The arbitration committee shall consist of three engineers licensed to practice in the state who are not associated with the city, but are familiar with its development standards. The city shall choose one engineer, the applicant shall choose the second engineer, and the two chosen engineers shall choose the third.

   Action from the arbitration committee shall be in the form of approval or disapproval.

Action from the arbitration committee shall be final unless appealed to the state board of registration for professional engineers and surveyors or to a court of competent jurisdiction.

E. *Appeal of planning related decisions of the department directors.*

1. Appeal of a planning related decision of the department directors is resolved by the planning and zoning commission. Appeals shall be submitted in writing to the subdivision administrator within 15 calendar days of the development review committee's decision.
2. Authority of the planning and zoning commission. The planning and zoning commission, by a majority vote of a quorum of the commission[WU1]~~all its members~~, may, after all other procedures established by this chapter have been exhausted, reverse or affirm any order, requirement, decision, or determination of the development review committee, or make any change in an order, requirement, decision, or determination of the planning related decision at a public hearing.

F. *Appeal of decisions of the planning and zoning commission.*

1. Appeal of a decision of the planning and zoning commission is resolved by the city council. Appeals shall be submitted in writing with the appropriate fees to the subdivision administrator within 15 calendar days of the planning and zoning commission's decision.
2. Authority of the city council. The city council, by a majority vote of all its members, may, after all other procedures established by this chapter have been exhausted, reverse or affirm any order, requirement, decision or determination of the planning and zoning commission, or make any change in an order, requirement, decision, or determination of the planning and zoning commission. The decision of the city council may be appealed to district court.

G. *Stay of proceedings.* An appeal shall stay all proceedings in furtherance of the action appealed unless the officer, official, commission, board, or authority from whom the appeal is taken certifies that, by reason of facts, a stay would cause imminent peril of life and property.

H. *Appellant responsibility in appeals.* All appellants under this section are required to submit in writing to the community development department a detailed statement of the grounds of their appeal, no later than 15 calendar days after the decision is appealed. The written appeal shall state specifically the objections of the decision and the reasons for the appeal.

I. *Notice.* Notice on all appeals of decisions of the Planning and Zoning Commission shall:

1. Be sent by regular mail to all property owners (as shown on the records of the county assessor) within the proposed area of development and within no less than five hundred (500) feet of the subject property. This distance may include streets, alleys, channels, canals, railroads, and all other public rights-of-way. Notice shall be mailed at least fifteen (15) calendar days prior to the required public hearing.
2. Require regular, non-certified, first class mail to be sent to all recognized neighborhood groups within five hundred (500) feet of the subject property if staff has determined that such notice was warranted. Notice shall be mailed at least fifteen (15) calendar days prior to the required public hearing.
3. Require notice of the time and place of the public hearing be published at least fifteen (15) calendar days prior to the public hearing in a newspaper of general circulation in the City.
4. In the event that notification signs were issued for the case now under appeal, the property owner and/or original applicant shall ensure that all signs previously erected for notice purposes remain up until a decision on the appeal is rendered. Modification to and/or replacement of said signs shall be authorized and directed by staff to ensure appropriate information regarding the appeal venue is displayed.~~Notice on all appeals of decisions of the planning and zoning commission shall be sent by regular mail to all property owners (as shown on the records of the county assessor) within the proposed area of development and within 200 feet of the area of the proposed development, excluding streets, alleys, channels, canals, other public rights-of-way and railroad rights-of-way. Notice to said property owners shall be mailed at least nine calendar days prior to the meeting.~~

~~1.~~5. The SA shall execute an affidavit verifying the list of persons to whom notice was mailed. ~~Notice of the time and place of the meeting shall be published in a newspaper of general circulation in the city area and also posted on the property by the community development department at least nine calendar days prior to the meeting.~~

J. Fees shall be assessed to the appellant person or persons in order to cover the costs of such appeal. Such fees shall be as prescribed in the fee schedule as adopted and amended.

(Ord. No. 1798, § I, 6-19-00; Ord. No. 1929, §§ I, II, 8-5-02)

Sec. 37-14. Definitions.

Block. An area of land within a subdivision, generally bounded by highways, streets (other than alleys), natural boundaries, or the exterior boundaries of the subdivision.

Building setback. The right angle distance from a point on the street right-of-way to the closest point of any building structure.

City. The City of Las Cruces, New Mexico.

City council. The governing body of the city.

Collector. A street designed to carry moderate to large volumes of traffic (generally a minimum ADT of 5,000 vehicles), primarily from local streets to arterials. Collectors may provide some direct access to individual properties, usually large residential developments and mid-size commercial/industrial/office developments. The length of a major collector seldom exceeds one mile.

Contiguous property. Parcels of property that are in contact or touching.

Cul-de-sac. A minor street with only one outlet and culminated by a turn-around. Refer to section 32-36 of the city municipal code.

Development review committee (DRC). A formal group of representatives employed by the city that meets at the same time each week to review subdivisions or subdivision related proposals and to resolve conflicting comments, recommendations or design differences between city reviewing departments, subdivision administrator, and/or developers/subdividers. The development review committee's decision shall be final unless overruled by a committee of department directors, the planning and zoning commission or city council (See appeals section 37-13).
The development review committee shall consist of at least one representative from each of the following:

- Public works department;
- Community development department;
- Facilities department;
- Utilities department;
- Fire department;

DRC members or their designee shall have the authority to make nonpolicy decisions on behalf of their respective departments and the city.

Drainage plan. A plan indicating an on-site drainage proposal, the passage of stormwaters through the development and safe discharge of runoff onto adjacent lands or into storm drainage facilities. Also, a comprehensive analysis of:

- The existing storm drainage conditions of a proposed development; and
- The disposal of the increased runoff that is generated by the proposed development.

Dwelling. A building or unit thereof designed and used exclusively for residential occupancy.

Easement. The right, liberty, advantage or privilege that one individual (or entity) has in lands of another, either express or imputed (utility, grant or necessity).

Engineer. A person engaged in the practice of engineering and qualified to so practice as attested by his/her legal registration as a professional engineer in the state.

Engineering utility related issues. Issues related to but not limited to: design specifications for roadways, grading, drainage, utilities, or other issues determined by the subdivision administrator and/or the public works director or the utilities director to be engineering-utility-related.

Improvements. Includes infrastructures such as streets, curbs, gutters, sidewalks, fire hydrants, storm drainage facilities, bike paths, trails, and water, sewer, and gas systems or parts thereof.

Lot. A portion of a subdivision or other parcel of land intended for the purpose, whether immediate or future, for development. It also is a tract of land described by metes and bounds and as shown on the records in the county assessor's office.

Major arterial. A street having the primary purpose of carrying large volumes of traffic, and that does not usually provide direct access to individual properties. Major arterials are designed to provide cross city travel, and generally carry a minimum ADT of 10,000 vehicles.
Major local. A street whose primary purpose it is to provide direct access to individual properties, primarily in small to mid-size residential developments, and to individual commercial/industrial/office lots. The length of a major local seldom exceeds one-half mile.

May. When a requirement in these regulations uses the word "may" instead of "shall," the requirement will be necessary only if directed by the development review committee, the planning and zoning commission or city council.

Minor arterial. A street having the primary purpose of carrying moderate to large volumes of traffic and that does not usually provide direct access to individual properties. Minor arterials are designed to provide partial "cross-city" travel, and generally carry a minimum ADT of 5,000 vehicles.

Minor local. A street having the primary purpose of providing direct access to individual residential lots. The lengths of minor locals seldom exceed one-half mile.

Outlot. A parcel of ground or tract of land within a platted subdivision, to be used for purposes other than residential. An example of an outlot is a tract of land designated for open space or a retention pond.

Performance bond. A surety bond made out to the city in an amount equal to the estimated full cost if the improvements, said cost being estimated by the city engineer, surety bonds being legally sufficient to ensure the city that the said improvements will be constructed in accordance with these regulations.

Planned unit development (P.U.D.). A development process whereby the intent and purpose is to promote design and development standard flexibility in cases where strict application of the zoning ordinance would inhibit the overall goals and objectives of the city.

Planning related issues. Issues related to but not limited to: lot configuration, street network, right-of-way requirements, land use, density, phasing of development, suitability of location, other issues determined by the subdivision administrator to be planning-related.

Planning and zoning commission. The officially appointed planning and zoning commission of the city. The planning and zoning commission shall have final authority in the review of subdivision proposals requiring commission action. The commission shall also act as an advisory board with regard to amendments to this code.

Plat or *replat.* A map, chart, survey, or plan, certified by a land surveyor, that contains a description of subdivided plat or resubdivided replat land with ties to permanent survey monuments.

Shall. The word "shall" is mandatory and not permissive.

Street. A public way, other than an alley, that has been dedicated, or reserved by plat and which affords he principal means of access to abutting property.

Subdivider. An owner or an owner's agent who undertakes the subdivision of land as set forth in the respective regulations.

Subdivision. Subdivision for the purpose of approval by the municipal planning authority means: for the area of land within the corporate boundaries of the city, the division of land into two or more parts by platting or by metes and bounds description into tracts or lots for any purpose.

Surveyor. A person who is engaged in the practice of surveying and is qualified to so practice as attested by his/her legal registration as a professional surveyor in the state.

Tract. See outlot.

Vacation. To void a portion of a previously-filed subdivision plat application or to void the filed plat in its entirety.

(Ord. No. 1798, § I, 6-19-00; Ord. No. 1929, §§ I, II, 8-5-02)

Secs. 37-15--37-40. Reserved.

ARTICLE II.
MASTER PLAN

Sec. 37-41. The purpose of master planning.

A. The purpose of the master planning process is to advance the goals and objectives of the city's comprehensive plan and to address a variety of environmental and social issues in an area being proposed for future development. A master plan is considered part of the planning process in which the proposal is viewed as a conceptual tool reflecting the ideas and thoughts for future development. The master plan process is designed to achieve the following objectives:

- To achieve the goals, objectives and policies of the city comprehensive plan and the objectives of other city policies.
- To ensure compliance with the growth management section of the land use element of the city comprehensive plan.
- To ensure compliance with the metropolitan planning organization's transportation plan.
- To guide future land development and transportation patterns.
- To provide for an efficient process in determining fiscal impacts, neighborhood concerns, the coordination of city capital improvements, and the identification and protection of significant natural features.
- To ensure that all adopted city plans, rules and regulations are followed. To ensure that proposed development is suitable and appropriate for a given parcel of land, based on its location and its environmental characteristics.

B. This chapter recognizes change in design criteria and the need for flexibility in land development. The master plan process permits changes that conform with the intent to provide health, safety, convenience and general welfare to the citizens of the city. Approved master plans shall be used as a general guide to land development with successive steps established for specific plans that shall be consistent with the adopted master plan.

(Ord. No. 1798, § I, 6-19-00)

Sec. 37-42. When a master plan is required.

A. A master plan shall be required when any of the following criteria apply:
   1. A development is to be divided into various phases.
   2. A development application is proposing multiple land uses.
   3. A request for annexation is made.
   4. An application is for the single development of 40 or more lots.
   5. When a commercial, office or industrial development application is proposing to utilize the alternate summary procedure more than once.

B. For smaller residential developments consisting of no more than two phases on ten or fewer acres, with 39 or fewer lots, a master plan may be omitted at the discretion of the DRC.

C. The subdivider is responsible for including on the master plan all contiguous property

owned, legally controlled by, or of any development and/or financial interest to said subdivider.

D. A preliminary plat may be submitted simultaneously with the master plan. A final plat may not be submitted at the same time as the master plan or the preliminary plat. Subdivision applications submitted through the planned unit development (P.U.D.) process will not be required to meet the requirements in this article. (Ord. No. 1798, § I, 6-19-00)

Sec. 37-43. Preapplication meeting.

A. ~~Prior to the filing of an application for approval of a master plan, the subdivider shall submit to the community development department a conceptual plan of the proposed development. This does not require a written application or fee, nor does the preapplication procedure require formal approval by either the planning and zoning commission or city council.~~Any proposed master plan causing need for public notification, review and approval by the Planning and Zoning Commission shall first be reviewed at a pre-application meeting scheduled and held by the Community Development staff. A representative for the proposed development action shall attend the pre-application meeting and discuss the proposal in general terms, providing enough specifics to allow attending staff an opportunity to gauge and determine neighborhood and/or community impacts. In that this represents an initial and informal discussion, information provided to the representative regarding procedural nuances or other regulatory related information shall be considered preliminary feedback based on information received, and shall not represent a complete disclosure of all regulatory measures that may apply upon formal review. In no circumstances should related discussion by staff represent a final disposition on the preliminary proposal at hand.

1. Neighborhood group and/or noticed area determination. Staff upon consideration of the information received during the pre-application meeting, will instruct as to whether early notification of the subject proposal by the applicant to a neighborhood group(s) (recognized group(s)) and/or noticed area shall be necessary prior to formal application and submittal of the development proposal to the city. The criteria used by staff to determine notice need may include, but not be limited to the following:

   a. Development that is likely to cause significant traffic impacts due to limited roadway access or a potential decrease in level of service based on the subject roadway's design.

   b. Potential land use conflicts resulting from proposed land use distribution adjacent to existing development of a differing land use classification such as proposed commercial uses adjacent to low density residential uses.

   c. Known neighborhood concerns on tangible and reasonable development issues that could be mitigated through design alternatives. An example of a concern congruent to this criterion is anticipated development consistency with

surrounding development styles as they may relate to lot size/dimension transitions, roadway widths out of character with adjacent development, etc. An example of a concern not congruent to the criterion is disapproving development on private vacant property due to the elimination of "open space" or development of private vacant property because one's view may be compromised,

2. Early notification exception. Staff determination of early notice need which shall include an open invitation to discuss the proposal at a meeting, shall not pre-empt the Planning and Zoning Commission, City Council or other reviewing bodies with approval (recommending or final action) authority from thereafter requiring an additional meeting(s). Criteria used by the applicable reviewing body shall be at their discretion and may or may not follow the criteria identified in the preceding provision. Significant deviation of plan proposal post neighborhood group and/or noticed area meeting may subject the applicant from thereafter participating in another meeting to inform and discuss revisions. Changes addressing neighborhood concerns shall not necessarily subject the applicant to another meeting; however, an omission in the proposal that is added post meeting and deemed significant by Community Development staff is a candidate for reconsideration by the notified neighborhood prior to consideration by any formal reviewing body.

3. Early notification recipients. Notification recipients shall include registered neighborhood groups, and/or associations, identified on the applicable Community Development Department's web page. In the event an identified association or group does not exist or cover an adequate area surrounding the proposal, both the neighborhood group/association and the property owners within 500 feet shall be notified. If no association or group exists within the notification boundary, notification to property owners shall take place using the same distance threshold. Measurement shall be made radially from the outermost property boundary where the subject proposal is located. Any association/group boundary or property boundary that falls either partially or entirely within said radius based on the qualifying standards of this subsection shall receive notification. Contact and mailing information for associations, groups and property owners to be notified shall be provided by the Community Development Department. Mailing preparation, expenses and materials are the responsibility of the developer, applicant and/or representative. Notification shall take place no later than fifteen (15) calendar days prior to the date of submittal. In the event a meeting is called for pursuant to item (4) that follows, may cause delay with the proposal's submittal in order to accommodate the agreed upon meeting schedule and other factors necessary to meet submittal content.

4. Early notification form and content. All required notification shall be sent via regular, non-certified, first class mail and the content of the notice shall include at minimum:

a. A detailed description (to the extent possible) of what is being pursued in terms of development
b. Information as to how the developer, applicant, or representative for the development action may be contacted
c. A statement as to how the proposal may impact the neighborhood(s) surrounding the subject property where the development is to occur
d. An open offer to participate in a meeting with the association(s)/group(s) and/or property owners at a mutually agreed upon date, time and location in order to discuss the proposal more fully
e. A need to provide a WRITTEN meeting request (if desired) to the development representative, copying Community Development staff either in a letter or email format within the stated fifteen (15) calendar day threshold. Requests for a meeting within the fifteen (15) calendar day period shall render the meeting need mandatory prior to submittal whether or not the meeting takes place inside or beyond this fifteen (15) calendar day period. Requests that come in after said period do not compel the applicant to entertain a meeting prior to submittal; however, a meeting with those requesting one is advisable prior to formal review of the proposal by a recommending or decision making body.
f. Community Development staff contact information for any related correspondence or general inquiry.

~~A.~~ 5. Neighborhood group/neighborhood meeting. It shall be the responsibility of the representative for the proposal to supply any and all materials necessary to convey development parameters as applicable. Additionally, the representative shall be responsible for minute transcription (summary or verbatim) which clearly indicates the date, time and location of the meeting and the general nature of conversation that tool place regarding the proposal. Information shall at minimum identify key points that convey support for or the lack thereof for the proposal as presented.

B. Conceptual plans shall be presented to the first available development review committee meeting for review and comment. The development review committee shall discuss with the developer, or the developer's representative, the proposed conceptual plan and shall indicate any changes that will be required for the formal submittal of the proposal.

(Ord. No. 1798, § I, 6-19-00; Ord. No. 1929, §§ I, II, 8-5-02)

Sec. 37-44. Submittal of a master plan application.

A. The master plan and supplemental material shall be submitted to the community development department no later than 25 calendar days prior to the day of the next regular meeting of the planning and zoning commission for approval consideration. Any master plan requesting three or more planning-related variances (excluding administrative variances) shall be processed via the planned unit development process as outlined in the city zoning code.

B. Upon submittal, the community development department shall issue a receipt. The subdivision administrator shall then have eight business hours to review the submittal for completeness. If all of the required items have been submitted, and the master plan submittal contains all necessary items as per section 37-46 of this chapter, the subdivision

administrator shall accept the submittal for review. A proposed master plan shall not be accepted for review by the subdivision administrator if incomplete or substantially inaccurate. All items required on a master plan must be present for acceptance. If a submittal is found to be incomplete, the applicant shall have eight business hours to correct the deficiencies and still meet the submittal deadline if applicable.

C. The subdivision administrator, the development review committee or the planning and zoning commission shall have the authority to waive or add submittal requirements if it is determined that the additional items and resulting information will be needed in order to accomplish the objectives of this chapter. Examples of possible additional requirements and/or information could include, but are not limited to, a neighborhood group and/or noticed area meeting, traffic impact analysis, environmental analysis, detailed drainage analysis, etc. Any request for additional submittal requirements shall be justified, in writing, by the requesting entity.

D. Master plans will be processed by the subdivision administrator to the applicable city departments and other governmental agencies for review, comments, and recommendations. Each department shall have five business days to complete the review. Written reports, containing comments and recommendations shall be returned to the subdivision administrator.

E. The subdivision administrator shall review all comments for applicability and appropriateness to the master plan requirements and forward any comments to the subdivider or the subdivider's representative for completion. Master plans applications that are commented upon shall be returned, amended, resubmitted and reviewed until the provisions set forth in the regulations are met.

(Ord. No. 1798, § I, 6-19-00; Ord. No. 1929, §§ I, II, 8-5-02)

Sec. 37-45. Review and consideration of a master plan application.

A. Master plans shall be submitted to the development review committee for review, comments and recommendations. The development review committee shall review the master plan to determine whether it is consistent with the intents and purposes set forth in sections 37-3 and 37-41 of this chapter. The development review committee shall provide the planning and zoning commission with a report containing a recommendation that the master plan be either approved, conditionally approved, postponed or disapproved. The report shall include the reason(s) for the recommendation.

B. Public notice:
   1. Agenda. The agenda for the planning and zoning commission public hearing shall be made available no later than fifteen (15)~~six~~ calendar days prior to the public hearing.
   2. Posting. Notice of the proposed development shall be posted in conspicuous places on the property by the property owner, applicant or representative ~~community development department~~ at least fifteen (15)~~nine~~ calendar days prior to the planning and zoning commission public hearing. A sign measuring four (4) feet by four (4) feet shall be used and secured with appropriate supporting hardware made available by Community Development staff. When the property has multiple street frontages,

one sign per frontage shall be posted. Large properties may require a greater number of signs which shall be determined by Community Development staff. It shall be the responsibility of the property owner, applicant or representative to ensure continuous posting throughout the public hearing processes. Processes for purposes of this provision shall start with the Planning and Zoning Commission and cease when a final determination is made on the proposal regardless of the number of reviewing entities involved. In that multiple reviewing entities may be involved, , Community Development staff will inform the property owner, applicant or representative of necessary changes needed on the sign to reflect the appropriate reviewing entities, meeting dates and venues.

3. *Notice.* Notice on all proposed master plans shall be sent by regular-, non-certified, first class mail to all property owners (as shown on the records of the county assessor) within the proposed area of development and within ~~2~~500 feet of the area of the proposed subdivision, ~~excluding~~ including streets, alleys, channels, canals and other public rights-of-way. The community development department is responsible for the list of property owners and the preparation of mail. Regular, non-certified, first class mail shall also be sent to all recognized neighborhood groups within five hundred (500) feet of the subject property. Notice for purposes herein~~to said property owners~~ shall be mailed at least ~~nine~~fifteen (15) calendar days prior to the public hearing. The subdivision administrator shall execute an affidavit verifying the list of persons to whom notice was mailed. Notice of the time and place of the public hearing shall be published at least fifteen (15) calendar days prior to the public hearing in a newspaper of general circulation in the city.

C. The planning and zoning commission shall review the master plan, report, comments and recommendations received from the development review committee, subdivision administrator and presentations from the applicant or the applicant's representative and from any interested citizens. Action from the planning and zoning commission shall be in the form of approval, conditional approval, postponement, or disapproval. Action from the planning and zoning commission shall be recorded in the minutes of the meeting. A copy of the notice of decision that includes any changes or conditions acted on by the planning and zoning commission at the public hearing shall be furnished to all appropriate parties in accordance with section 37-11(b).

D. It is the requirement of the planning and zoning commission that no master plan shall be reviewed unless either the applicant or the applicant's representative is present at the public hearing. If neither party is present at the public hearing, the master plan will be postponed until the next regular planning and zoning commission meeting.

E. Upon approval of the master plan by the planning and zoning commission, the developer may submit to the community development department any zoning applications, preliminary plats or final plats as necessary and applicable, that reflect the objectives of the approved master plan.

F. The approval of the master plan shall be effective for a period of five years, as described on the approval action form. If, at the expiration of the five-year period, no single

preliminary plat, building permit, or any other development application, in conformance with the approved master plan, has been submitted and approved, the master plan shall expire. Such action does not necessarily have to encompass the entire master-planned area in order for said master plan to remain active. The developer may submit a request for extension of approval prior to the expiration date, if desired. The request will be reviewed by the planning and zoning commission for consideration. Please note: Approval of a master plan does not prohibit the utilities department from revising any utility requirements based on projected needs or growth around the master-planned area.

G. Any substantial change to the master plan will require resubmittal of the plan in its entirety and may trigger the need for a neighborhood group and/or noticed area meeting to be determined by and at the discretion of the subdivision administrator. Minor modifications or changes shall be reviewed and considered by the subdivision administrator. Substantial changes to the master plan are subject to a regular public hearing with the same requirements as an original application. Substantial changes shall include, but are not limited to:
   1. Any change in land use or use intensity;
   2. Modifications of vehicular traffic circulation on arterials, collectors and/or major local designated streets;
   3. Increase in residential density;
   4. Any extension of time limits beyond 20 percent;
   5. Any change in the master plan that is determined by the subdivision administrator to be substantial.

H. Appeals. Any person, department, committee, commission, board or bureau that is affected by a decision of an administrative official, committee, or board in the administration or enforcement of this chapter or any other adopted resolution, rule, or regulation may appeal the decision. The appeal must be initiated in writing and delivered to the subdivision administrator within 15 calendar days after all other procedures established by this chapter have been attempted. Refer to section 37-13, "procedures for appealing decisions of staff," the development review committee and the planning and zoning commission' for details on the appeal process.

(Ord. No. 1798, § I, 6-19-00; Ord. No. 1929, §§ I, II, 8-5-02)

Sec. 37-46. Master plan submittal requirements.

A. An application for approval of a master plan shall include the following information:
   1. Name of master plan.
   2. Detailed area/vicinity map clearly showing the surrounding area and the proposal's relationship to existing road networks, and existing natural and/or man-made features that may impact the development or may be impacted by the development. Detail must be sufficient so that the subject property can be located in the field using the map.
   3. North arrow, date of preparation, written and graphic scale.
   4. A general legal description that shall include:
      a. Approximate survey ties;
      b. Approximate acreage.
   5. Name and address of the consultant preparing the master plan.
   6. Name and address of the developer.
   7. Boundary lines of the master plan, with approximate lengths of lines.
   8. Proposed land use, by parcel or phase. Residential parcels shall provide gross density range.
   9. Present zoning and proposed zoning (if applicable).
   10. Contours--20-foot intervals. In instances whereby 20-foot intervals are not appropriate or applicable, contours may be provided at an appropriate interval that adequately presents the elevation differences of the land as determined by the community development department director.
   11. Adjacent land use and zoning district identification.
   12. Thoroughfare system: Proposed approximate location, length, width and point of intersection of all major transportation systems, which may include bikeways, trails and any other transportation lines. Identify existing and proposed classification of roads as per city design standards and based on the current city MPO transportation plan.
   13. Significant natural features, such as arroyos and approximate 100-year floodplains.
   14. Adjacent roads and other transportation routes identified by functional classification.
   15. Easements.
   16. Tabular information:
      a. Land use of each phase or parcel.
      b. Approximate acreage for each parcel or phase.
      c. Total number of residential dwelling units, minimum and maximum range.
      d. Dwelling units per acre for each parcel or phase.
      e. Approximate acreage proposed for open space, private and public facilities, and right-of-way.
      f. Approximate additional population to be generated by development, based on census data.
      g. Approximate additional traffic estimated to be generated by development, utilizing ITE trip generation information, as amended.
   17. Approval block signifying the final approved master plan to be signed by the subdivision administrator upon approval by the planning and zoning commission and compliance with all conditions.
   18. Conceptual utilities plan. The conceptual utilities plan shall contain enough

information to provide a general outline of the proposed utility-routing plans for the development, including locations and sizes of existing and proposed utilities to be provided to the development. Actual size and location of utilities to be determined at time of development and subject to change based on utility needs of the surrounding area.

19. Conceptual drainage plan. The conceptual drainage plan shall contain enough information to provide a general understanding of how drainage issues will be addressed by the development.

~~19.~~20. Copy of early notification letter to neighborhood group(s) and/or noticed area and copy of minutes (summary or verbatim) from any subsequent neighborhood group(s) and/or noticed area meeting as may have been required.

~~20.~~21. Supplemental material:

a. Application:

i. The application shall be signed by all property owners (including all parties having an equitable interest, trustees of an estate or all persons having a specific power of attorney) for the subject property, as recorded in the county clerk's office.

ii. Any pending litigation of any final order entered by any court of law regarding the ownership of the subject property shall be disclosed by the applicant at the time that the application is submitted.

b. Submittal fee.

(Ord. No. 1798, § I, 6-19-00; Ord. No. 1929, §§ I, II, 8-5-02)

Secs. 37-47--37-75. Reserved.

ARTICLE III.
PRELIMINARY PLAT

Sec. 37-76. The purpose of preliminary platting.
The purpose of the preliminary platting process is to establish quality site design that promotes the compatibility of development with physical and cultural issues within the city. The preliminary plat process is designed to achieve the following objectives:

- To provide for an efficient process for establishing streets that have the capacity to adequately handle anticipated traffic flow and that are in harmony with the MPO's transportation plan and the transportation element of the comprehensive plan.
- To promote site design that encourages sound, economical, and compatible development and that creates a healthy living environment in the city.
- To allow for design flexibility and imagination.
- To provide for subdivided lots with adequate configuration, area and appropriate design for the purpose for which they are to be used and to address housing, marketing and economic development trends that support the policies within the housing element of the comprehensive plan.
- To minimize traffic and drainage hazards through proper site design.
- To promote efficient design to mitigate impacts to community infrastructure.
- To assure that all adopted city plans, rules and regulations, and the development master plan, if applicable, are followed.

(Ord. No. 1798, § I, 6-19-00)

Sec. 37-77. When a preliminary plat is required.
A preliminary plat conforming to this chapter shall be required for all subdivisions except those processed through the replat, alternate summary or infill subdivision process. A preliminary plat may be submitted simultaneously with a master plan. Subdivisions that are processed through the P.U.D. process do not have to receive preliminary plat approval.
(Ord. No. 1798, § I, 6-19-00)

Sec. 37-78. Preapplication procedure.

A. Any proposed preliminary plat causing need for public notification, review and approval by the Planning and Zoning Commission shall first be reviewed at a pre-application meeting scheduled and held by the Community Development staff. A representative for the proposed development action shall attend the pre-application meeting and discuss the proposal in general terms, providing enough specifics to allow attending staff an opportunity to gauge and determine neighborhood and/or community impacts. In that this represents an initial and informal discussion, information provided to the representative regarding procedural nuances or other regulatory related information shall be considered preliminary feedback based on information received, and shall not represent a complete disclosure of all regulatory measures that may apply upon formal review. In no circumstances should related discussion by staff represent a final disposition on the preliminary proposal at hand.

1. Neighborhood group and/or noticed area determination. Staff upon consideration of the information received during the pre-application meeting, will instruct as to

whether early notification of the subject proposal by the applicant to a neighborhood group(s) (recognized group(s)) and/or noticed area shall be necessary prior to formal application and submittal of the development proposal to the city. The criteria used by staff to determine notice need may include, but not be limited to the following:

a. Development that is likely to cause significant traffic impacts due to limited roadway access or a potential decrease in level of service based on the subject roadway's design.

b. Potential land use conflicts resulting from proposed land use distribution adjacent to existing development of a differing land use classification such as proposed commercial uses adjacent to low density residential uses.

c. Known neighborhood concerns on tangible and reasonable development issues that could be mitigated through design alternatives. An example of a concern congruent to this criterion is anticipated development consistency with surrounding development styles as they may relate to lot size/dimension transitions, roadway widths out of character with adjacent development, etc. An example of a concern not congruent to the criterion is disapproving development on private vacant property due to the elimination of "open space" or development of private vacant property because one's view may be compromised.

2. Early notification exception. Staff determination of early notice need which shall include an open invitation to discuss the proposal at a meeting, shall not pre-empt the Planning and Zoning Commission, City Council or other reviewing bodies with approval (recommending or final action) authority from thereafter requiring an additional meeting(s). Criteria used by the applicable reviewing body shall be at their discretion and may or may not follow the criteria identified in the preceding provision. Significant deviation of plan proposal post neighborhood group and/or noticed area meeting may subject the applicant from thereafter participating in another meeting to inform and discuss revisions. Changes addressing neighborhood concerns shall not necessarily subject the applicant to another meeting; however, an omission in the proposal that is added post meeting and deemed significant by Community Development staff is a candidate for reconsideration by the notified neighborhood prior to consideration by any formal reviewing body.

3. Early notification recipients. Notification recipients shall include registered neighborhood groups, and/or associations, identified on the applicable Community Development Department's web page. In the event an identified association or group does not exist or cover an adequate area surrounding the proposal, both the neighborhood group/association and the property owners within 500 feet shall be notified. If no association or group exists within the notification boundary, notification to property owners shall take place using the same distance threshold. Measurement shall be made radially from the outermost property boundary where the subject proposal is located. Any association/group boundary or property boundary

that falls either partially or entirely within said radius based on the qualifying standards of this subsection shall receive notification. Contact and mailing information for associations, groups and property owners to be notified shall be provided by the Community Development Department. Mailing preparation, expenses and materials are the responsibility of the developer, applicant and/or representative. Notification shall take place no later than fifteen (15) calendar days prior to the date of submittal. In the event a meeting is called for pursuant to item (4) that follows, may cause delay with the proposal's submittal in order to accommodate the agreed upon meeting schedule and other factors necessary to meet submittal content.

4. Early notification form and content. All required notification shall be sent via regular, non-certified, first class mail and the content of the notice shall include at minimum:

   a. A detailed description (to the extent possible) of what is being pursued in terms of development.

   b. Information as to how the developer, applicant, or representative for the development action may be contacted.

   c. A statement as to how the proposal may impact the neighborhood(s) surrounding the subject property where the development is to occur.

   d. An open offer to participate in a meeting with the association(s)/group(s) and/or property owners at a mutually agreed upon date, time and location in order to discuss the proposal more fully.

   e. A need to provide a WRITTEN meeting request (if desired) to the development representative, copying Community Development staff either in a letter or email format within the stated fifteen (15) calendar day threshold. Requests for a meeting within the fifteen (15) calendar day period shall render the meeting need mandatory prior to submittal whether or not the meeting takes place inside or beyond this fifteen (15) calendar day period. Requests that come in after said period do not compel the applicant to entertain a meeting prior to submittal; however, a meeting with those requesting one is advisable prior to formal review of the proposal by a recommending or decision making body.

   f. Community Development staff contact information for any related correspondence or general inquiry.

~~A.~~ 5. Neighborhood group/neighborhood meeting. It shall be the responsibility of the representative for the proposal to supply any and all materials necessary to convey

development parameters as applicable. Additionally, the representative shall be responsible for minute transcription (summary or verbatim) which clearly indicates the date, time and location of the meeting and the general nature of conversation that tool place regarding the proposal. Information shall at minimum identify key points that convey support for or the lack thereof for the proposal as presented.

~~B.~~ B. If necessary, the conceptual preliminary plat(s) shall be referred to the first available development review committee meeting for review and comment. The subdivision administrator and/or the development review committee shall review all conceptual plans and discuss with the subdivider or the subdivider's representative the changes, if any, that will be required for the submittal process.

(Ord. No. 1798, § I, 6-19-00)

Sec. 37-79. Submittal of a preliminary plat application.

A. The preliminary plat application and relevant supplemental material shall be submitted to the community development department for approval consideration no later than 25 calendar days prior to the day of the regular meeting of the planning and zoning commission.

B. Upon submittal, the community development department shall issue a receipt for submittal. The subdivision administrator shall then have eight business hours to review the submittal for completeness. If all required items have been submitted, and the preliminary plat submittal contains all required items as per section 37-81 of this chapter, the subdivision administrator shall accept the submittal for review. A proposed preliminary plat submittal shall not be accepted for review if incomplete or substantially inaccurate. All items required on a preliminary plat must be present for acceptance. In cases in which a submittal is found to be incomplete, the applicant shall have eight business hours to correct the deficiencies and still meet the submittal deadline if applicable.

C. The subdivision administrator, the development review committee or the planning or zoning commission shall have the authority to waive or add submittal requirements in cases in which it is determined that the additional items and resulting information is necessary in order to accomplish the objectives of this chapter. Examples of possible additional requirements and/or information could include, but is not limited to, a neighborhood group and/or noticed area meeting, traffic impact analysis, environmental analysis, detailed drainage analysis, etc. Any request for additional submittal requirements shall be justified, in writing, by the requesting entity.

D. Preliminary plats will be referred to the applicable city departments and other governmental agencies for review, comments and recommendations. Each department shall have five business days to complete the review. Written reports, with their comments and recommendations, shall be forwarded to the subdivision administrator.

E. The subdivision administrator shall review all comments for applicability and appropriateness to the preliminary plat requirements and forward any comments to the subdivider or the subdivider's representative for completion. Preliminary plat applications that receive comments shall be resubmitted and reviewed until the provisions set forth in the regulations are met and all outstanding comments are addressed.

(Ord. No. 1798, § I, 6-19-00; Ord. No. 1929, §§ I, II, 8-5-02)

Sec. 37-80. Review and consideration of a preliminary plat.

A. Following staff review, the development review committee shall evaluate the preliminary plat and staff comments to determine if they are consistent with the intent and purpose set forth in sections 37-3 and 37-76 of this chapter. The preliminary plat shall be scheduled for a public hearing for planning and zoning commission consideration. The development review committee shall provide the planning and zoning commission with a written report containing a recommendation that the preliminary plat be approved, conditionally approved, postponed or disapproved. The development review committee shall state the

reason(s) for their recommendation regarding the preliminary plat to the planning and zoning commission.

B. Public notice requirements: The following shall be required for all preliminary plats scheduled for planning and zoning commission review:
   1. *Agenda.* The agenda for the planning and zoning commission public hearing shall be made available no later than fifteen (15)~~six~~ calendar days prior to the public hearing.
   2. *Posting.* Notice of the proposed development shall be posted in conspicuous places on the property by the property owner, applicant or representative~~community development department~~ at least fifteen (15)~~nine~~ calendar days prior to the planning and zoning commission public hearing. A sign measuring four (4) feet by four (4) feet shall be used and secured with appropriate supporting hardware made available by Community Development staff. When the property has multiple street frontages, one sign per frontage shall be posted. Large properties may require a greater number of signs which shall be determined by Community Development staff. It shall be the responsibility of the property owner, applicant or representative to ensure continuous posting throughout the public hearing processes. Processes for purposes of this provision shall start with the Planning and Zoning Commission and cease when a final determination is made on the proposal regardless of the number of reviewing entities involved. In that multiple reviewing entities may be involved, , Community Development staff will inform the property owner, applicant or representative of necessary changes needed on the sign to reflect the appropriate reviewing entities, meeting dates and venues.
   3. *Notice.* Notice on all proposed preliminary plats shall be sent by regular, non-certified, first class mail to all property owners (as shown on the records of the county assessor) within the proposed area of development and within 5~~2~~00 feet of the area of the proposed subdivision, in~~ex~~cluding streets, alleys, channels, canals, other public rights-of-way and railroad rights-of-way. The community development department is responsible for the list of property owners and preparation of the mail. Regular, non-certified, first class mail shall also be sent to all recognized neighborhood groups within five hundred (500) feet of the subject property. Notice, for purposes herein~~to said property owners~~ shall be mailed at least fifteen (15)~~nine~~ calendar days prior to the public hearing. The subdivision administrator shall execute an affidavit verifying the list of persons to whom notice was mailed. Notice of the time and place of the public hearing shall be published at least fifteen (15) calendar days prior to the public hearing in a newspaper of general circulation in the city.

C. The planning and zoning commission shall review the preliminary plat application, the report, any comments, and recommendations from the development review committee, the presentation from the subdivider or the subdivider's representative and from any interested citizens at a public hearing. The intent of the planning and zoning commission review is to allow for public input in the development process and to serve as a land-planning process. Review of the proposal shall consist of planning related issues such as site plan compliance to the city's comprehensive plan and all development- or growth management-related policies. Action from the planning and zoning commission shall be recorded in the minutes of the meeting. Action shall be in the form of an approval,

conditional approval, postponement, or disapproval. A copy of the notice of decision that includes any changes or conditions from the planning and zoning commission as done at the public hearing shall be furnished to all appropriate parties in accordance with Sec. 37-11(b).

D. It is the requirement of the planning and zoning commission that no preliminary plat shall be reviewed unless either the applicant or the applicant's representative is present at the planning and zoning commission meeting. If the applicant or the applicant's representative is not present at the public hearing, the preliminary plat application hearing will be postponed until the next regular planning and zoning commission meeting.

E. Approval of a preliminary plat shall not constitute approval of the final plat, but shall signify the general acceptability of the proposed subdivision. Preliminary plat approval shall constitute permission to prepare and submit the final plat application and construction drawings of all improvements for the proposed subdivision. Final platting shall not be considered until preliminary plat approval is complete.

F. Preliminary plat approval shall be effective for no more than two years from the date of approval as described on the approval action form. If a final plat application has not been submitted for approval as required by the provisions of this chapter, the preliminary plat shall expire, and a new preliminary plat application must be submitted for approval by the planning and zoning commission. The developer may submit a request for a one year extension of approval, prior to the expiration date, if desired. The request will be reviewed by the development review committee. All plat extensions shall be automatically conditioned to require compliance with all city codes, regulations, and specifications in place at the time of development of the plat in question.

G. Any substantial change to the preliminary plat application will require resubmittal of the plat in its entirety and may trigger the need for a neighborhood group and/or noticed area meeting to be determined by and at the discretion of the subdivision administrator.~~.~~ Minor modifications or changes shall be considered by the subdivision administrator.

H. Substantial changes to the preliminary plat application will be subject to a planning and zoning commission public hearing, with the same requirements as an original application. Substantial changes shall include but are not limited to:
   1. Any proposed change in land use or use intensity;
   2. Anticipated (or proposed) modifications of vehicular traffic circulation on arterials, collectors and/or major local designated streets;
   3. An anticipated increase in residential density;
   4. Any extension of time limits beyond 20 percent;
   5. Any change in the preliminary plat that is determined by the subdivision administrator to be substantial.

I. Appeals. Any person, department, committee, commission, board or bureau that is affected by a decision of an administrative official, committee, or board in the administration or enforcement of this chapter or of any other adopted resolution, rule, or

regulation may appeal the decision. The appeal must be initiated in writing and delivered to the subdivision administrator within 15 calendar days after all other procedures established by this chapter have been exhausted. Refer to section 37-13, "procedures for appealing decisions of the staff, the development review committee and the planning and zoning commission," for details on the appeal process.

(Ord. No. 1798, § I, 6-19-00; Ord. No. 1929, §§ I, II, 8-5-02)

Sec. 37-81. Preliminary plat submittal requirements.

A. *Preliminary plat requirements.* The preliminary plat shall be at a scale that adequately represents the information. The preliminary plat shall be prepared on 18-inch × 24-inch sheets of paper. Copies provided shall be legible, with no limit to the number of sheets used. The plat shall show existing conditions and all proposals, including the following:

1. Name of proposed subdivision;
2. Total acreage of subdivision, to nearest one-tenth of an acre;
3. Date of preparation, north arrow, written and graphic scale;
4. Detailed area/vicinity map clearly showing surrounding area and the proposal's relationship to existing road networks, and existing natural and/or man-made features that may impact the development. Detail must be sufficient for the subject property to be located in the field using the map;
5. Name and address of subdivider;
6. Name and address of the person, corporation or organization preparing the preliminary plat;
7. An accurate and complete boundary survey of the land to be subdivided. Plat boundary lines shall be shown, giving the bearings in degrees, minutes and seconds. Distances shall be shown in feet and hundredths. Curved boundaries or lines on the plat shall provide sufficient data to enable the reestablishment of curves on the ground. Include the location and description of all monuments set or found. Data for each curve shall include:
   a. Central angle and arc length;
   b. Radius;
   c. Chord bearing and length;
8. A statement of ownership, signed by the legal owner, and the equitable owner if applicable, on the final approved preliminary plat;
9. Zoning or proposed zoning shall be shown with boundaries given as streets, highways, or property lines. Special use permit information shall be included if applicable.
10. Number to identify each lot, plus the acreage of each lot and tract;
11. Proposed lot lines and public rights-of-way lines; rights-of-way and street widths; rights-of-way for public services or utilities with identification of any limitations thereof;
12. Proof that all lots in any subdivision meet the requirements of the city zoning code and that each lot shall be dimensioned in such a manner that setbacks, as required by the code, shall be met for any structure or building that may be on or will be constructed on the lot. No platted lot within a subdivision shall contain less square footage than that required by the city zoning code.
13. Approximate locations, dimensions, areas, and purposes of tracts proposed to be reserved for the public;
14. Sites and approximate area(s) for any multi-family dwellings or nonresidential uses;
15. Existing conditions of the proposed preliminary plat, including the information indicated next, if applicable. Separate sheets may be used, if necessary, to convey the information.
    a. Present site designation or subdivision name;
    b. Easements on-site: Location, width and purpose of each;

c. Public rights-of-way on and within 150 feet of the site: name, width, and classification of each;
d. Utilities on and adjacent to the site: Locations and size of each water well, water reservoir, water line, sanitary and storm drain; locations of all irrigation channels and drains; locations of gas lines, fire hydrants, electric and telephone poles, and street lights. If water mains and sewers are not on or adjacent to the tract, indicate the directions, distances, and sizes of the nearest lines;
e. Existing topography:
   i. For land with average slopes of less than five percent, show contour lines at intervals of not more than two feet;
   ii. For land with average slopes exceeding five percent, show contour lines at intervals of not more than five feet;
f. Existing storm drainage facilities on and adjacent to the site;
g. Conditions on adjacent land significantly affecting design of the subdivision: approximate directions and gradients of ground slopes, character and location of development, access points from adjacent points and building types;

16. Approval block signifying the final approved preliminary plat, to be signed by the subdivision administrator upon approval by the planning and zoning commission and resolution of all outstanding staff comments;
17. Master utility plan, which shall contain a general outline of the proposed utility routing plans for the development, to include, but not be limited to, the following information:
    a. Existing and proposed utility locations;
    b. Sizes of existing and proposed utilities and system loads;
    c. Locations of proposed connections to existing utilities;
    d. Proposed off-site improvements necessary to connect to existing utilities;

    The master utility plan may be submitted with the final plat or construction drawings with the consent of the utilities department director. Written approval for this allowance must be submitted with the preliminary plat submittal.
18. Copy of early notification letter to neighborhood group(s) and/or noticed area and copy of minutes (summary or verbatim) from any subsequent neighborhood group(s) and/or noticed area meeting as may have been required.

B. Supplemental material to be submitted with the preliminary plat:
1. Application:
   a. The application shall be signed by all property owners (including all parties having an equitable interest, trustees of an estate, or all persons having a specific power of attorney) for the subject property as recorded in the county clerk's office.
   b. Any pending litigation of any final order entered by any court of law regarding the ownership of the subject property shall be disclosed by the applicant at the time that the application is submitted.
2. Submittal fee.
3. Variance requests (if applicable).
4. Master drainage study:

a. The purpose of the master drainage study is to identify major drainage ways, ponding areas, locations of culverts, bridges, open channels and drainage basins that are contributory to the proposed study area. In addition, the ability of downstream drainage facilities to pass the developed runoff from the proposed development must be analyzed in the master drainage study.
b. The master drainage study shall contain a general outline of the proposed drainage routing plans for the development.
c. The report shall include, but not be limited to, the following information and calculations:
   i. Calculation for peak flow from all offsite tributary drainage areas.
   ii. Calculations for peak flow within the proposed development for all drainage basins larger than 20 acres.
   iii. Preliminary analysis of 100-year floodplain and major drainage ways.
   iv. Closed sub-basin analysis of 100-year floodplain and major drainage ways.
   v. Discussion and analysis of downstream drainage facilities.
   vi. Discussion of anticipated drainage problems within the proposed development and possible solutions.
   vii. Report shall be typed on 8 1/2-inch × 11-inch paper.
d. Drawings for the master drainage study shall include, but not be limited to, the following:
   i. Any and all floodplains and flood ways must be identified. A copy of applicable F.E.M.A. floodplain map is required indicating limits of current study.
   ii. Existing topography:
      1) For land that slopes less than approximately five percent, show contour lines at intervals of not more than two feet.
      2) For land that slopes more than five percent, show contour lines at intervals of not more than five feet.
      3) Location and size of existing and proposed open channels, storm drains, retention/detention areas, and other drainage structures.
      4) Identification of all drainage basins in the development.
      5) Location of all streets in/adjacent to the proposed development.
      6) Identification of all drainage basins tributary to the proposed development.
      7) Basin maps may be scaled as small as 1 inch = 2,000 feet. Orthophoto maps at scale of 1 inch = 200 feet are preferred. (Use the most appropriate scale available)
e. Inlet and storm drain size calculations are not required with the master drainage study; therefore, the number of sub-basins analyzed in the report shall be held to the smallest practical amount.

(Ord. No. 1798, § I, 6-19-00; Ord. No. 1929, §§ I, II, 8-5-02)

Secs. 37-82--37-110. Reserved.

ARTICLE IV.
FINAL PLAT

Sec. 37-111. The purpose of final platting.
Within two years after the approval of a preliminary plat, the subdivider must submit the final plat. The final plat is the subdivision instrument that is prepared for recording in the office of the county clerk. The final plat process ensures that the recordable plat is in complete compliance with plans approved earlier in the preliminary plat process. If the approved preliminary plat contains more than one phase, a final plat must be submitted every two years thereafter until all phases are complete. The submittal of such additional phases shall constitute a continuance of preliminary plat approval status. A final plat shall not be submitted until preliminary plat approval, if applicable, is complete.
(Ord. No. 1798, § I, 6-19-00)

Sec. 37-112. Preapplication procedure for plats following final plat processes consistent with Article V – Infill Subdivision Process, Section 37-176 (a) regarding alternate summary subdivision creating not more than two (2) lots, Section 37-176 (c) regarding creation of not more than two (2) lots of a previously filed subdivision, Section 37-207 (b) regarding an increase of the number of lots within a previously platted subdivision and Section 37-207 (d) regarding final plats reflecting vacation requests, and Article VIII – Vacation Plats.

A. Any proposed final plat identified in Sec. 37-112 causing need for public notification, review and approval by the Planning and Zoning Commission or City Council shall first be reviewed at a pre-application meeting scheduled and held by the Community Development staff. A representative for the proposed development action shall attend the pre-application meeting and discuss the proposal in general terms, providing enough specifics to allow attending staff an opportunity to gauge and determine neighborhood and/or community impacts. In that this represents an initial and informal discussion, information provided to the representative regarding procedural nuances or other regulatory related information shall be considered preliminary feedback based on information received, and shall not represent a complete disclosure of all regulatory measures that may apply upon formal review. In no circumstances should related discussion by staff represent a final disposition on the preliminary proposal at hand.

1. Neighborhood group and/or noticed area determination. Staff upon consideration of the information received during the pre-application meeting, will instruct as to whether early notification of the subject proposal by the applicant to a neighborhood group(s) (recognized group(s)) and/or noticed area shall be necessary prior to formal application and submittal of the development proposal to the city. The criteria used by staff to determine notice need may include, but not be limited to the following:

   a. Development that seeks the elimination of ROW that could potentially disrupt traffic flow within a neighborhood or if approved becomes inconsistent with the Major Thoroughfare Plan.

b. Potential land use conflicts resulting from proposed land use distribution adjacent to existing development of a differing land use classification such as proposed commercial uses adjacent to low density residential uses.

c. Known neighborhood concerns on tangible and reasonable development issues that could be mitigated through design alternatives. An example of a concern congruent to this criterion is anticipated development consistency with surrounding development styles as they may relate to lot size/dimension transitions, roadway widths out of character with adjacent development, etc. An example of a concern not congruent to the criterion is disapproving development on private vacant property due to the elimination of "open space" or development of private vacant property because one's view may be compromised.

2. Early notification exception. Staff determination of early notice need which shall include an open invitation to discuss the proposal at a meeting, shall not pre-empt the Planning and Zoning Commission, City Council or other reviewing bodies with approval (recommending or final action) authority from thereafter requiring an additional meeting(s). Criteria used by the applicable reviewing body shall be at their discretion and may or may not follow the criteria identified in the preceding provision. Significant deviation of plan proposal post neighborhood group and/or noticed area meeting may subject the applicant from thereafter participating in another meeting to inform and discuss revisions. Changes addressing neighborhood concerns shall not necessarily subject the applicant to another meeting; however, an omission in the proposal that is added post meeting and deemed significant by Community Development staff is a candidate for reconsideration by the notified neighborhood prior to consideration by any formal reviewing body.

3. Early notification recipients. Notification recipients shall include registered neighborhood groups, and/or associations, identified on the applicable Community Development Department's web page. In the event an identified association or group does not exist or cover an adequate area surrounding the proposal, both the neighborhood group/association and the property owners within 500 feet shall be notified. If no association or group exists within the notification boundary, notification to property owners shall take place using the same distance threshold. Measurement shall be made radially from the outermost property boundary where the subject proposal is located. Any association/group boundary or property boundary that falls either partially or entirely within said radius based on the qualifying standards of this subsection shall receive notification. Contact and mailing information for associations, groups and property owners to be notified shall be provided by the Community Development Department. Mailing preparation, expenses and materials are the responsibility of the developer, applicant and/or representative. Notification shall take place no later than fifteen (15) calendar days prior to the date of submittal. In the event a meeting is called for pursuant to item (4) that follows, may cause delay with the proposal's submittal in order to accommodate the agreed upon meeting schedule and other factors necessary to meet submittal content.

4. Early notification form and content. All required notification shall be sent via regular, non-certified, first class mail and the content of the notice shall include at minimum:

   a. A detailed description (to the extent possible) of what is being pursued in terms of development

   b. Information as to how the developer, applicant, or representative for the development action may be contacted

   c. A statement as to how the proposal may impact the neighborhood(s) surrounding the subject property where the development is to occur

   d. An open offer to participate in a meeting with the association(s)/group(s) and/or property owners at a mutually agreed upon date, time and location in order to discuss the proposal more fully

   e. A need to provide a WRITTEN meeting request (if desired) to the development representative, copying Community Development staff either in a letter or email format within the stated fifteen (15) calendar day threshold. Requests for a meeting within the fifteen (15) calendar day period shall render the meeting need mandatory prior to submittal whether or not the meeting takes place inside or beyond this fifteen (15) calendar day period. Requests that come in after said period do not compel the applicant to entertain a meeting prior to submittal; however, a meeting with those requesting one is advisable prior to formal review of the proposal by a recommending or decision making body.

   f. Community Development staff contact information for any related correspondence or general inquiry.

5. Neighborhood group/neighborhood meeting. It shall be the responsibility of the representative for the proposal to supply any and all materials necessary to convey development parameters as applicable. Additionally, the representative shall be responsible for minute transcription (summary or verbatim) which clearly indicates the date, time and location of the meeting and the general nature of conversation that tool place regarding the proposal. Information shall at minimum identify key points that convey support for or the lack thereof for the proposal as presented.

Sec. 37-113. Submittal of a final plat application.

A. The final plat and supplemental material shall be submitted to the community development department no later than 25 calendar days prior to the day of the regular meeting of the planning and zoning commission for approval consideration if applicable.

B. Upon submittal, the community development department shall issue a receipt for the submittal. The subdivision administrator shall then have eight business hours to review the submittal for completeness. If all of the required items have been submitted and the final plat submittal contains all necessary items as per section 37-114 of this chapter, the subdivision administrator shall accept the submittal for review. A proposed final plat shall not be accepted for review if incomplete or substantially inaccurate. All items required on a final plat must be present for acceptance. If a submittal is found to be incomplete, the applicant shall have eight business hours to correct the deficiencies and still meet the submittal deadline if applicable.

C. The subdivision administrator or the development review committee shall have the authority to waive or add submittal requirements if it is determined that the additional additional items and resulting information is necessary to accomplish the objectives of this Code. Additional requirements may include a neighborhood group and/or noticed area meeting (see Section 37-112). Any request for additional submittal requirements shall be justified, in writing, by the requesting entity.

D. Final plats will be referred to the applicable city departments and other governmental agencies for review, comments and recommendations. Each department shall have five business days to complete the review. Written reports, with their recommendations, shall be forwarded to the subdivision administrator. The development review committee shall review the final plat to determine whether it is consistent with the intent and purpose set forth in sections 37-1 and 37-111 of this chapter. For final plats requiring planning and zoning commission approval, a written report shall be provided to the planning and zoning commission with a recommendation that the final plat be either approved, conditionally approved, postponed, or disapproved. The development review committee shall state the reasons for their recommendation on the final plat in the report to the planning and zoning commission.

(Ord. No. 1798, § I, 6-19-00; Ord. No. 1929, §§ I, II, 8-5-02)

Sec. 37-113. Approval of final plats.

A. Administrative approval of final plats. Final plats that are consistent with, and that conform to, an approved preliminary plat shall be approved administratively, unless determined by the subdivision administrator via pre-application for plats subject to Section 37-112 or the DRC that the planning and zoning commission review is necessary, or as otherwise provided by this chapter e.g., replats or waivers to planning-related issues. A final plat that deviates from the approved preliminary plat shall be rejected by the subdivision administrator and either modified to comply with the preliminary plat or suspended in lieu of an amended preliminary plat.

B. Planning and zoning commission approval of final plats. Final plats requiring planning and zoning commission approval shall be advertised in accordance with the following before consideration at a public hearing:

1. *Agenda.* The agenda for the planning and zoning commission public hearing shall be made available no later than fifteen (15)~~six~~ calendar days prior to the public hearing.
2. *Posting.* Notice of the proposed development shall be posted in conspicuous places on the property by the property owner, applicant or representative~~subdivider~~ at least fifteen (15)~~nine~~ calendar days prior to the planning and zoning commission public hearing. A sign measuring four (4) feet by four (4) feet shall be used and secured with appropriate supporting hardware made available by Community Development staff. When the property has multiple street frontages, one sign per frontage shall be posted. Large properties may require a greater number of signs which shall be determined by Community Development staff. It shall be the responsibility of the property owner, applicant or representative to ensure continuous posting throughout the public hearing processes. Processes for purposes of this provision shall start with the Planning and Zoning Commission and cease when a final determination is made on the proposal regardless of the number of reviewing entities involved. In that multiple reviewing entities may be involved (e.g. appeals), , Community Development staff will inform the property owner, applicant or representative of necessary changes needed on the sign to reflect the appropriate reviewing entities, meeting dates and venues.
3. *Notice.* Notice on all proposed final plats requiring planning and zoning commission review shall be sent by regular, non-certified, first class mail to all property owners (as shown on the records of the county assessor) within the proposed area of development and within 5~~2~~00 feet of the area of the proposed subdivision, in~~ex~~cluding streets, alleys, channels, canals, other public rights-of-way and railroad rights-of-way. The community development department is responsible for the list of property owners and for the preparation of mail. Regular, non-certified, first class mail shall also be sent to all recognized neighborhood groups within five hundred (500) feet of the subject property. Notice for purposes herein, ~~to said property owners~~ shall be mailed at least fifteen (15)~~nine~~ calendar days prior to the public hearing. The subdivision administrator shall execute an affidavit verifying the list of persons to whom notice was mailed. Notice of the time and place of the public hearing shall be published at least fifteen (15) calendar days prior to the public hearing in a newspaper of general circulation in the city.

C. The planning and zoning commission shall review the final plat, report, comments and recommendations from the development review committee, presentation from the subdivider or subdivider's representative and from any interested citizens at a public hearing as applicable. If the proposed final plat is complete and devoid of any issues, said final plat shall be placed on the consent agenda for planning and zoning commission approval. final plats that are in full compliance with this chapter and an approved preliminary plat, if applicable, as determined by the subdivision administrator, shall not be removed from the consent agenda except by a majority vote of the membership of the commission. Action from the planning and zoning commission on final plats not on the consent agenda shall be in the form of an approval, conditional approval, postponement, or disapproval. Action from the planning and zoning commission shall be recorded in the minutes of the meeting. A copy of the notice of decision that includes any changes or conditions from the planning and zoning commission as done at the public hearing shall be furnished to all appropriate parties in accordance with section 37-11(b). All approvals by the planning and zoning commission are conditioned upon final review and approval of outstanding staff comments.

D. It is the requirement of the planning and zoning commission that no final plat shall be reviewed unless either the applicant or the applicant's representative is present at the planning and zoning commission meeting. If the applicant is not present at the public hearing, the final plat will be tabled until the next regular planning and zoning commission meeting.

E. Upon approval of the final plat, the subdivider may submit applications for construction permits and/or a form of security for the filing of the plat application. The final plat shall not be filed until all construction improvements have been completed, approved and accepted by the city, or until a form of security has been established and approved. It shall be the subdivision administrator's responsibility to obtain the necessary signatures of city officials after final plat approval. The subdivision administrator shall be responsible for filing the final plat with the applicant and/or their representative at the county clerk and recorder's office.

F. Final plat approval shall be effective for no more than three years from the date of approval. If the subdivision improvements have not been completed or a form of security established and approved, the final plat shall be resubmitted for final plat approval. The developer may submit a request for extension of approval prior to the expiration date, if desired. The request will be reviewed by the development review committee for consideration. All plat extensions shall be automatically conditioned to require compliance with all city codes, regulations and specifications in place at the time of development of the plat in question.

G. No changes, revisions, erasures, or modifications shall be made on the final plat. No final plat shall be filed and recorded prior to the satisfaction of all requirements and conditions. Any substantial change to a final plat subject to Section 37-112 may trigger the need for a neighborhood group(s) and/or noticed area meeting to be determined by and at the discretion of the subdivision administrator.

H. Appeals Any person, department, committee, commission, board or bureau affected by a decision of an administrative official, committee, or board in the administration or enforcement of this chapter or of any other adopted resolution, rule, or regulation may appeal the decision. The appeal must be initiated in writing and delivered to the subdivision administrator within 15 calendar days after all other procedures established by this chapter have been exhausted. Refer to section 37-13, "procedures for appealing decisions of staff, the development review committee and the planning and zoning commission," for details on the appeal process.

(Ord. No. 1798, § I, 6-19-00; Ord. No. 1929, §§ I, II, 8-5-02)

Sec. 37-1154. Final plat submittal requirements.

A. Final plat requirements. The final plat shall be drawn with permanent ink or produced by a photographic process on a linen or polyester (Mylar) film. The final plat shall be prepared on 18-inch × 24-inch sheets at a scale that adequately represents the information. Copies provided shall be legible.

B. If more than one sheet is used, all sheets must be indexed and contain an index map

showing the relationship of the sheet to the whole. Each sheet shall show north arrow, name of subdivision, date of survey, written and graphic scale. The following information shall be shown on the plat:

1. Name of subdivision.
2. Total acreage of subdivision to nearest one-tenth of acre.
3. Date of preparation, north arrow, written and graphic scale.
4. Detailed area/vicinity map clearly showing surrounding area and the proposal's relationship to existing road networks and existing natural or man-made features that may impact the development. Detail must be sufficient so that the subject property can be located in the field using the map.
5. Signed statements by the subdivider dedicating public rights-of-way, and granting all required easements for public use. Also include a statement that the subdivision is planned with the free consent of and in accordance with, the desire of the undersigned owner of the land, acknowledged in a manner required for acknowledgment of deeds. For consistency on all plats, the dedication statement shall read as follows:

   DEDICATION

   THE TRACT HEREON IS TO BE KNOWN AS _____ SUBDIVISION.

   ALL RIGHTS OF WAY AND PUBLIC AREAS SHOWN HEREON ARE DEDICATED TO THE CITY OF LAS CRUCES. UTILITY EASEMENTS ARE GRANTED FOR THE USE OF THE UTILITY COMPANIES THAT ARE SIGNATORY TO THIS PLAT AND TO THE CITY OF LAS CRUCES. ALL RULES AND REGULATIONS OF THE CITY OF LAS CRUCES AND SAID UTILITIES WILL APPLY TO THESE EASEMENTS. ALL OTHER EASEMENTS SHOWN HEREON ARE GRANTED FOR THE USE INDICATED. NO ENCROACHMENT THAT WILL INTERFERE WITH THE USE OF EASEMENTS AS SHOWN ON THIS PLAT IS ALLOWED.

   THE SUBDIVISION HAS BEEN DEDICATED IN ACCORDANCE WITH THE WISHES OF THE UNDERSIGNED OWNER(S) OF THE LAND SHOWN HEREON.

6. Name and address of subdivider.
7. Name and address of the person, corporation or organization preparing the final plat.
8. Certification block for planning and zoning commission chairman and secretary.
9. Certification block(s) by authorized representatives from respective utility companies(cable, telephone company and electric company, etc.).
10. Certification and seal by a registered licensed surveyor of the state in accordance with the laws of the state, certifying the accuracy of the survey and the plat, and that the surveyor prepared or supervised preparation of the plat.
11. An accurate and complete boundary survey of the land to be subdivided. Plat boundary lines shall be shown giving the bearings in degrees, minutes and seconds. Distances shall be shown in feet and hundredths. Curved boundaries or lines on the plat shall provide sufficient data to enable the reestablishment of curves on the ground. Curve data shall

include:

a. Central angle and arc length;
b. Radius;
c. Chord bearing and length;

12. Location and description of all monuments set or found within the plat area. Subdivisions shall be tied into and referenced to the state plane coordinate system if within one-half mile of a traverse station established in conformity with the state plane coordinate system, with reference made on the final plat.
13. Bearings and lengths for all lot lines and rights-of-way lines existing or proposed. Lines to be eliminated shall be designated and identified by dashed lines. Names of streets, rights-of-way widths of all streets, commercial alleys, green ways, bikeways, trails and other transportation links shall be so designated.
14. Number to identify each lot.
15. Acreage of each lot.
16. Letter to identify each block.
17. Location, dimensions and purpose of all easements, existing or proposed, and any limitations thereof.
18. Adjacent land ownership within 100 feet. Note subdivision and/or owner's names and filing information: book, page and date.
19. Outlots or tracts designated by letter, with disposition indicated in the Note section. Location of land intended to be converted or reserved for public use or reserved in the deeds for the use of all property owners in the proposed subdivision shall be so identified. The purpose of each outlot and the responsibility for maintenance of all tracts shall be noted.
20. Locations, dimensions, and purposes of all necessary easements for water rights in relation to irrigation.
21. Ponding icon. For lots utilizing on-lot ponding, an icon shall be placed on the lot in the approximate location of the proposed ponding area. A note referencing the ponding icon shall also be present on the plat and reflect the purpose and the lot owner's responsibility for maintaining the ponding area.
22. A note placed on the plat stating: "Subdivider responsible for utility stub-outs and for providing any and all easements necessary to provide utility service to lots contained herein."
~~22.~~23. Copy of early notification letter to neighborhood group(s) and/or noticed area and copy of minutes (summary or verbatim) from any subsequent neighborhood group(s) and/or noticed area meeting as may have been required.

C. Supplemental material to submit with the final plat:

1. Application:
   a. The application shall be signed by all property owners (including all parties having an equitable interest, trustees of an estate or all persons having a specific power of attorney) for the subject property as recorded in the county clerk's office.
   b. Any pending litigation of any final order entered by any court of law regarding the ownership of the subject property shall be disclosed by the applicant at the time the application is submitted.

2. Submittal fee.
3. Documentation from the county assessor's office that the current year's property taxes are paid and that no taxes are owed on the property.
4. Appropriate documentation shall be submitted to show proof of water service and approval of sewage disposal. (Applicable if the subdivision will not be utilizing city services.)
5. Address plat. The address plat shall be drawn with permanent black ink or produced by a photographic process on a linen or polyester (Mylar) film. The address plat shall be prepared on 18-inch × 24-inch sheets at a scale that adequately represents the information. Copies provided shall be legible. The following information shall be required:
   a. Title of subdivision;
   b. Approved lot layout;
   c. Lot and block numbers;
   d. Street name;
   e. Street address for each lot. (Community development department will provide the addresses.)
   f. Neighborhood delivery and collection box unit location (NDCBU), if applicable.
6. A traverse closure sheet (computer printout) for the exterior boundaries of the entire tract and for each parcel within the tract, except any parcels that are true rectangles.
7. Filing fee shall be required of the applicant at time of plat filing.

(Ord. No. 1798, § I, 6-19-00; Ord. No. 1929, §§ I, II, 8-5-02)

Secs. 37-1156--37-140. Reserved.

ARTICLE V
INFILL SUBDIVISION PROCESS

Sec. 37-141. The purpose of infill subdividing.
The purpose of the infill subdivision process is to implement the infill policy plan regarding the subdivision of land by providing an efficient process to encourage the development of vacant or underutilized properties within the central part of the City and to utilize existing infrastructure in a more cost-effective manner.
(Ord. No. 1798, § I, 6-19-00; Ord. No. 2519, 5-26-09)

Sec. 37-142. Usage.

A. The infill subdivision process is designed to make it more desirable to develop vacant or underutilized land in the central part of the City, as well as to streamline the processing of subdivisions through two procedures: the infill development process (IDP) and the infill subdivision method (ISM). Both procedures provide an expedited review and processing schedule.
B. The infill development process option allows the applicant to submit a single application, in which the Planning and Zoning Commission may consider not only the proposed subdivision, but additional development aspects of the property such as variances, changes of land use, special use permits, etc. Consult section 38-48 of the Municipal Code, for specific procedures and options. The IDP option shall only be available on qualified infill properties within the defined infill area. See figure 1 for delineation of the Infill Area.
C. To qualify for use of the infill development process, the property must meet the definition of an infill parcel as set forth in Section 38-48 of the Municipal Code. Subdivision proposals not meeting the qualifications of the infill development process, but located within the infill area may follow the provisions of the infill subdivision method.
D. The infill subdivision method is an expedited procedure for subdivisions located in the infill areas. The ISM allows for an administrative approval of a concept plan in lieu of the full master plan process for proposals that would ordinarily require master plan approval. Once the concept plan has been approved, the developer may skip the preliminary platting process and proceed to the final plat process. The infill subdivision method is for subdivision proposals only. Any necessary variances, zone changes, special use permits, etc., would require separate action. Subdivision proposals in the Infill Area that consist of just one or two lots may potentially follow the alternate summary procedure.

(Ord. No. 1798, § I, 6-19-00; Ord. No. 1929, §§ I, II, 8-5-02; Ord. No. 2519, 5-26-09)

Sec. 37-143. Procedure for the infill development process.

A. Pre-application procedure for IDP. Any proposed IDP causing need for public notification, review and approval by the Planning and Zoning Commission shall first be reviewed at a pre-application meeting of the Development Review Committee (DRC), scheduled by the Community Development staff. A representative for the proposed development action shall attend the pre-application meeting and discuss the proposal in general terms, providing enough specifics to allow attending staff representing the DRC an opportunity to gauge and determine neighborhood and/or community impacts. In that this represents an initial and informal discussion, information provided to the

representative regarding procedural nuance, necessary changes prior to formal submittal, or other regulatory related information shall be considered preliminary feedback based on information received, and shall not represent a complete disclosure of all regulatory measures that may apply upon formal review. In no circumstances should related discussion by staff represent a final disposition on the preliminary proposal at hand.

1. Neighborhood group and/or noticed area determination. The DRC, with lead guidance form the Community Development Department representative, shall upon consideration of the information received during the pre-application meeting, instruct as to whether early notification of the subject proposal by the applicant to a neighborhood group(s) (recognized group(s)) and/or noticed area shall be necessary prior to formal application and submittal of the development proposal to the city. The criteria used by staff to determine notice need may include, but not be limited to the following:

   a. Development that is likely to cause significant traffic impacts due to limited roadway access or a potential decrease in level of service based on the subject roadway's design.

   b. Potential land use conflicts resulting from proposed land use distribution adjacent to existing development of a differing land use classification such as proposed commercial uses adjacent to low density residential uses.

   c. Known neighborhood concerns on tangible and reasonable development issues that could be mitigated through design alternatives. An example of a concern congruent to this criterion is anticipated development consistency with surrounding development styles as they may relate to lot size/dimension transitions, roadway widths out of character with adjacent development, etc. An example of a concern not congruent to the criterion is disapproving development on private vacant property due to the elimination of "open space" or development of private vacant property because one's view may be compromised,

2. Early notification exception. DRC determination of early notice need which shall include an open invitation to discuss the proposal at a meeting, shall not pre-empt the Planning and Zoning Commission, City Council upon appeal or other reviewing bodies with approval (recommending or final action) authority from thereafter requiring an additional meeting(s). Criteria used by the applicable reviewing body shall be at their discretion and may or may not follow the criteria identified in the preceding provision. Significant deviation of plan proposal post neighborhood group and/or noticed area meeting may subject the applicant from thereafter participating in another meeting to inform and discuss revisions. Changes addressing neighborhood concerns shall not necessarily subject the applicant to another meeting; however, an omission in the proposal that is added post meeting and deemed significant by Community Development staff is a candidate for reconsideration by the notified neighborhood prior to consideration by any formal reviewing body.

3. Early notification recipients. Notification recipients shall include registered neighborhood groups, and/or associations, identified on the applicable Community Development Department's web page. In the event an identified association or group does not exist or cover an adequate area surrounding the proposal, both the neighborhood group/association and the property owners within 500 feet shall be notified. If no association or group exists within the notification boundary, notification to property owners shall take place using the same distance threshold. Measurement shall be made radially from the outermost property boundary where the subject proposal is located. Any association/group boundary or property boundary that falls either partially or entirely within said radius based on the qualifying standards of this subsection shall receive notification. Contact and mailing information for associations, groups and property owners to be notified shall be provided by the Community Development Department. Mailing preparation, expenses and materials are the responsibility of the developer, applicant and/or representative. Notification shall take place no later than fifteen (15) calendar days prior to the date of submittal. In the event a meeting is called for pursuant to item (4) that follows, may cause delay with the proposal's submittal in order to accommodate the agreed upon meeting schedule and other factors necessary to meet submittal content.

4. Early notification form and content. All required notification shall be sent via regular, non-certified, first class mail and the content of the notice shall include at minimum:

   a. A detailed description (to the extent possible) of what is being pursued in terms of development.

   b. Information as to how the developer, applicant, or representative for the development action may be contacted.

   c. A statement as to how the proposal may impact the neighborhood(s) surrounding the subject property where the development is to occur.

   d. An open offer to participate in a meeting with the association(s)/group(s) and/or property owners at a mutually agreed upon date, time and location in order to discuss the proposal more fully.

   e. A need to provide a WRITTEN meeting request (if desired) to the development representative, copying Community Development staff either in a letter or email format within the stated fifteen (15) calendar day threshold. Requests for a meeting within the fifteen (15) calendar day period shall render the meeting need mandatory prior to submittal whether or not the meeting takes place inside or

beyond this fifteen (15) calendar day period. Requests that come in after said period do not compel the applicant to entertain a meeting prior to submittal; however, a meeting with those requesting one is advisable prior to formal review of the proposal by a recommending or decision making body.

f. Community Development staff contact information for any related correspondence or general inquiry.

5. Neighborhood group/neighborhood meeting. It shall be the responsibility of the representative for the proposal to supply any and all materials necessary to convey development parameters as applicable. Additionally, the representative shall be responsible for minute transcription (summary or verbatim) which clearly indicates the date, time and location of the meeting and the general nature of conversation that tool place regarding the proposal. Information shall at minimum identify key points that convey support for or the lack thereof for the proposal as presented

B. ~~Prior to the filing of an application for approval of an infill development process subdivision proposal, the subdivider shall meet with the development review committee (DRC) to discuss the proposal and the planning objectives to be accomplished with the submittal.~~ For purposes of the pre-application process, a~~A~~ written application or fee is not required, nor does this pre-application procedure require formal approval. ~~The DRC shall discuss the proposal with the subdivider or the subdivider's representative and shall indicate changes, if any, that will be required prior to the submittal process.~~

(Ord. No. 1798, § I, 6-19-00)

Sec. 37-144. Submittal of an infill development process application.

A. The application indicating the type of action being requested, along with the necessary support information may be submitted to the community development department at any time. The submittal shall be reviewed by the appropriate staff within eight business hours, and if all required items have been submitted, the application shall be accepted for review. If a submittal is found to be incomplete, the applicant shall correct the deficiencies and resubmit the application. The proposal will then be scheduled for review by the planning and zoning commission at a public hearing on the first Tuesday following the public notice period.

B. The subdivision administrator, the development review committee or the planning and zoning commission shall have the authority to waive or add submittal requirements if it is determined that the additional items and resulting information is necessary in order to accomplish the objectives of this chapter. Additional requirements may include a neighborhood group and/or noticed area meeting. Any request for additional submittal requirements shall be justified in writing by the requesting entity.

(Ord. No. 1798, § I, 6-19-00; Ord. No. 1929, §§ I, II, 8-5-02)

Sec. 37-145. Approval of infill subdivisions under the infill development process.

A. Following staff review, a written report shall be provided to the planning and zoning commission with a recommendation that the proposal be approved, conditionally

approved, postponed, or disapproved. The development review committee shall state reasons for their recommendation on the proposal to the Pplanning and Zzoning Ceommission.

1. Public notice requirements for the IDP:
   a. *Agenda.* The agenda for the planning and zoning commission public hearing shall be made available no later than fifteen (15)six calendar days prior to the public hearing.
   b. *Posting.* Notice of the proposed development shall be posted in conspicuous places on the property site by the property owner, applicant or representative community development department at least fifteen (15)nine calendar days prior to the planning and zoning commission public hearing. A sign measuring four (4) feet by four (4) feet shall be used and secured with appropriate supporting hardware made available by Community Development staff. When the property has multiple street frontages, one sign per frontage shall be posted. Large properties may require a greater number of signs which shall be determined by Community Development staff. It shall be the responsibility of the property owner, applicant or representative to ensure continuous posting throughout the public hearing processes. Processes for purposes of this provision shall start with the Planning and Zoning Commission and cease when a final determination is made on the proposal regardless of the number of reviewing entities involved. In that multiple reviewing entities may be involved, Community Development staff will inform the property owner, applicant or representative of necessary changes needed on the sign to reflect the appropriate reviewing entities, meeting dates and venues.
   c. *Notice.* Notice on all proposed subdivisions shall be sent by regular-, non-certified, first class mail for subdivision related matters. If zoning related issues are part of the IDP request, notice for those items shall follow Article II, Section 38-10, E.or certified mail, if necessary to comply with state law requirements for cases regarding zoning matters, to all property owners (as shown on the records of the county assessor) within the proposed area of development and within 5200 feet of the area of the proposed subdivision, inexcluding streets, alleys, channels, canals, other public rights-of-way and railroad rights-of-way. The community development department is responsible for the list of property owners and the preparation of the mail. Regular, non-certified, first class mail shall also be sent to all recognized neighborhood groups within five hundred (500) feet of the subject property. Notice for purposes herein to said property owners shall be mailed at least fifteen (15)ten calendar days prior to the public hearing. Notice of the time and place of the public hearing shall be published in a newspaper of general circulation in the city at least 15 calendar days prior to the meeting.

B. The planning and zoning commission shall review the proposal, report, comments and recommendations received from the development review committee, the presentation from the subdivider or the subdivider's representative, and comments from any interested citizens, at a public hearing scheduled as needed, in accordance with section 38-1605 of the municipal code. Action from the planning and zoning commission shall be in the form of an approval, conditional approval, postponement or disapproval. Action from the

planning and zoning commission shall be recorded in the minutes of the meeting. A copy of the notice of decision that includes any changes or conditions from the planning and zoning commission as done at the public hearing shall be furnished to all appropriate parties in accordance with section 37-11(b).

(Ord. No. 1798, § I, 6-19-00; Ord. No. 1929, §§ I, II, 8-5-02)

Sec. 37-146. Preapplication procedure for the infill subdivision method.

A. The subdivider that is following the infill subdivision method shall, prior to the filing of an application for approval of a final plat, submit a conceptual plan of the proposed development for formal review. Upon receipt of the submittal, the community development department shall issue a receipt for same. The subdivision administrator shall then have eight business hours to review the submittal for completeness. If all of the required items have been submitted, and the conceptual plan submittal contains all necessary items as per section 37-144 of this chapter, the subdivision administrator shall accept the submittal for review. A proposed conceptual plan shall not be accepted for review if incomplete. All items required on a conceptual plan must be present for acceptance. If a submittal is found to be incomplete, the applicant shall have eight business hours to correct the deficiencies and still meet the submittal deadline, if applicable.

B. Any proposed ISM causing need for public notification, review and approval by the Planning and Zoning Commission shall first have a concept plan reviewed at a meeting of the Development Review Committee (DRC) that is to be scheduled within nine (9) calendar days of acceptance by the Community Development staff (note: a conceptual plan is not required if following the infill development process). The purpose of the review is to determine whether it is consistent with the intents and purposes set forth in sections 37-3 and 37-141 of this chapter and to gauge whether early notification is warranted. A written report shall ultimately be provided to the subdivider indicating any changes that may be needed or potential concerns that may arise during the final plat and construction drawing review process. Upon completion of the review, the DRC will provide a recommendation on the proposal for the Planning and Zoning Commission. Due to this process, a representative for the proposed development action shall attend the DRC meeting and discuss the proposal in general terms, providing enough specifics to allow attending staff representing the DRC an opportunity to gauge and determine neighborhood and/or community impacts and development related issues.

1. Neighborhood group and/or noticed area determination. The DRC, with lead guidance form the Community Development Department representative, shall upon consideration of the information received during the pre-application meeting, instruct as to whether early notification of the subject proposal by the applicant to a neighborhood group(s) (recognized group(s)) and/or noticed area shall be necessary prior to formal application and submittal of the development proposal to the city. The criteria used by staff to determine notice need may include, but not be limited to the following:

a. Development that is likely to cause significant traffic impacts due to limited roadway access or a potential decrease in level of service based on the subject roadway's design.

b. Potential land use conflicts resulting from proposed land use distribution adjacent to existing development of a differing land use classification such as proposed commercial uses adjacent to low density residential uses.

c. Known neighborhood concerns on tangible and reasonable development issues that could be mitigated through design alternatives. An example of a concern congruent to this criterion is anticipated development consistency with surrounding development styles as they may relate to lot size/dimension transitions, roadway widths out of character with adjacent development, etc. An example of a concern not congruent to the criterion is disapproving development on private vacant property due to the elimination of "open space" or development of private vacant property because one's view may be compromised.

2. Early notification exception. DRC determination of early notice need which shall include an open invitation to discuss the proposal at a meeting, shall not pre-empt the Planning and Zoning Commission, City Council upon appeal or other reviewing bodies with approval (recommending or final action) authority from thereafter requiring an additional meeting(s). Criteria used by the applicable reviewing body shall be at their discretion and may or may not follow the criteria identified in the preceding provision. Significant deviation of plan proposal post neighborhood group and/or noticed area meeting may subject the applicant from thereafter participating in another meeting to inform and discuss revisions. Changes addressing neighborhood concerns shall not necessarily subject the applicant to another meeting; however, an omission in the proposal that is added post meeting and deemed significant by Community Development staff is a candidate for reconsideration by the notified neighborhood prior to consideration by any formal reviewing body.

3. Early notification recipients. Notification recipients shall include registered neighborhood groups, and/or associations, identified on the applicable Community Development Department's web page. In the event an identified association or group does not exist or cover an adequate area surrounding the proposal, both the neighborhood group/association and the property owners within 500 feet shall be notified. If no association or group exists within the notification boundary, notification to property owners shall take place using the same distance threshold. Measurement shall be made radially from the outermost property boundary where the subject proposal is located. Any association/group boundary or property boundary that falls either partially or entirely within said radius based on the qualifying standards of this subsection shall receive notification. Contact and mailing information for associations, groups and property owners to be notified shall be provided by the Community Development Department. Mailing preparation, expenses and materials are the responsibility of the developer, applicant and/or

representative. Notification shall take place no later than fifteen (15) calendar days prior to the date of submittal. In the event a meeting is called for pursuant to item (4) that follows, may cause delay with the proposal's submittal in order to accommodate the agreed upon meeting schedule and other factors necessary to meet submittal content.

4. Early notification form and content. All required notification shall be sent via regular, non-certified, first class mail and the content of the notice shall include at minimum:

   a. A detailed description (to the extent possible) of what is being pursued in terms of development.

   b. Information as to how the developer, applicant, or representative for the development action may be contacted.

   c. A statement as to how the proposal may impact the neighborhood(s) surrounding the subject property where the development is to occur.

   d. An open offer to participate in a meeting with the association(s)/group(s) and/or property owners at a mutually agreed upon date, time and location in order to discuss the proposal more fully.

   e. A need to provide a WRITTEN meeting request (if desired) to the development representative, copying Community Development staff either in a letter or email format within the stated fifteen (15) calendar day threshold. Requests for a meeting within the fifteen (15) calendar day period shall render the meeting need mandatory prior to submittal whether or not the meeting takes place inside or beyond this fifteen (15) calendar day period. Requests that come in after said period do not compel the applicant to entertain a meeting prior to submittal; however, a meeting with those requesting one is advisable prior to formal review of the proposal by a recommending or decision making body.

   f. Community Development staff contact information for any related correspondence or general inquiry.

~~A.~~ 5. Neighborhood group/neighborhood meeting. It shall be the responsibility of the representative for the proposal to supply any and all materials necessary to convey development parameters as applicable. Additionally, the representative shall be responsible for minute transcription (summary or verbatim) which clearly indicates the date, time and location of the meeting and the general nature of conversation that tool place regarding the proposal. Information shall at minimum identify key points that convey support for or the lack thereof for the proposal as presented. ~~The subdivider that is following the infill subdivision method shall, prior to the filing of an application for approval of a final plat, submit a conceptual plan of the proposed development for formal review. Upon receipt of the submittal, the community~~

~~development department shall issue a receipt for same. The subdivision administrator shall then have eight business hours to review the submittal for completeness. If all of the required items have been submitted, and the conceptual plan submittal contains all necessary items as per section 37-144 of this chapter, the subdivision administrator shall accept the submittal for review. A proposed conceptual plan shall not be accepted for review if incomplete. All items required on a conceptual plan must be present for acceptance. If a submittal is found to be incomplete, the applicant shall have eight business hours to correct the deficiencies and still meet the submittal deadline, if applicable.~~

~~B. Conceptual plans shall be submitted to the DRC for review, comments and recommendations. The DRC shall review the conceptual plans within nine calendar days to determine whether it is consistent with the intents and purposes set forth in sections 37-3 and 37-141 of this chapter. A written report shall be provided to the subdivider indicating any changes that may be needed or potential concerns that may arise during the final plat and construction drawing review process.~~

~~*Note:* The conceptual plan is not required if following the infill development process.~~

(Ord. No. 1798, § I, 6-19-00; Ord. No. 1929, §§ I, II, 8-5-02)

Sec. 37-147. Submittal of an infill subdivision method application.

A. Following a concept plan review by the DRC, if required, the final plat and supplemental material shall be submitted to the community development department. Upon submittal, the subdivision administrator shall have eight hours to review the submittal for completeness. If all of the required items have been submitted, and the final plat submittal contains all necessary items per section 37-147, the submittal will be accepted for review. A proposed final plat shall not be accepted for review if incomplete or substantially inaccurate.

B. The subdivision administrator, the development review committee or the planning and zoning commission shall have the authority to waive or add submittal requirements if it is determined that the additional items and resulting information is necessary in order to accomplish the objectives of this chapter. Additional requirements may include a neighborhood group and/or noticed area meeting. Any request for additional submittal requirements shall be justified in writing by the requesting entity.

C. Final plats shall be processed to the development review committee and other governmental agencies, if applicable, for review, comments and recommendations. The development review committee shall review the final plat to determine if it is consistent with the intent and purpose set forth in sections 37-3 and 37-141 of this chapter.

(Ord. No. 1798, § I, 6-19-00; Ord. No. 1929, §§ I, II, 8-5-02)

Sec. 37-148. Approval of infill subdivisions under the infill subdivision method.

A. Following staff review, a written report shall be provided to the Pplanning and Zzoning Ceommission with a recommendation that the final plat be approved, conditionally approved, postponed, or disapproved. The development review committee shall inform the planning and zoning commission of the reasons for their recommendation on the final plat.

B. Public notice requirements for the infill subdivision method:

1. *Agenda.* The agenda for the planning and zoning commission public hearing shall be made available no later than fifteen (15)six calendar days prior to the public hearing.
2. *Posting.* Notice of the proposed development shall be posted in conspicuous places on the property site by the property owner, applicant or representative community development department at least fifteen (15)nine calendar days prior to the Pplanning and Zzoning Ceommission public hearing. A sign measuring four (4) feet by four (4) feet shall be used and secured with appropriate supporting hardware made available by Community Development staff. When the property has multiple street frontages, one sign per frontage shall be posted. Large properties may require a greater number of signs which shall be determined by Community Development staff. It shall be the responsibility of the property owner, applicant or representative to ensure continuous posting throughout the public hearing processes. Processes for purposes of this provision shall start with the Planning and Zoning Commission and cease when a final determination is made on the proposal regardless of the number of reviewing entities involved. In that multiple reviewing entities may be involved, Community Development staff will inform the property owner, applicant or representative of necessary changes needed on the sign to reflect the appropriate reviewing entities, meeting dates and venues.
3. *Notice.* Notice on all proposed subdivisions shall be sent by regular, non-certified, first class mail to all property owners (as shown on the records of the county assessor) within the proposed area of development and within 5200 feet of the area of the proposed subdivision, excluding streets, alleys, channels, canals, other public rights-of-way and railroad rights-of-way. Regular, non-certified, first class mail shall also be sent to all recognized niehgborhood groups within five hundred (500) feet of the subject property. The community development department is responsible for the list of property owners and preparation of regular mail. Notice for purposes herein,to said property owners shall be mailed at least fifteen (15)nine calendar days prior to the public hearing. The subdivision administrator shall execute an affidavit verifying the list of persons to whom notice was mailed. Notice of the time and place of the public hearing shall be published at least fifteen (15) calendar days prior to the public hearing in a newspaper of general circulation in the city.

C. The Pplanning and Zzoning Ceommission shall review the final plat, report, comments and recommendations from the development review committee, presentation from the applicant or the applicant's representative and from any interested citizens. Action from the Pplanning and Zzoning Ceommission shall be in the form of an approval, conditional approval, postponement, or disapproval. Action from the Pplanning and Zzoning Ceommission shall be recorded in the minutes of the meeting. A copy of the notice of decision that includes any changes or conditions from the Pplanning and Zzoning

Ceommission, as approved at the public hearing, shall be furnished to all appropriate parties in accordance with section 37-11(b). All approvals by the Pplanning and Zzoning Ceommission are conditioned upon final review and approval of outstanding staff comments.

(Ord. No. 1798, § I, 6-19-00; Ord. No. 1929, §§ I, II, 8-5-02)

Sec. 37-149. Additional approval requirements for the infill development process or infill subdivision method.

A. It is a requirement of the Pplanning and Zzoning Ceommission that no infill development process or infill subdivision method proposal shall be reviewed unless either the subdivider or the subdivider's representative is present at the Pplanning and Zzoning Ceommission meeting. If the applicant or representative is not present at the public hearing, the proposal shall be tabled until the next available Pplanning and Zzoning Ceommission meeting.

B. Upon final approval of the infill development process or the infill subdivision method proposal, the subdivider may submit applications for construction permits and/or a form of security for the filing of the plat. The final plat shall not be filed until all construction improvements have been completed by the developer and approved by the city or a form of security has been established and approved. It shall be the subdivision administrator's responsibility to obtain the necessary signatures of city officials after final plat approval. The subdivision administrator shall be responsible for filing the final plat at the county clerk and recorder's office.

C. Final plat approval shall be effective for no more than three years from the date of approval. If the subdivision improvements have not been completed or a form of security established and approved, the final plat shall be resubmitted for final plat approval. Prior to the expiration date, the developer may submit a request for extension, if desired. The request will be reviewed by the development review committee for consideration. All plat extensions shall be automatically conditioned to required compliance with all city codes, regulations and specifications in place at the time of development of the plat in question.

D. No changes, revisions, erasures, or modifications shall be made on the final plat. No final plat shall be filed and recorded prior to the satisfaction of all requirements and conditions.

E. Appeals. Any person, department, committee, commission, board or bureau that is affected by a decision of an administrative official, committee, or board in the administration or enforcement of this chapter or any other adopted resolution, rule, or regulation may appeal the decision. The appeal must be initiated in writing and delivered to the subdivision administrator within 15 calendar days after all other procedures established by this chapter have been exhausted. For details on the appeal process, refer to section 37-13, "procedures for appealing decisions if staff, the development review committee and the planning and zoning commission."

(Ord. No. 1798, § I, 6-19-00)

Sec. 37-150. Infill subdivision submittal requirements for the infill development process or infill subdivision method.

A. Conceptual plan requirements. Preapplication procedure for infill subdivisions utilizing the ISM requires the submittal of a conceptual plan, which shall be prepared in

accordance with the master plan requirements stated in section 37-46.

B. Final plat and supplemental material requirements. After review of the conceptual plan, if required, the subdivider shall submit the following for final plat approval.

1. Application for final plat:
   a. The application shall be signed by all property owners (including all parties having an equitable interest, trustees of an estate or all persons having a specific power of attorney) of the subject property as recorded in the county clerk's office.
   b. Any pending litigation of any final order entered by any court of law regarding the ownership of the subject property shall be disclosed by the applicant at the time that the application is submitted.
2. Submittal fee, unless utilizing the IDP.
3. Filing fee shall be required of the applicant at the time of plat filing.
4. A final plat conforming to section 37-114 of this chapter.

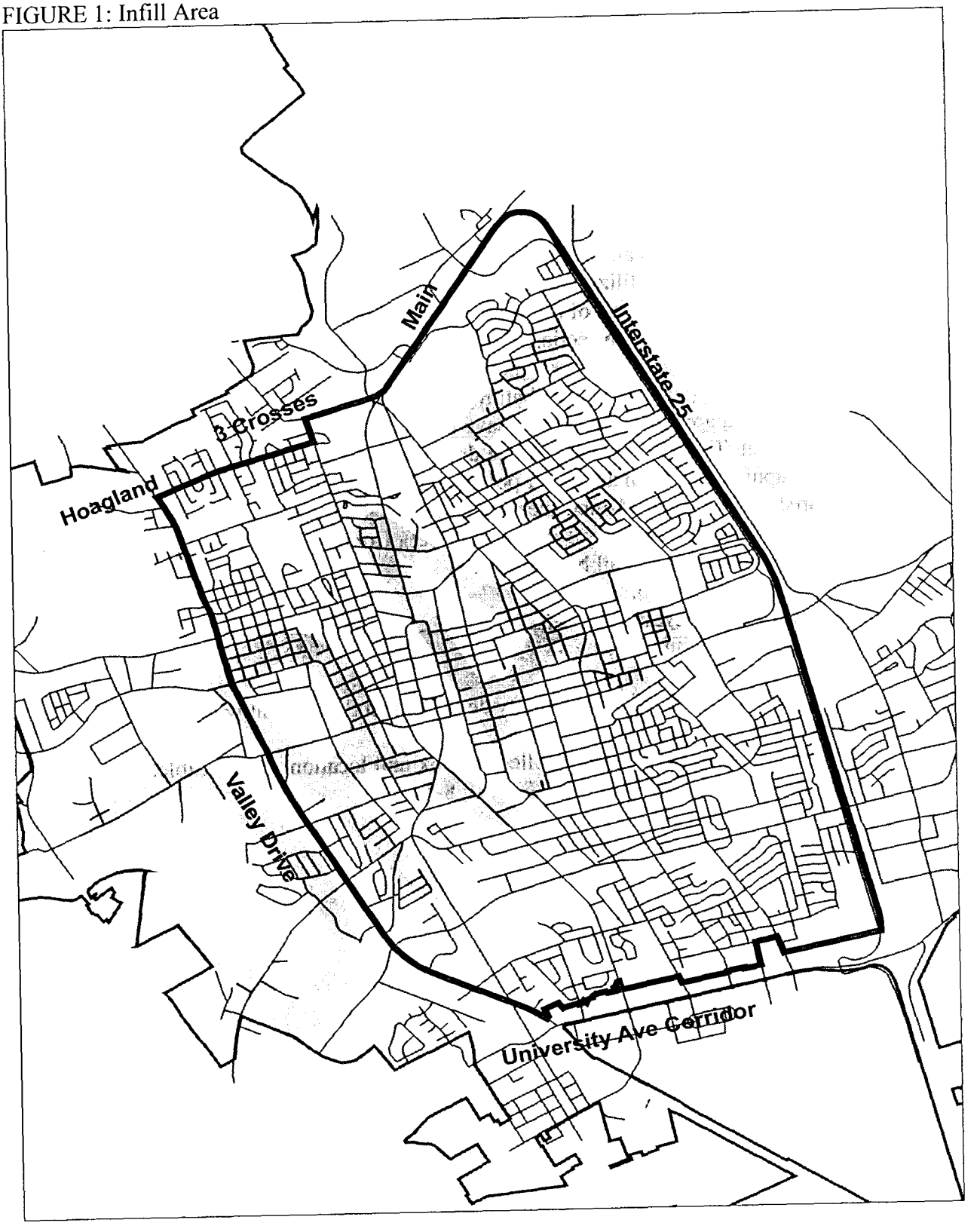
~~4.~~5. Copy of early notification letter to neighborhood group(s) and/or noticed area and copy of minutes (summary or verbatim) from any subsequent neighborhood group(s) and/or noticed area meeting as may have been required.

~~5.~~6. Address plat. The address plat shall be drawn with permanent ink or produced by a photographic process on a linen or polyester (Mylar) film. The address plat shall be prepared on 18-inch × 24-inch sheets at a scale that adequately represents the information (preferred scale: 1 inch = 100 feet). Copies provided shall be legible. The following information shall be required:
   a. Title of subdivision.
   b. Approved lot layout.
   c. Lot and block numbers.
   d. Street name.
   e. Address for each lot. (Community development department will provide the addresses.)
   f. Neighborhood delivery and collection box unit location, if applicable.

(Ord. No. 1798, § I, 6-19-00; Ord. No. 1929, §§ I, II, 8-5-02)

Secs. 37-151--37-175. Reserved.

FIGURE 1: Infill Area



ARTICLE VI.
ALTERNATE SUMMARY PROCESS

Sec. 37-176. The purpose of the alternate summary process.

A. When a subdivision consists of no more than two parcels of land or is a replat of a previously-filed subdivision application that does not increase the total number of lots, the subdivision administrator may review and approve the subdivision, including subdivisions that propose to dedicate a right-of-way.

B. The subdivision administrator may also approve replats that decrease the number of lots of contiguous parcels in a previously-filed subdivision, provided that street dedications and utility easements are not being proposed to be vacated by the action.

C. The subdivision administrator shall have the authority to determine whether a replat of a previously-approved subdivision or a subdivision of two parcels shall be approved by summary procedure or be brought before the planning and zoning commission. The determination shall be final unless overruled by the development review committee, the city planning and zoning commission or city council action. (See section 37-13, "procedures for appealing decisions of staff, the development review committee and the planning and zoning commission")

D. The alternate summary procedure shall be used only once on any one property unless the property has been master-planned for creating commercial, office or industrial subdivisions and the streets within those subdivisions have been dedicated and accepted by the city, including previously-platted lots (See article II: Master Plan). If the streets within a subdivision have not been dedicated and accepted by the city, the subdivider must follow the master plan procedures of this chapter before utilizing the alternate summary procedure more than once (See article II: Master Plan).

(Ord. No. 1798, § I, 6-19-00)

Sec. 37-177. Pre-application procedure for final plats submitted under Sec. 37-176 (a) (increase of no more than two lots) or Sec. 37-176 (c) (creation of two parcels from a previously approved subdivision).

A. Any proposed final plat under Sec. 37-176 (a) (increase of no more than two lots) or Sec. 37-176 (c) (creation of two parcels from a previously approved subdivision) causing need for public notification, review and approval by the Planning and Zoning Commission shall first be reviewed at a pre-application meeting scheduled and held by the Community Development staff. A representative for the proposed development action shall attend the pre-application meeting and discuss the proposal in general terms, providing enough specifics to allow attending staff an opportunity to gauge and determine neighborhood and/or community impacts. In that this represents an initial and informal discussion, information provided to the representative regarding procedural nuances or other regulatory related information shall be considered preliminary feedback based on information received, and shall not represent a complete disclosure of all regulatory measures that may apply upon formal review. In no circumstances should related

discussion by staff represent a final disposition on the preliminary proposal at hand.

1. Neighborhood group and/or noticed area determination. Staff upon consideration of the information received during the pre-application meeting, will instruct as to whether early notification of the subject proposal by the applicant to a neighborhood group(s) (recognized group(s)) and/or noticed area shall be necessary prior to formal application and submittal of the development proposal to the city. The criteria used by staff to determine notice need may include, but not be limited to the following:

   a. Development that seeks the elimination of ROW that could potentially disrupt traffic flow within a neighborhood or if approved becomes inconsistent with the Major Thoroughfare Plan.

   b. Potential land use conflicts resulting from proposed land use distribution adjacent to existing development of a differing land use classification such as proposed commercial uses adjacent to low density residential uses.

   c. Known neighborhood concerns on tangible and reasonable development issues that could be mitigated through design alternatives. An example of a concern congruent to this criterion is anticipated development consistency with surrounding development styles as they may relate to lot size/dimension transitions, roadway widths out of character with adjacent development, etc. An example of a concern not congruent to the criterion is disapproving development on private vacant property due to the elimination of "open space" or development of private vacant property because one's view may be compromised.

2. Early notification exception. Staff determination of early notice need which shall include an open invitation to discuss the proposal at a meeting, shall not pre-empt the Planning and Zoning Commission, City Council or other reviewing bodies with approval (recommending or final action) authority from thereafter requiring an additional meeting(s). Criteria used by the applicable reviewing body shall be at their discretion and may or may not follow the criteria identified in the preceding provision. Significant deviation of plan proposal post neighborhood group and/or noticed area meeting may subject the applicant from thereafter participating in another meeting to inform and discuss revisions. Changes addressing neighborhood concerns shall not necessarily subject the applicant to another meeting; however, an omission in the proposal that is added post meeting and deemed significant by Community Development staff is a candidate for reconsideration by the notified neighborhood prior to consideration by any formal reviewing body.

3. Early notification recipients. Notification recipients shall include registered neighborhood groups, and/or associations, identified on the applicable Community Development Department's web page. In the event an identified association or group does not exist or cover an adequate area surrounding the proposal, both the neighborhood group/association and the property owners within 500 feet shall be

notified. If no association or group exists within the notification boundary, notification to property owners shall take place using the same distance threshold. Measurement shall be made radially from the outermost property boundary where the subject proposal is located. Any association/group boundary or property boundary that falls either partially or entirely within said radius based on the qualifying standards of this subsection shall receive notification. Contact and mailing information for associations, groups and property owners to be notified shall be provided by the Community Development Department. Mailing preparation, expenses and materials are the responsibility of the developer, applicant and/or representative. Notification shall take place no later than fifteen (15) calendar days prior to the date of submittal. In the event a meeting is called for pursuant to item (4) that follows, may cause delay with the proposal's submittal in order to accommodate the agreed upon meeting schedule and other factors necessary to meet submittal content.

4. Early notification form and content. All required notification shall be sent via regular, non-certified, first class mail and the content of the notice shall include at minimum:
   a. A detailed description (to the extent possible) of what is being pursued in terms of development.

   b. Information as to how the developer, applicant, or representative for the development action may be contacted.

   c. A statement as to how the proposal may impact the neighborhood(s) surrounding the subject property where the development is to occur.

   d. An open offer to participate in a meeting with the association(s)/group(s) and/or property owners at a mutually agreed upon date, time and location in order to discuss the proposal more fully.

   e. A need to provide a WRITTEN meeting request (if desired) to the development representative, copying Community Development staff either in a letter or email format within the stated fifteen (15) calendar day threshold. Requests for a meeting within the fifteen (15) calendar day period shall render the meeting need mandatory prior to submittal whether or not the meeting takes place inside or beyond this fifteen (15) calendar day period. Requests that come in after said period do not compel the applicant to entertain a meeting prior to submittal; however, a meeting with those requesting one is advisable prior to formal review of the proposal by a recommending or decision making body.

   f. Community Development staff contact information for any related correspondence or general inquiry.

5. Neighborhood group/neighborhood meeting. It shall be the responsibility of the representative for the proposal to supply any and all materials necessary to convey development parameters as applicable. Additionally, the representative shall be responsible for minute transcription (summary or verbatim) which clearly indicates the date, time and location of the meeting and the general nature of conversation that tool place regarding the proposal. Information shall at minimum identify key points that convey support for or the lack thereof for the proposal as presented.

Sec. 37-178~~7~~. Preapplication procedure - general.

A. Prior to the filing of an application for approval of a final plat, the subdivider shall submit to the community development department a conceptual plan of the proposed development. A written application or fee is not required, nor does the preapplication procedure require formal approval.

B. The conceptual plan shall be processed to the subdivision administrator. The subdivision administrator shall discuss with the applicant or the applicant's representative the proposed final plat and shall indicate changes, if any, that will be required for the submittal process.

(Ord. No. 1798, § I, 6-19-00; Ord. No. 1929, §§ I, II, 8-5-02)

Sec. 37-179~~8~~. Submittal procedure for the alternate summary process.

A. The final plat and supplemental material processed through the alternate summary procedure shall be submitted to the community development department any time during normal working hours. Upon receipt of the submittal, the community development department shall issue a receipt for same. The subdivision administrator shall then have eight business hours to review the submittal for completeness. If all the required items have been submitted, and the final plat submittal contains all of the necessary items as per section 37-114, the subdivision administrator shall accept the submittal for review. A proposed final plat shall not be accepted for review if incomplete or substantially inaccurate. All items required on a final plat must be presented for acceptance. If a submittal is found to be incomplete, the applicant shall have eight business hours to correct the deficiencies and still meet the submittal deadline, if applicable.

B. The subdivision administrator, the development review committee or the planning and zoning commission shall have the authority to waive or add submittal requirements in cases where it is determined that the additional items and resulting information is necessary in order to accomplish the objectives of this code. Additional requirements may include a neighborhood group and/or noticed area meeting. Any requests for additional submittal requirements shall be justified in writing by the requesting entity.

C. Final plats will be referred to the applicable city departments and other governmental agencies for review, comments and recommendations. Each department shall have five business days to complete the review. Written reports, with their comments and recommendations, shall be forwarded to the subdivision administrator.

D. Whenever comments received by the city departments are in conflict, or the subdivider is in disagreement with the comments, the subdivision administrator shall be the authority to determine and resolve non-engineering or utility comment(s). The subdivision administrator may defer this authority to the development review committee. The development review committee decisions shall be final unless overruled by appeal to department directors, the planning and zoning commission, arbitration or city council, as applicable.

E. The subdivision administrator shall review all comments for applicability and appropriateness to the final plat requirements and shall forward any comments to the subdivider or the subdivider's representative for revision and completion. Final plats or replats that receive comments shall be resubmitted and reviewed until the provisions set forth in this chapter are met. At that time, the final plat or replat shall be approved, and notice of decision shall be furnished to the applicant and the applicant's representative in accordance with section 37-11(b).

F. Upon final approval of the final plat or replat, the applicant may submit applications for construction permits and/or a form of security for the filing of the plat. The final plat or replat shall not be filed until all construction improvements have been completed and approved by the city, or a form of security has been established and approved. It shall be the subdivision administrator's responsibility to obtain the necessary signatures of city officials after final plat or replat approval. The subdivision administrator and the applicant or their representative shall be responsible for filing the final plat or replat at the office of the county clerk.

G. Final plat approval shall be effective for no more than three years from the date of approval as described on the approval action form. If the subdivision improvements have not begun or a form of security established and approved, the final plat shall be resubmitted for approval. The subdivider may submit a request for extension of approval prior to the expiration date, if desired. The request will be reviewed by the subdivision administrator for consideration. All plat application extensions shall be automatically conditioned to require compliance with all city codes, regulations and specifications in place at the time of development of the plat in question.

H. An applicant who proposes a subdivision for the purpose of mortgage, which is processed through the alternate summary procedure, is required to submit a plat of survey and a legal description with a note that clearly states that the subdivision is for mortgage purposes only and does not allow for the conveyance of the property in question. Upon submittal, the subdivision administrator shall transmit a letter to the property owner stating that the subdivision created is for mortgage purposes only and does not grant the authority to sell the divided parcel as shown on the plat of survey. If the property owner desires to sell the divided parcel by mortgage, he/she is responsible for meeting all requirements, as stated in this chapter. Once the property owner provides a written response to the subdivision administrator's letter that said property owner understands the conditions of the subdivision by mortgage and is not dividing said parcel for the purpose of sale, the subdivision administrator will approve the plat of survey.

I. Appeals. Any person, department, committee, commission, board or bureau affected by a decision of an administrative official, committee, or board in the administration or enforcement of this chapter, or by any other adopted resolution, rule, or regulation, may appeal the decision. The appeal must be initiated in writing and delivered to the community development department within 15 calendar days after all other procedures established by this chapter have been exhausted. Refer to section 37-13, "procedures for appealing decisions of staff, the development review committee and the planning and zoning commission," for details on the appeal process.

(Ord. No. 1798, § I, 6-19-00; Ord. No. 1929, §§ I, II, 8-5-02)

Sec. 37-18~~079~~. Alternate summary process submittal requirements.

A. Subdivisions that follow the alternate summary process shall conform to the following requirements:

1. *Application.*
   a. The application shall be signed by all property owners (including all parties having an equitable interest, trustees of an estate and all persons having a specific power of attorney) of the subject property, as recorded in the county clerk's office.
   b. Any pending litigation of any final order entered by any court of law regarding the ownership of the subject property shall be disclosed by the applicant at the time that the application is submitted.
2. *Submittal fee.*
3. Documentation from the county assessor's office that the current year's property taxes are paid and that no taxes are owed on the property.
4. A final plat conforming to section 37-114 of this code.
5. Releases by affected utility companies for replats submitted for approval by the alternate summary procedure.
6. Address plat. The address plat shall be drawn using permanent black ink or produced by a photographic process on a linen or polyester (Mylar) film. The address plat shall be prepared on 18-inch x 24-inch sheets at a scale that adequately represents the information (preferred scale: 1 inch = 100 feet). Copies provided shall be legible. The following information shall be required:
   a. Title of subdivision;
   b. Approved lot layout;
   c. Lot and block numbers;
   d. Street name;
   e. Address of each lot (Community development department will provide the addresses).
   f. Neighborhood delivery and collection box unit location, if applicable.
7. Filing fee at time of plat filing.
~~7.~~8. Copy of early notification letter to neighborhood group(s) and/or noticed area and copy of minutes (summary or verbatim) from any subsequent neighborhood group(s) and/or noticed area meeting as may have been required.

(Ord. No. 1798, § I, 6-19-00; Ord. No. 1929, §§ I, II, 8-5-02)

Secs. 37-18~~0~~--37-205. Reserved.

ARTICLE VII.
REPLATS

Sec. 37-206. Replat--Defined.
A replat occurs when changes take place on a previously-filed subdivision plat. The process to follow when replatting a subdivision of lots within a subdivision varies and depends on the type(s) of changes being made.
(Ord. No. 1798, § I, 6-19-00)

Sec. 37-207. Process to follow when replatting.

A. A replat of a previously-filed subdivision that does not increase the total number of lots (moving or removing existing lot lines) may follow the procedures established in article VI, alternate summary procedure.

B. Replats that increase the total number of lots of a previously-filed subdivision shall follow procedures appropriate to those given in Final Plats.

C. Replats proposing waivers to this chapter and/or design standards shall follow the appropriate procedures regardless of whether said waiver(s) were approved with the original subdivision plat.

D. Replats and vacation plats may be submitted simultaneously and as one plat, if deemed appropriate by the subdivision administrator (Refer to Vacations). The application shall be processed to the city council for consideration when all requirements of this chapter have been met.

E. Appeals. Any person, department, committee, commission, board or bureau affected by a decision of an administrative official, committee, or board in the administration or enforcement of this chapter, or of any other adopted resolution, rule or regulation, may appeal the decision. The appeal must be initiated in writing and delivered to the city community development department within 15 calendar days after all other procedures established by this chapter have been exhausted. For details on the appeal process, refer to section 37-13, "procedures for appealing decisions of staff, the development review committee and the planning and zoning commission."

Sec. 37-208. Pre-application procedure for final plats submitted under Sec. 37-207 (b) (increase of lots of a previously filed subdivision or Sec. 37-207 (d) (vacation plats).

A. Any proposed final plat under Sec. 37-207 (b) (increase of lots of a previously filed subdivision or Sec. 37-207 (d) (vacation plats) causing need for public notification, review and approval by the Planning and Zoning Commission or City Council shall first be reviewed at a pre-application meeting scheduled and held by the Community Development staff. A representative for the proposed development action shall attend the pre-application meeting and discuss the proposal in general terms, providing enough specifics to allow attending staff an opportunity to gauge and determine neighborhood and/or community impacts. In that this represents an initial and informal discussion,

information provided to the representative regarding procedural nuances or other regulatory related information shall be considered preliminary feedback based on information received, and shall not represent a complete disclosure of all regulatory measures that may apply upon formal review. In no circumstances should related discussion by staff represent a final disposition on the preliminary proposal at hand.

1. Neighborhood group and/or noticed area determination. Staff upon consideration of the information received during the pre-application meeting, will instruct as to whether early notification of the subject proposal by the applicant to a neighborhood group(s) (recognized group(s)) and/or noticed area shall be necessary prior to formal application and submittal of the development proposal to the city. The criteria used by staff to determine notice need may include, but not be limited to the following:

   a. Development that seeks the elimination of ROW that could potentially disrupt traffic flow within a neighborhood or if approved becomes inconsistent with the Major Thoroughfare Plan.

   b. Potential land use conflicts resulting from proposed land use distribution adjacent to existing development of a differing land use classification such as proposed commercial uses adjacent to low density residential uses.

   c. Known neighborhood concerns on tangible and reasonable development issues that could be mitigated through design alternatives. An example of a concern congruent to this criterion is anticipated development consistency with surrounding development styles as they may relate to lot size/dimension transitions, roadway widths out of character with adjacent development, etc. An example of a concern not congruent to the criterion is disapproving development on private vacant property due to the elimination of "open space" or development of private vacant property because one's view may be compromised.

2. Early notification exception. Staff determination of early notice need which shall include an open invitation to discuss the proposal at a meeting, shall not pre-empt the Planning and Zoning Commission, City Council or other reviewing bodies with approval (recommending or final action) authority from thereafter requiring an additional meeting(s). Criteria used by the applicable reviewing body shall be at their discretion and may or may not follow the criteria identified in the preceding provision. Significant deviation of plan proposal post neighborhood group and/or noticed area meeting may subject the applicant from thereafter participating in another meeting to inform and discuss revisions. Changes addressing neighborhood concerns shall not necessarily subject the applicant to another meeting; however, an omission in the proposal that is added post meeting and deemed significant by Community Development staff is a candidate for reconsideration by the notified neighborhood prior to consideration by any formal reviewing body.

3. Early notification recipients. Notification recipients shall include registered neighborhood groups, and/or associations, identified on the applicable Community

Development Department's web page. In the event an identified association or group does not exist or cover an adequate area surrounding the proposal, both the neighborhood group/association and the property owners within 500 feet shall be notified. If no association or group exists within the notification boundary, notification to property owners shall take place using the same distance threshold. Measurement shall be made radially from the outermost property boundary where the subject proposal is located. Any association/group boundary or property boundary that falls either partially or entirely within said radius based on the qualifying standards of this subsection shall receive notification. Contact and mailing information for associations, groups and property owners to be notified shall be provided by the Community Development Department. Mailing preparation, expenses and materials are the responsibility of the developer, applicant and/or representative. Notification shall take place no later than fifteen (15) calendar days prior to the date of submittal. In the event a meeting is called for pursuant to item (4) that follows, may cause delay with the proposal's submittal in order to accommodate the agreed upon meeting schedule and other factors necessary to meet submittal content.

4. Early notification form and content. All required notification shall be sent via regular, non-certified, first class mail and the content of the notice shall include at minimum:
   a. A detailed description (to the extent possible) of what is being pursued in terms of development.

   b. Information as to how the developer, applicant, or representative for the development action may be contacted.

   c. A statement as to how the proposal may impact the neighborhood(s) surrounding the subject property where the development is to occur.

   d. An open offer to participate in a meeting with the association(s)/group(s) and/or property owners at a mutually agreed upon date, time and location in order to discuss the proposal more fully.

   e. A need to provide a WRITTEN meeting request (if desired) to the development representative, copying Community Development staff either in a letter or email format within the stated fifteen (15) calendar day threshold. Requests for a meeting within the fifteen (15) calendar day period shall render the meeting need mandatory prior to submittal whether or not the meeting takes place inside or beyond this fifteen (15) calendar day period. Requests that come in after said period do not compel the applicant to entertain a meeting prior to submittal; however, a meeting with those requesting one is advisable prior to formal review of the proposal by a recommending or decision making body.

f. Community Development staff contact information for any related correspondence or general inquiry.

~~E.~~ 5. Neighborhood group/neighborhood meeting. It shall be the responsibility of the representative for the proposal to supply any and all materials necessary to convey development parameters as applicable. Additionally, the representative shall be responsible for minute transcription (summary or verbatim) which clearly indicates the date, time and location of the meeting and the general nature of conversation that tool place regarding the proposal. Information shall at minimum identify key points that convey support for or the lack thereof for the proposal as presented.Sec. 37-208.

(Ord. No. 1798, § I, 6-19-00; Ord. No. 1929, §§ I, II, 8-5-02)

Secs. 37-209~~8~~--37-235. Reserved.

ARTICLE VIII.
VACATION PLATS

Sec. 37-236. Purpose of vacation platting.

A. The vacation process is to be followed when a request is made to rescind all or part of a recorded subdivision plat of land that has been legally dedicated. A vacation petitioner shall file a vacation plat on any land being vacated that is recorded in the county clerk's office, unless determined by the subdivision administrator that such action is not required. If a vacation plat is not required, a plat of survey that is clear and concise in displaying the proposed vacation shall be submitted, in lieu of said plat,.

B. Vacation plats shall be prepared as a final plat in accordance with section 37-114 of this chapter. Said plat shall be prepared by, and have the seal of, a state registered land surveyor.

(Ord. No. 1798, § I, 6-19-00)

Sec. 37-237. Preapplication procedure for vacation plats.

A. Any proposed vacation plat causing need for public notification, review and approval by the City Council shall first be reviewed at a pre-application meeting scheduled and held by the Community Development staff. A representative for the proposed platting action shall attend the pre-application meeting and discuss the proposal in general terms, providing enough specifics to allow attending staff an opportunity to gauge and determine neighborhood and/or community impacts. In that this represents an initial and informal discussion, information provided to the representative regarding procedural nuances or other regulatory related information shall be considered preliminary feedback based on information received, and shall not represent a complete disclosure of all regulatory measures that may apply upon formal review. In no circumstances should related discussion by staff represent a final disposition on the preliminary proposal at hand.

1. Neighborhood group and/or noticed area determination. Staff upon consideration of the information received during the pre-application meeting, will instruct as to whether early notification of the subject proposal by the applicant to a neighborhood group(s) (recognized group(s)) and/or noticed area shall be necessary prior to formal application and submittal of the development proposal to the city. The criteria used by staff to determine notice need may include, but not be limited to the following:

   a. Development that seeks the elimination of ROW that could potentially disrupt traffic flow within a neighborhood or if approved becomes inconsistent with the Major Thoroughfare Plan.

   b. Potential land use conflicts resulting from potential sale of vacated property to adjacent property owners.

c. Known neighborhood concerns on tangible and reasonable development issues that could be mitigated through design alternatives. An example of a concern congruent to this criterion is the loss of pedestrian access as a result of vacated right of way.

2. Early notification exception. Staff determination of early notice need which shall include an open invitation to discuss the proposal at a meeting, shall not pre-empt the Planning and Zoning Commission, City Council or other reviewing bodies with approval (recommending or final action) authority from thereafter requiring an additional meeting(s). Criteria used by the applicable reviewing body shall be at their discretion and may or may not follow the criteria identified in the preceding provision. Significant deviation of plan proposal post neighborhood group and/or noticed area meeting may subject the applicant from thereafter participating in another meeting to inform and discuss revisions. Changes addressing neighborhood concerns shall not necessarily subject the applicant to another meeting; however, an omission in the proposal that is added post meeting and deemed significant by Community Development staff is a candidate for reconsideration by the notified neighborhood prior to consideration by any formal reviewing body.

3. Early notification recipients. Notification recipients shall include registered neighborhood groups, and/or associations, identified on the applicable Community Development Department's web page. In the event an identified association or group does not exist or cover an adequate area surrounding the proposal, both the neighborhood group/association and the property owners within 500 feet shall be notified. If no association or group exists within the notification boundary, notification to property owners shall take place using the same distance threshold. Measurement shall be made radially from the outermost property boundary where the subject proposal is located. Any association/group boundary or property boundary that falls either partially or entirely within said radius based on the qualifying standards of this subsection shall receive notification. Contact and mailing information for associations, groups and property owners to be notified shall be provided by the Community Development Department. Mailing preparation, expenses and materials are the responsibility of the developer, applicant and/or representative. Notification shall take place no later than fifteen (15) calendar days prior to the date of submittal. In the event a meeting is called for pursuant to item (4) that follows, may cause delay with the proposal's submittal in order to accommodate the agreed upon meeting schedule and other factors necessary to meet submittal content.

4. Early notification form and content. All required notification shall be sent via regular, non-certified, first class mail and the content of the notice shall include at minimum:
   a. A detailed description (to the extent possible) of what is being pursued in terms of development.

b. Information as to how the developer, applicant, or representative for the development action may be contacted.

c. A statement as to how the proposal may impact the neighborhood(s) surrounding the subject property where the development is to occur.

d. An open offer to participate in a meeting with the association(s)/group(s) and/or property owners at a mutually agreed upon date, time and location in order to discuss the proposal more fully.

e. A need to provide a WRITTEN meeting request (if desired) to the development representative, copying Community Development staff either in a letter or email format within the stated fifteen (15) calendar day threshold. Requests for a meeting within the fifteen (15) calendar day period shall render the meeting need mandatory prior to submittal whether or not the meeting takes place inside or beyond this fifteen (15) calendar day period. Requests that come in after said period do not compel the applicant to entertain a meeting prior to submittal; however, a meeting with those requesting one is advisable prior to formal review of the proposal by a recommending or decision making body.

f. Community Development staff contact information for any related correspondence or general inquiry.

5. Neighborhood group/neighborhood meeting. It shall be the responsibility of the representative for the proposal to supply any and all materials necessary to convey development parameters as applicable. Additionally, the representative shall be responsible for minute transcription (summary or verbatim) which clearly indicates the date, time and location of the meeting and the general nature of conversation that tool place regarding the proposal. Information shall at minimum identify key points that convey support for or the lack thereof for the proposal as presented.

Sec. 37-238~~7~~. Submittal process for vacation plats.

A. The vacation plat and supplemental material shall be submitted to the community development department no later than 35 calendar days prior to the day of the regular meeting of the city council for approval consideration.

B. Upon receipt of submittal, the community development department shall issue a receipt for same. The subdivision administrator shall then have eight business hours to review the submittal for completeness. If all of the required items have been submitted, and the vacation plat submittal contains all necessary items, the subdivision administrator shall accept the submittal for review. A proposed vacation plat shall not be accepted for review if incomplete or substantially inaccurate. All items required on a vacation plat must be present for acceptance. If the submittal is found to be incomplete, the applicant shall have

eight business hours to correct the deficiencies and still meet the submittal deadline if applicable.

C. The subdivision administrator or the development review committee shall have the authority to waive or add submittal requirements if it is determined that the additional items and resulting information is necessary in order to accomplish the objectives of this code. Additional requirements may include a neighborhood group and/or noticed area meeting. Any request for additional submittal requirements shall be justified in writing by the requesting entity.

(Ord. No. 1929, §§ I, II, 3-3-03)

Sec. 37-238. Vacation plat approval process.

A. Vacation plats shall be submitted to the development review committee for review, comments and recommendations. The development review committee shall review the vacation plat to determine whether it is consistent with the intents and purposes set forth in this chapter.

B. A written report shall be provided to the city council with a recommendation that the vacation plat be either approved, denied or modified. The development review committee shall state reasons for their recommendation to the city council.

C. Public notice requirements:

1. *Agenda.* The agenda of the city council meetings shall be made available no later than fifteen (15)~~our~~ calendar days prior to the meeting.
2. *Notice.* Notice of the time and place of the city council meeting shall be published in a newspaper of general circulation in the city at least fifteen (15)~~eight~~ calendar days prior to the meeting. Notice on all proposed vacations shall be sent by regular, non-certified, first class mail to all property owners (as shown on the records of the county assessor) within 500 feet of the proposed vacated right-of-way~~ion and within all lands abutting the area proposed to be vacated~~. Regular, non-certified, first class mail shall also be sent to all recognized neighborhood groups within 500 feet of the proposed vacated right-of way. The subdivision administrator shall execute an affidavit verifying the list of persons to whom notice was mailed. Notice to neighborhood group(s) and/or noticed area~~said property owners~~ shall be mailed at least fifteen (15)~~nine~~ calendar days prior to the meeting.

D. The city council shall review the vacation plat or request, comments and recommendations from the development review committee, the presentation from the petitioner or the petitioner's representative and from any interested citizens. Action from the city council shall be in the form of approval, denial, or modification. Action from the city council shall be recorded in the minutes of the meeting. An affirmative vote by four members of the city council is required for approval of a vacation plat or request. A copy of the city council notice of decision that includes any changes or conditions, as done at the public hearing, shall be furnished to all of the parties stated above in accordance with section 37-11(b).

E. It is the requirement of the city council that no vacation plat or request shall be reviewed unless either the petitioner or the petitioner's representative is present at the city council meeting. If the applicant is not present at the public hearing, the vacation plat or request will be tabled until the next regular city council meeting.

F. No changes, revisions, erasures or modifications shall be made on the vacation plat after approval by the city council. No vacation plat shall be filed and recorded prior to the satisfaction of all requirements and conditions of this chapter. It shall be the subdivision administrator's responsibility to obtain the necessary signatures of city officials after vacation plat approval. The subdivision administrator shall be responsible for filing the vacation plat at the county clerk's and records office.

G. Appeals. The decision of the city council may be appealed to district court. The appeal must be filed within 30 calendar days of the decision of the city council. See section 37-13 for details on the appeal process.

(Ord. No. 1798, § I, 6-19-00)

Sec. 37-239. Vacation plat submittal requirements.

A. The following information shall be required.
   1. Application.
      a. The application shall be signed by all property owners (including all parties having an equitable interest, trustees of an estate or all persons having a specific power of attorney) of the subject property, as recorded in the county clerk's office.
      b. Any pending litigation of any final order entered by any court of law regarding the ownership of the subject property shall be disclosed by the applicant at the time that the application is submitted.
   2. Submittal fee.
   3. Filing fee at time of plat filing.
   4. Vacation plat (conforming to the provisions set forth in section 37-114), with the exception that signature blocks for the mayor and the city clerk be added in lieu of that of the city planning and zoning commission. In addition, all existing utilities and utility easements shall be shown on the plat.
   5. A petition signed and notarized by property owners in situations whereby access would be affected.
   6. A statement of vacation signed and notarized by the property owners.
   ~~6.~~7. Copy of early notification letter to neighborhood group(s) and/or noticed area and copy of minutes (summary or verbatim) from any subsequent neighborhood group(s) and/or noticed area meeting as may have been required.

(Ord. No. 1798, § I, 6-19-00)

Secs. 37-240--37-265. Reserved.

ARTICLE IX.
ANNEXATIONS

Sec. 37-266. Purpose of annexation.
The purpose of an annexation is to redesignate property outside the city as being within the city limits, thereafter. Annexations can be used to maintain a unified urban area and to promote orderly growth utilizing city services.
(Ord. No. 1798, § I, 6-19-00)

Sec. 37-267. When an annexation plat is required.
An annexation plat conforming to this chapter shall be required for all annexation requests. A master plan identifying the purpose for which the property is intended to be used, and an initial zoning request, are also required. (Ord. No. 1798, § I, 6-19-00)

Sec. 37-268. Preapplication procedure.

A. ~~Prior to the submittal of a petition for annexation, the property owner shall submit to the community development department a conceptual plan of the proposed development/annexation. A written application or fee is not required, nor does this preapplication procedure require planning and zoning commission approval.~~ Any proposed annexation causing need for public notification, review and approval by the Planning and Zoning Commission and City Council shall first be reviewed at a pre-application meeting scheduled and held by the Community Development staff. The applicant shall submit to the community development department a conceptual plan of the proposed development/annexation. A written application or fee is not required, nor does this preapplication procedure require planning and zoning commission approval. A representative for the proposed development action shall attend the pre-application meeting and discuss the proposal in general terms, providing enough specifics to allow attending staff an opportunity to gauge and determine neighborhood and/or community impacts. In that this represents an initial and informal discussion, information provided to the representative regarding procedural nuances or other regulatory related information shall be considered preliminary feedback based on information received, and shall not represent a complete disclosure of all regulatory measures that may apply upon formal review. In no circumstances should related discussion by staff represent a final disposition on the preliminary proposal at hand.

1. Neighborhood group and/or noticed area determination. Staff upon consideration of the information received during the pre-application meeting, will instruct as to whether early notification of the subject proposal by the applicant to a neighborhood group(s) (recognized group(s)) and/or noticed area shall be necessary prior to formal application and submittal of the development proposal to the city. The criteria used by staff to determine notice need may include, but not be limited to the following:

   a. Development that is likely to cause significant traffic impacts due to limited roadway access or a potential decrease in level of service based on the subject roadway's design.

b. Potential land use conflicts resulting from proposed land use distribution adjacent to existing development of a differing land use classification such as proposed commercial uses adjacent to low density residential uses.

c. Known neighborhood concerns on tangible and reasonable development issues that could be mitigated through design alternatives. An example of a concern congruent to this criterion is anticipated development consistency with surrounding development styles as they may relate to lot size/dimension transitions, roadway widths out of character with adjacent development, etc. An example of a concern not congruent to the criterion is disapproving development on private vacant property due to the elimination of "open space" or development of private vacant property because one's view may be compromised,

2. Early notification exception. Staff determination of early notice need which shall include an open invitation to discuss the proposal at a meeting, shall not pre-empt the Planning and Zoning Commission, City Council or other reviewing bodies with approval (recommending or final action) authority from thereafter requiring an additional meeting(s). Criteria used by the applicable reviewing body shall be at their discretion and may or may not follow the criteria identified in the preceding provision. Significant deviation of plan proposal post neighborhood group and/or noticed area meeting may subject the applicant from thereafter participating in another meeting to inform and discuss revisions. Changes addressing neighborhood concerns shall not necessarily subject the applicant to another meeting; however, an omission in the proposal that is added post meeting and deemed significant by Community Development staff is a candidate for reconsideration by the notified neighborhood prior to consideration by any formal reviewing body.

3. Early notification recipients. Notification recipients shall include registered neighborhood groups, and/or associations, identified on the applicable Community Development Department's web page. In the event an identified association or group does not exist or cover an adequate area surrounding the proposal, both the neighborhood group/association and the property owners within 500 feet shall be notified. If no association or group exists within the notification boundary, notification to property owners shall take place using the same distance threshold. Measurement shall be made radially from the outermost property boundary where the subject proposal is located. Any association/group boundary or property boundary that falls either partially or entirely within said radius based on the qualifying standards of this subsection shall receive notification. Contact and mailing information for associations, groups and property owners to be notified shall be provided by the Community Development Department. Mailing preparation, expenses and materials are the responsibility of the developer, applicant and/or representative. Notification shall take place no later than fifteen (15) calendar days prior to the date of submittal. In the event a meeting is called for pursuant to item (4) that follows, may cause delay with the proposal's submittal in order to accommodate

the agreed upon meeting schedule and other factors necessary to meet submittal content.

4. Early notification form and content. All required notification shall be sent via regular, non-certified, first class mail and the content of the notice shall include at minimum:

   a. A detailed description (to the extent possible) of what is being pursued in terms of development.

   b. Information as to how the developer, applicant, or representative for the development action may be contacted.

   c. A statement as to how the proposal may impact the neighborhood(s) surrounding the subject property where the development is to occur.

   d. An open offer to participate in a meeting with the association(s)/group(s) and/or property owners at a mutually agreed upon date, time and location in order to discuss the proposal more fully.

   e. A need to provide a WRITTEN meeting request (if desired) to the development representative, copying Community Development staff either in a letter or email format within the stated fifteen (15) calendar day threshold. Requests for a meeting within the fifteen (15) calendar day period shall render the meeting need mandatory prior to submittal whether or not the meeting takes place inside or beyond this fifteen (15) calendar day period. Requests that come in after said period do not compel the applicant to entertain a meeting prior to submittal; however, a meeting with those requesting one is advisable prior to formal review of the proposal by a recommending or decision making body.

   f. Community Development staff contact information for any related correspondence or general inquiry.

~~A.~~ 5. Neighborhood group/neighborhood meeting. It shall be the responsibility of the representative for the proposal to supply any and all materials necessary to convey development parameters as applicable. Additionally, the representative shall be responsible for minute transcription (summary or verbatim) which clearly indicates the date, time and location of the meeting and the general nature of conversation that tool place regarding the proposal. Information shall at minimum identify key points that convey support for or the lack thereof for the proposal as presented.

B. The subdivision administrator and the zoning administrator shall review all conceptual annexation requests and discuss with the petitioner(s) and/or the petitioners'

representative any changes that will be required for the submittal process.
(Ord. No. 1798, § I, 6-19-00; Ord. No. 1929, §§ I, II, 8-5-02)

Sec. 37-269. Submittal of an annexation request.

A. The annexation petition, initial zoning request, master plan and annexation plat shall be submitted to the community development department no later than 48 calendar days prior to the day of the regular meeting of the planning and zoning commission for approval consideration.

B. Upon receipt of a submittal, the community development department shall issue a receipt for same. The subdivision administrator shall then have eight business hours to review the submittal for completeness. If all of the required items have been submitted, the subdivision administrator shall accept the submittal for review. A proposed annexation shall not be accepted for review if the annexation plat, the master plan and the zoning application are incomplete or substantially inaccurate. If a submittal is found to be incomplete, the applicant shall have eight business hours to correct the deficiencies and still meet the submittal deadline if applicable.

C. The subdivision administrator, the development review committee or the planning and zoning commission shall have the authority to waive or add submittal requirements if it is determined that the additional items and resulting information is necessary in order to accomplish the objectives of this code. Required information may include, but is not limited to, a neighborhood groups and/or noticed area meeting, traffic impact analysis, environmental analysis or other documentation or information necessary to meet the objectives of this chapter. Any request for additional submittal requirements shall be justified in writing by the requesting entity.

D. Annexation requests will be referred to the applicable city departments and other governmental agencies for review, comments and recommendations. Each department shall have five business days in which to complete the review. Written reports with their recommendations shall be forwarded to the subdivision administrator.

E. The subdivision administrator shall review all comments for applicability and appropriateness to the annexation requirements and shall forward any comments to the applicant or the applicant's representative for completion. Annexation requests that receive comments shall be resubmitted and reviewed until the provisions set forth in this chapter are met.

(Ord. No. 1798, § I, 6-19-00; Ord. No. 1929, §§ I, II, 8-5-02)

Sec. 37-270. Review and consideration of an annexation request.

A. Following initial staff review and review of the initial zoning request, the annexation request shall be forwarded to the development review committee for review, comment and recommendation. The development review committee shall review the annexation master plan in accordance with section 37-45 of this chapter. Following development review committee review, the master plan, and the annexation and initial zoning request, shall be scheduled for a public hearing for planning and zoning commission

consideration. A written report shall be provided to the planning and zoning commission from the development review committee recommending that the master plan and the annexation and initial zoning request be either approved, conditionally approved, postponed or disapproved. The development review committee shall state the reasons for their recommendation concerning the annexation and initial zoning request submitted to the planning and zoning commission.

B. Public notice requirements: The items indicated below shall be required for all annexation requests scheduled for planning and zoning commission action.
   1. *Agenda.* The agenda for the planning and zoning commission public hearing shall be made available no later than fifteen (15)~~six~~ calendar days prior to the public hearing.
   2. *Posting.* The community development department shall post a notice of the proposed annexation and initial zoning in a conspicuous place on the property at least fifteen (15)~~nine~~ calendar days prior to the planning and zoning commission public hearing. A sign measuring four (4) feet by four (4) feet shall be used and secured with appropriate supporting hardware made available by Community Development staff. When the property has multiple street frontages, one sign per frontage shall be posted. Large properties may require a greater number of signs which shall be determined by Community Development staff. It shall be the responsibility of the property owner, applicant or representative to ensure continuous posting throughout the public hearing processes. Processes for purposes of this provision shall start with the Planning and Zoning Commission and cease when a final determination is made on the proposal regardless of the number of reviewing entities involved. In that multiple reviewing entities may be involved, , Community Development staff will inform the property owner, applicant or representative of necessary changes needed on the sign to reflect the appropriate reviewing entities, meeting dates and venues.
   3. *Notice.* Notice of the Planning and Zoning Commission public hearing shall be sent by certified mail to all property owners when one city block or less is under consideration for the activities listed, (except zone change-related cases, see Section 38-10B2b, where notice shall be sent by regular, non-certified, first class mail), as shown by the records of the County Assessor, within at least one hundred (100) feet of the subject property of the proposed request, excluding streets, alleys, channels, canals, railroads, and all other public rights-of-way. Thereafter, regular, non-certified, first class mail shall be sent to those properties that fall within a distance greater than one hundred (100) feet and no less than five hundred (500) feet of the subject property. The secondary distance of (>= 100' - <= 500') may include streets, alleys, channels, canals, railroads, and all other public rights-of-way.. Regular, non-certified, first class mail shall also be sent to all recognized neighborhood groups within five hundred (500) feet of the subject property. Notice shall be mailed at least fifteen (15) calendar days prior to the required public hearing. Notice of the time and place of the public hearing shall be published at least fifteen (15) calendar days prior to the public hearing in a newspaper of general circulation in the City.~~Notice on all proposed annexations shall be sent by certified mail, to comply with state law requirements for zoning matters, to all property owners (as shown on the records of the county assessor) within the proposed area of annexation and within 200 feet of the area of the proposed annexation, excluding streets, alleys, channels, canals, other~~

~~public rights-of-way and railroad rights-of-way. The community development department is responsible for the list of property owners and the preparation of certified mail. Notice to said property owners shall be mailed at least ten calendar days prior to the public hearing. Notice of the time and place of the public hearing shall be published in a newspaper of general circulation in the city at least 15 calendar days prior to the public hearing.~~

C. The planning and zoning commission shall review the master plan, the annexation and initial zoning request report, comments, and recommendations received from the development review committee, as well as the presentation from the applicant and/or the applicant's representative, and from any interested citizens at a public hearing. The intent of the planning and zoning commission review is to allow for public input in the development process and to serve as a land-planning process. Review of the proposal shall consist of zoning-related issues including, but not limited to, compliance with the comprehensive plan. Action from the planning and zoning commission shall be recorded in the minutes of the meeting. The annexation request shall be heard as one case, but separate action shall be taken on the master plan, the annexation plat and the initial zoning request. Action on the annexation plat and the initial zoning request will be in the form of a recommendation to the city council that the proposals be approved, conditionally approved, or disapproved.

D. It is the requirement of the planning and zoning commission that no annexation request shall be reviewed unless either the applicant or the applicant's representative is present at the public hearing. If neither is present at the public hearing, the request will be postponed until the next regular planning and zoning commission meeting.

E. Following action by the planning and zoning commission, the annexation request and the initial zoning request shall be forwarded to the city council for final action. The annexation request and the initial zoning request will be scheduled for the next available regular city council meeting once staff has received the minutes of the planning and zoning commission public hearing, and all public notice requirements of this chapter are met. A copy of the notice of decisions that include any changes or conditions the planning and zoning commission and city council made at public hearings shall be provided to all appropriate parties in accordance with section 37-11(b).

F. Appeals. Any person, department, committee, commission, board or bureau that is affected by a decision of an administrative official, committee, or board in the administration or enforcement of this chapter, or of any other adopted resolution, rule, or regulation, may appeal the decision. The appeal must be initiated in writing and delivered to the community development department within 15 calendar days after all other procedures established by this chapter have been exhausted. For details on the appeal process, refer to section 37-13, "procedures for appealing decisions of staff, the development review committee and the planning and zoning commission."

(Ord. No. 1798, § I, 6-19-00; Ord. No. 1929, §§ I, II, 8-5-02)

Sec. 37-271. Annexation request submittal requirements.

A. A request for annexation shall include the following:

1. Application (to include annexation, initial zoning and master plan):
   a. The application shall be signed by all property owners (including all parties having an equitable interest, trustees of an estate or all persons having a specific power of attorney) of the subject property as recorded in the county clerk's office.
   b. Any pending litigation of any final order entered by any court of law regarding the ownership of the subject property shall be disclosed by the applicant at the time the application is submitted.
2. Submittal fee.
3. Petition. The petition shall contain the following information:
   a. Date;
   b. Description of property (certified by N.M.P.L.S.);
   c. Acknowledgment by each property owner;
   d. Name of each property owner;
   e. Address of each property owner;
   f. Notarized signature of each property owner;
4. Annexation plat. Conforming to the provisions set forth in section 37-114, the plat must also contain certification blocks for the mayor and the city clerk, as well as for recording information (book and page) for the annexation ordinance. An annexation plat must include all adjacent public rights-of-way.

   The plat shall, by note, reference all agreements related to water rights, and future payments, and must include the city council resolution number associated with the agreement.
5. Initial zoning request (see 1981 Las Cruces zoning code, as amended).
6. Master plan, conforming to the provisions set forth in section 37-46.
7. Letter of acknowledgment from the property owner(s) that the conveyance of water rights or payment in lieu of said rights shall be required at the time of development; and, adherence to the city's water rights ordinance, as amended.
8. Filing fee at time of plat and ordinance filing.
~~8.~~ 9. Copy of early notification letter to neighborhood group(s) and/or noticed area and copy of minutes (summary or verbatim) from any subsequent neighborhood group(s) and/or noticed area meeting as may have been required.

(Ord. No. 1798, § I, 6-19-00)

Secs. 37-272--37-297. Reserved.

ARTICLE X.
GUARANTEE OF IMPROVEMENTS

Sec. 37-298. Subdivision improvement requirements.

A. After final plat approval, the subdivider shall submit construction drawings to the community development department for review and approval for construction permits. Review of the construction drawings may transpire at any time after the submittal of the final plat. However, construction permits shall not be issued without appropriate approval of the final plat.

B. Designs for subdivisions within the corporate limits of the city shall conform to the provisions set forth in the city design standards, (chapter 32, LCMC).

C. Waivers to the design standards are discouraged and will be considered only if the subdivision application is processed through the planned unit development (P.U.D.) procedure, or whenever the subdivider has provided sound evidence in writing substantiating the need for a waiver to said standards.

(Ord. No. 1798, § I, 6-19-00; Ord. No. 1929, §§ I, II, 8-5-02)

Sec. 37-299. Application procedure.

A. The construction drawings and supplemental material shall be submitted to the community development department. Upon submittal, the community development department shall review the submittal for completeness. If all of the required items have been submitted, the community development department shall issue a receipt for same.

B. Construction drawings and supplemental material will be processed by the applicable city departments and other governmental agencies for review, comments and recommendations. Written reports, with their comments and recommendations, shall be forwarded to the community development department within ten business days for the first review and within five business days for each subsequent review.

C. The community development department shall forward any comments to the subdivider or the subdivider's representative for completion. Construction drawings and supplemental material that receive comments shall be resubmitted and reviewed until the provisions set forth in this chapter are met. At that time, the construction drawings shall be approved, the construction approval block signed by the appropriate authorities and a construction permit issued (if the final plat has received approval from the appropriate authority).

D. Conflict. Whenever comments received by the city departments are in conflict, or whenever the subdivider is in disagreement with the comment(s), the subdivision administrator will determine the appropriate procedure to be followed in order to resolve said conflict or disagreement. Conflicts or disagreements may be resolved by following the applicable appeal procedure.

E. Appeals.

1. Appeals of staff decisions regarding nonutility engineering concerns with the construction drawings are resolved by the public works director. The appeal may be submitted at any time during the construction drawing review process. Appeals shall be submitted in writing to the subdivision administrator. The subdivision administrator shall schedule a meeting for review of the appeal. The meeting shall include the applicant, the development review committee, and the staff member whose decision is being appealed. After a review of the appeal, the public works director shall render a decision within three business days of the meeting.
2. Appeals of staff decisions regarding utility concerns with the construction drawings are resolved by the utilities department director. The appeal may be submitted at any time during the construction drawing review process. Appeals shall be submitted in writing to the subdivision administrator. The subdivision administrator shall schedule a meeting for review of the appeal. The meeting shall include the applicant, the utilities director, the DRC and the staff member whose decision is being appealed. Upon review of the appeal, the utilities director shall render a decision within three business days of the meeting.
3. Appeals to the decision of either the public works director or the utilities director regarding the construction drawings are resolved by arbitration. See section 37-13(d), "appeal of public works director or the utilities director."

(Ord. No. 1798, § I, 6-19-00; Ord. No. 1929, §§ I, II, 8-5-02)

Sec. 37-300. Construction drawing submittal requirements.

A. Subdivision requirements:

1. Application;
2. Submittal fee;
3. A final plat conforming to section 37-114 of this chapter;
4. Geotechnical soils investigation report. A complete geotechnical soils investigation and corresponding report may be required if the soil conditions are unknown, unreliable, or otherwise unusual. This requirement must be met when working in soils that are graded "expansive" or "very fine."

   Any geotechnical soils investigation must include, at a minimum, representative sampling and testing for:

   a. Soil classification (USCS);
   b. Sieve analysis;
   c. Structural design factors (R value and/or CBR value);
   d. Other parameters may be required, including but not limited to:
      i. Soil percolation tests (permeability);
      ii. Soil boring logs;
      iii. Water table elevations;
5. Pavement design. A complete pavement design may be required for collectors, arterials, industrial parks/developments, or other areas subject to unusual traffic loadings. This requirement must be met whenever the soil to be worked in has been graded as "expansive" or "very fine." Pavement designs must include, at a minimum:
   a. Depth and type of subgrade preparation;

b. Depth and type of base course needed;
c. Depth and type of asphalt pavement needed: Note--Asphalt mix formula to be required from contractors.

6. Final drainage study. The final drainage study shall be a detailed report and analysis of the drainage in the proposed development. It shall include detailed calculations for all potential runoff within the proposed development, and detailed calculations supporting the design of all drainage structures within the development.

   Construction plans for all drainage structures, and grading plans for all street grades where applicable, shall also be considered as part of the final drainage study.

   Drawings and calculations comprising the final drainage study shall include, but not be limited to, the following information:

   a. Existing and proposed contours for proposed development. (Contour interval based on N.G.S. Datum--two-foot contour interval minimum.) Proposed development with relatively flat surfaces (e.g., river valley subdivisions) shall contain spot elevations or one-foot contour intervals.
   b. Location(s) and elevation(s) of city or U.S.G.S benchmark(s). All elevations shall be based on N.G.S. Datum.
   c. Property lines.
   d. Streets, R.O.W. limits, names and grades.
   e. Existing drainage facilities and structures, including existing irrigation ditches, roadside ditches, drainage ways, gutter flow directions, and culverts.

      All pertinent information such as size, slope, elevations and locations of existing drainage ways shall be included in order to facilitate review and approval of drainage plans.
   f. Overall drainage area boundaries and drainage sub-area boundaries.
   g. Proposed types of curbs and gutters and gutter flow directions, including crosspans (intersections).
   h. Proposed storm drains, open drainage ways and right-of-way requirements, including proposed inlets, manholes, culverts, erosion control and energy dissipation devices, and any other appurtenances necessary for drainage control.
   i. Proposed inflow and outfall point(s) for runoff from the study area.
   j. Routing and accumulative flows at various critical points for the initial (ten-year) and major (100-year) storm runoff.
   k. Minimum finished-floor elevation and ground-site elevations at all critical building locations for protection from major storm runoff.
   l. A 1-inch = 100-foot (preferable) scale map of the proposed development that shows the following information:
      i. Locations and sizes of all drainage structures;
      ii. General flow patterns within the development;
      iii. Minimum finished-floor or building-pad elevation of each building site;
      iv. 100-year flood level in all streets in which the curb would be overtopped during the 100-year storm;
      v. All drainage basins within the development (Note: The number of basins

should be limited to the smallest practical number.)

m. All floodplains and floodways within the proposed development. A copy of the current F.E.M.A. Floodplain Map is required showing project limits.

n. All drawings on 24-inch × 36-inch sheets.

o. Plan details. The following details shall be indicated on the drainage plans.
   i. Title block (lower right-hand corner preferred);
   ii. Scale;
   iii. Date and revisions;
   iv. Name and address of professional engineer (and firm);
   v. Professional engineer's seal;
   vi. Drawing number (sheet n/n);
   vii. Legend;
   viii. Approval block for appropriate reviewing departments and agencies;

p. Construction drawings. Construction drawings shall be prepared by a registered professional engineer licensed in the state. All drawings shall be on 24-inch × 36-inch sheets and shall show the following information:

Plan:

- North arrow;
- Property lines;
- Street names and easements (with locations and width dimensions);
- Existing utility lines, locations and depths (or heights):
  - Water;
  - Gas;
  - Storm drains;
  - Irrigation canals;
  - Sanitary sewers;
  - All existing and proposed public and private utilities.

Profile:

- Vertical and horizontal grids with scales identified;
- Ground surface grade (dashed line) and proposed grade (solid line);
- Existing utility lines where crossed;
- Benchmarks (N.G.S. Datum);

Proposed construction:

- *Pipes and culverts:*
  - Plan showing stationing;
  - Profile showing elevations at even stationing (at 50-foot intervals)
  - Size and length pipe, pipe composition (if applicable) and distances between manholes;
  - Slope of pipe;
  - Inlet and outlet details of all manholes and inlets, and connections to existing drainage systems (if applicable);
  - Manhole details, including station numbers, and invert and top elevations;
  - Typical bedding details for pipe for all bedding situations encountered on

project;

- *Open channels:*
  - Plan showing stationing;
  - Profile indicating elevations of invert of channel, top of lining (if any), and adjacent ground grade;
  - Profile showing elevations at even stationing (at 50-foot intervals);
  - Typical cross sections;
  - Construction notes;
  - Lining details;
  - Rip-rap and bedding details, with graduation requirements for same;
  - Details of all inflow and outflow structures and drop structures (includes subgrade and foundation design details);
- *Technical specifications:* Technical specifications shall be included on any drainage project permitted for construction within the city. Specifications shall meet the minimum guidelines for construction as outlined in the city standard specifications for roadway construction and design standards as amended. Additional specifications for construction shall be included, to the point at which there exists a clear understanding of the nature and quality of work to be performed on the project. Additional technical specifications for projects that will become city property or that will be involved in the city storm drainage maintenance program, may be required.

q. Street plan and profiles. The plan and profiles shall be prepared on 24-inch × 36-inch sheets by a registered professional engineer, licensed in the state. The scale of all plans and profiles shall be 1:5 vertical, 1:50 horizontal unless a grid break would result. In such cases, the scale may be 1:10 vertical, 1:100 horizontal. A grid shall be required in all cases.

Plan. The following information shall be indicated on the plans:

- Title block (lower right-hand corner preferred);
- Horizontal/vertical scale;
- Date and revisions;
- Name of professional engineer (and firm);
- Professional engineer's seal;
- Drawing number (sheet n/n);
- Legend;
- Construction approval block for appropriate reviewing departments and agencies;
- Street name;
- North arrow;
- Match lines with stationing and "see sheets" called out;
- Limits of construction;
- Centerline stationing;
- Stations at street intersections, curb returns and property lines;
- Sizes and locations of all utilities (existing and proposed) (stub-outs not

required);

- Rights-of-way widths;
- Adjacent block and lot numbers;
- Fire hydrant locations;
- Water and gas lines and valve locations;
- Sidewalk and wheelchair ramp locations;
- Curve centerline data;
- Stationing and locations or crown transition;
- Back-of-curb radius (P.C., P.T. and midpoint stations), or sidewalk if no curbing is required, if applicable;
- Curb/gutter locations, if applicable;
- Top-of-curb elevations, or of sidewalk if no curbing is required, and stations at each front lot corner;
- Drainage flow arrows at crosspans and nontypical intersections;
- Driveway locations and stations (if applicable);
- Proposed top-of-pavement spot elevations at and across from all intersections (at flowline extensions);
- A local benchmark based on N.G.S. datum, with description, location and elevation;
- Manhole locations;
- "No parking" sign locations (if applicable)

Profiles. The following information shall be indicated on the profiles:

- Proposed and existing grades 100 feet beyond limits of construction;
- Even stationing (at 50-foot intervals) and elevations on all profiles of top-of-curb, right and left, street centerline required if in a nontypical section;
- Stationing and elevation of the vertical point of intersection on all vertical curves, including, PVT, PVI, PVC, and K value;
- Top-of-curb elevations (or top-of-sidewalk elevations if no curbing is required at each lot corner);
- Sanitary and storm sewer pipe invert elevations;
- Slopes of sewer lines;
- Stationing of manholes;
- Pipeline locations, sizes and depths noted;
- Limits of construction;
- Grid at scale of 1:5 Vertical and 1:50 horizontal; scale can be 1:10 vertical and 1:100 horizontal if size will require a page break;

r. Grading plans. The plans shall be prepared by a registered professional engineer licensed in the state. The following information shall be required:

- Street names;
- Block and lot numbers;
- North arrow;
- Written and graphic scales;

- Existing contours based on project "as-builts," not plans, at 2-foot intervals (100 feet beyond project boundary if adjacent land is undeveloped and the property line of the adjacent land is developed). Proposed development with relatively flat surfaces (e.g., river valley subdivisions) shall provide spot elevations, or one-foot contour intervals;
- Retaining wall locations (and note if walls will be built at time of roadway construction) (See city design standards, chapter 32, LCMC);
- Top-of-curb elevations, or sidewalk if no curbing is required at each lot corner
- Pad elevations or finished floor elevations (for each lot);
- Spot elevations (minimum of six per lot showing high points and low points) or a typical lot detail if the proposed development has a relatively flat surface (e.g., river valley subdivision);
- Pond elevations: Top, bottom and dimension from property lines (if applicable);
- Barrow ditch elevations (if applicable);
- Drainage channel elevations (if applicable);
- Drainage flow arrows (and note if roof area will drain to ponding area);
- Retention/detention, basin, location and elevation;
- A project benchmark based on N.G.S. datum with description, location and elevation.
- Note: All grading, including lot grading, shall be done at time of roadway construction and to be maintained by subdivider.
- General notes for grading and construction, etc.;
- Off-site grading or slope grading limits (if applicable);
- All grading must comply with chapter 70 of the Uniform Building Code or an approved alternative. Alternative design may only be approved by the public works director.
  If grading will be performed on the land of an adjacent property owner(s), or construction vehicles may need to access the property, a copy of a letter must be provided to the city, signed by the adjacent property owner(s), stating that they understand the nature of the work and do not oppose the modification to their property and/or that they will allow temporary access to their property by the contractor;
- Show existing utilities.

s. Utility master plan. The Utility master plan shall include all phases of development and be prepared by a registered professional engineer, licensed in the state. The following information shall be required: If utilities are not in the standard location, i.e., street right-of-way, then preapproval is required by the utilities department.
   - Utilities for existing development: Size and type of pipe (existing and proposed), including underground electrical, telephone, cable TV, etc.;
   - Lot and block numbers;
   - Street names;
   - North arrow, written and graphic scale: Scale shall be no greater than 1-inch =

60-feet;

- Utility stubouts;
- Street light pad and conduit locations;
- Wire utility boxes;
- Fire hydrant locations;
- Water and gas valve locations;
- A local benchmark based on N.G.S. datum, with description, location and elevation;
- Manhole locations.

t. Detail sheet, to be prepared by a registered professional engineer licensed in the state. The following information shall be required, if applicable:

- Roadway construction notes and general notes;
- Utility construction notes;
- Manhole details;
- Typical utility stubout to lot detail;
- Street intersection detail (if applicable);
- Typical street cross-section(s) (including paving composition);
- Curb and gutter detail;
- Wheelchair ramp detail;
- Retaining wall detail, cut-off wall detail and all fencing details (if applicable);
- Drainage structure details;
- Light base details;
- Typical lot layout;
- Any other construction detail which may be needed for clarification purposes;
- Water and gas valve and line detail.

B. The subdivider of any approved subdivision shall be responsible for completing roads, drainage and utility improvements necessary for filing the final plat. Construction improvements shall include 100 percent coverage of all road, drainage and utility improvements within the subdivision and 50 percent coverage of roads adjacent to the subdivision. The subdivider shall be responsible for any necessary off-site utility extensions required to provide service, unless such extensions are already part of the utility capital improvement program.

(Ord. No. 1798, § I, 6-19-00; Ord. No. 1929, §§ I, II, 8-5-02)

Sec. 37-301. Installation and acceptance of improvements.

The improvements, both public and private, required with the approved subdivision application shall be constructed, installed and approved into the city's maintenance program (if applicable) prior to the filing of an approved final plat or provisions made to secure the completion of improvements. The subdivider may secure the improvements by furnishing a performance bond, an irrevocable letter of credit, a cashier's check, an escrow account, or other acceptable collateral and a guarantee of performance to the city in favor of the city, to secure actual construction of the improvements within a period of 34 months after the approval of the final plat. If the improvements have not been constructed in accordance with the approved plans and

specifications within the time frame prescribed by this chapter, the city may withdraw adequate monies from the securities to complete the construction of the subdivision.
(Ord. No. 1798, § I, 6-19-00)

Sec. 37-302. Guarantee of performance.

A. The community development department shall not file the final plat until all required improvements have been inspected and approved by the city, or until provisions are made to secure the completion of improvements. If the improvements are not completed by the completion date, the subdivision shall revert to preliminary plat status unless the final plat has received an approval extension.

B. A form of security, a guarantee of performance and a bid from the contractor may have to be filed with the city. The amount of such security must cover the projected cost of all required improvements agreed to by the subdivision administrator. The amount shall be based on the projected costs that the city would incur at the time improvements are scheduled for completion. Any of the following types of security shall be filed with the subdivision administrator:
   1. Performance bond: A surety bond acceptable to the city to cover estimated costs of improvements.
   2. Escrow account: An account established with a financial institution in the amount of the projected costs of improvements.
   3. Irrevocable stand-by letter of credit: Irrevocable authority to draw a draft for the projected cost of improvements.
   4. Cashiers check: An amount of security acceptable to the city to cover estimated costs of improvements.
   5. Any other form of security approved by the subdivision administrator and legal staff.
   6. An applicant subdividing a large tract of land as deemed appropriate by the development review committee, may with the approval of the subdivision administrator and the legal staff, submit a final plat for approval without providing any form of security if it is noted on the final plat that:
      a. The city has not accepted the dedications identified on the plat; and
      b. The applicant and future owners shall notify prospective purchasers in writing that the purchaser will be responsible for providing the necessary improvements and/or security.

The city shall not issue any building permits within the subdivision until such time security in form of those listed in 37-302(b)(1--5) has been provided to the city.

All forms of security and agreements shall be reviewed and approved by the subdivision administrator, and approved as to form by the attorney's office.
(Ord. No. 1798, § I, 6-19-00; Ord. No. 1866, § I, 5-7-01; Ord. No. 1929, §§ I, II, 8-5-02)

Sec. 37-303. Release of collateral.

If the developer wishes to provide a form of security, the following procedure for release of collateral shall apply:

As improvements are completed, the subdivider may apply to the subdivision administrator for a

release of part or all of the collateral deposited. Application for partial release shall include the contractor's invoice, showing the items and percentages of completion being billed. The subdivision administrator shall forward the request to the appropriate inspectors to verify that the work being billed has been completed. Upon inspection and approval by the city, the subdivision administrator may release said collateral. If the subdivision administrator determines that any of such improvements are not constructed in compliance with specifications, the city shall be entitled to withhold collateral sufficient to ensure such compliance. If the city determines that the subdivider will not construct any or all of the improvements in accordance with all of the specifications, the city may withdraw and employ from the deposit of collateral such funds as may be necessary to construct the improvements in accordance with the specifications. The subdivision administrator shall withhold 10% of any collateral for specific improvements until such time as the final approved record drawings are submitted to the subdivision administrator and the improvements are accepted by the city.
(Ord. No. 1798, § I, 6-19-00)

Sec. 37-304. Extension of guarantee of performance.

A. The subdivider may request an extension of the guarantee of performance with the city via a written request explaining the extension proposal and the reasons for said request. The subdivision administrator shall review the subdivider's request to determine whether the guarantee of performance and the security will be extended. If approved, the subdivider shall be responsible to furnish a revised guarantee of performance and a form of security that adequately secures the completion of improvements prior to the expiration date of the guarantee of performance contract.

B. Guarantee of performance extensions shall only be granted once, for a one-year period, if there has been substantial progress made in the construction of the improvements. Substantial progress, in this sense, means 50 percent completion, the extent to be determined by the subdivision administrator.

(Ord. No. 1798, § I, 6-19-00)

Sec. 37-305. Acceptance of improvements.

A. The subdivider may request the city to approve and accept the roadway, utility, and drainage improvements. For preliminary acceptance of utility improvements, and prior to connection to the city's utility system, the subdivider shall be required to submit utility blueline drawings for review and approval by city engineers. Such drawings shall be submitted to the utilities department projects administrator.

B. Upon completion of the development, the subdivider may make a written request to the subdivision administrator for final acceptance of all subdivision improvements. Along with the written request, the city shall require the submission of one set of Mylar record drawings (as-builts), a computer-aided drawing file on a 3.5-inch computer diskette or recordable CD, or other format accepted by the city, and a detailed material listing. The city shall inspect said improvements to determine whether the infrastructure is acceptable and whether it conforms to the approved final plat and construction drawings. The computer-aided drawing file on computer diskette or CD may be waived by the development review committee. Granting a waiver shall not serve as a convenience to the

applicant, but the waiver shall be the minimum necessary for relief due to some demonstrable hardship, and shall be granted only in cases where reasonable alternative means are not available to resolve the issue(s).

C. The computer-aided drawing file to be submitted shall be labeled with the contractor's name, the engineer's name, the subdivision name, the subdivision location, and the final inspection date. The computer-aided drawing file shall be the file used to generate the final record drawings (hard copy). The computer-aided drawing file shall depict the final Mylar as-builts with the rights-of-way and the subdivision tied to the state plane coordinates. The computer file drawing shall be in AutoCAD Version 11 or later, or in a similar 100 percent compatible and transferable file. Prior to submittal of the digital record drawings, the project engineer shall enter into a digital file agreement with the city. The purpose of the digital file agreement is to protect the project engineer from liability in the event that the drawings become altered in any manner not approved by the city and the project engineer.

D. Said Mylar drawings shall be signed and sealed by a registered engineer of the state. The Mylar drawings made from the design drawings based on the contractors' as-builts and the computer-aided drawing file shall provide the following information for city review:
   1. *Grade changes.* Reflect all changes in grading from the approved plan and profile sheets, including but not limited to curb elevations, property line elevations, drop inlets, curb return elevations, tops of manholes, and inverts.
   2. *Street alignment changes.* Designate any alignment change within a street right-of-way that deviates from that shown on the approved plan and the profile sheets.
   3. *Detail sheet changes.* Reflect any change in street cross sections, retaining walls or other general details that have been altered from the approved construction drawings.
   4. *Utility changes.* Designate all utility changes that deviate from the approved plan and profile sheets.

E. Additionally, a detailed material listing shall be required. The materials listing must be a tabular listing that includes, wherever appropriate, mains (sewer mains must include depth), valves, manholes, fire hydrants, number of service lines and number of drainage inlets. These materials must be represented in the listing by the standard measure or by the unit installed, e.g., linear foot, number of each. The listing must be separated by utility function for potable water, wastewater, storm drainage and gas. The listing must include:
   1. Developer's name;
   2. Subdivision name and location;
   3. Date of final inspection;
   4. Quantity and unit of materials installed (e.g., 250 linear feet, eight each);
   5. Material description, including size or dimensions (e.g., 4-inch PVC main).

F. The subdivision administrator, upon receipt of a written report of recommendation for acceptance and from:
   1. The public works director that all improvements have been installed in accordance with the plans, as approved, and are in conformity with the requirements of this

chapter; and

2. The utilities director that all utility improvements have been installed in accordance with the plans, as approved, and that they are in conformance with the requirements of this chapter;

May formally accept said public improvements for city maintenance. The subdivision administrator will notify the subdivider within ten business days after his/her request as to whether the improvements will be accepted for city maintenance. The subdivision will be accepted only with the concurrence of the subdivision administrator, public works department director and the utilities department director. Upon acceptance, the subdivider shall guarantee improvements for one year.

(Ord. No. 1798, § I, 6-19-00; Ord. No. 1929, §§ I, II, 8-5-02)

Secs. 37-306--37-331. Reserved.

ARTICLE XI.
WAIVER OF REGULATIONS

Sec. 37-332. Waivers.

In the case of a particular proposed subdivision, whenever it can be shown that strict compliance with the requirements of this chapter would result in a substantial hardship to the subdivider because of exceptional topographic, soil or other surface or sub-surface conditions, or that such conditions would result in inhibiting the objectives of this code, the planning and zoning commission may vary, modify, or waive nonengineering-related requirements up to 15 percent of the required standard. Furthermore, any proposal containing three or more planning-related waivers shall be processed via the planned unit development process. The subdivision administrator may waive submittal requirements of this chapter. A waiver of engineering submittal requirements shall require the concurrence of the public works director. The public works director and the utilities director may vary, modify or waive engineering-related requirements as applicable and appropriate. No variance or waiver shall be allowed when such waiver is requested because the goals and objectives of the drainage section of the city's design standards are not being met. For example: A waiver shall not be granted if the developer is designing a drainage system that transfers problems from one location to another, that does not provide protection against regularly-occurring damage, or that creates major property damage or loss of life from runoff expected in a major storm event. Also, no waiver shall grant any variation or modification contrary to the mandatory requirements of state law.
(Ord. No. 1798, § I, 6-19-00; Ord. No. 1929, §§ I, II, 8-5-02)

Sec. 37-333. Waiver procedure.

A. Whenever the subdivider desires to request a waiver or variance from any nonengineering-related requirements of this chapter, the subdivider shall submit, in writing, the request for waiver at the time of master plan submittal or preliminary plat submittal, or at the time that a replat or an alternate summary processed subdivision is submitted. The request for waiver shall include, in detail, the reasons for supporting such a request.

B. The subdivision administrator shall schedule the requested waiver to be reviewed by the development review committee. The development review committee shall review the waiver request and recommend to the planning and zoning commission to approve, disapprove, or modify the waiver request.

C. The planning and zoning commission shall review the recommendations of the development review committee and approve, disapprove, or modify the waiver request. Any waiver requests greater than 15 percent of the required standard shall be forwarded to the city council with a recommendation by the planning and zoning commission that the waiver be either approved or denied. Any proposal requesting three or more planning-related waivers shall be processed via the planned unit development procedures and shall require city council approval.

D. When a proposal with waiver(s) requiring city council approval is submitted, the planning and zoning commission will review the proposal and provide a recommendation for approval or denial to the city council. The case will be forwarded to the city council for action.

E. The city council shall review the proposal and recommendations from the planning and zoning commission. Action by the city council shall be in the form of approval, denial, or modification. Action by the city council shall be recorded in the minutes of the meeting. An affirmative vote by four members of the city council is required for approval of a proposal. A copy of the city council notice of decision that includes any changes or conditions, as done at the public hearing, shall be furnished to all of the parties stated above in accordance with section 37-11(b).

F. Specifications or supplementary data required by this chapter for a master plan, a preliminary plat or a final plat may be waived whenever such specifications or data are determined by the planning and zoning commission to be unnecessary for the consideration of the plat.

Whenever the subdivider desires to request a waiver or variance from any engineering/utility requirements of this chapter, the subdivider may submit, in writing, to the subdivision administrator, the request for waiver at any time during the subdivision process. It is recommended that engineering-related waivers be submitted as early in the process as possible to avoid unnecessary delays. The request for waiver shall include, in detail, the reasons for supporting such a request.

The subdivision administrator shall submit the requested waiver to either the public works director or the utilities director, as applicable. Upon receipt of the request, the public works director or the utilities director shall meet with the development review committee at the next scheduled meeting to discuss the waiver request(s). The public works director or the utilities director, after consultation with the DRC, shall render a decision on the waiver or variance request within three business days.

(Ord. No. 1798, § I, 6-19-00; Ord. No. 1929, §§ I, II, 8-5-02)

Secs. 37-334--37-359. Reserved.

ARTICLE XII.
CONSTRUCTION STANDARDS

Sec. 37-360. General provisions.

A. Construction of all subdivisions (public and private improvements) within the corporate limits of the city shall conform to all applicable sections of the documents listed below. The regulations, policies and provisions governing the construction of required improvements include, but are not limited to, the following documents, as amended:
   1. City comprehensive plan;
   2. City zoning code (chapter 38, LCMC);
   3. City design standards (chapter 32, LCMC);
   4. MPO transportation plan;
   5. Stormwater management policy plan;
   6. Bicycle facilities and systems master plan;
   7. City standard specifications for road construction;
   8. Building code (chapter 30, LCMC);
   9. City standard specifications for water, sewer, and gas utilities;
   10. Any and all other rules, regulation, and policies adopted by the city governing construction standards.

(Ord. No. 1798, § I, 6-19-00)

PLANNING AND ZONING COMMISSION
FOR THE
CITY OF LAS CRUCES
City Council Chambers
April 23, 2013 at 6:00 p.m.

BOARD MEMBERS PRESENT:

Godfrey Crane, Chair
William Stowe, Vice-Chair
Charles Beard, Secretary
Ray Shipley, Member
Charles Scholz, Member
Joanne Ferrary, Member

STAFF PRESENT:

Vincent Banegas, Deputy Director, Community Development, CLC
Katherine Harrison-Rogers, Community Development, CLC
Susana Montana, Community Development, CLC
Rusty Barrington, Legal Department, CLC
Robert Cabello, Legal Department, CLC
Mark Dubbin, Las Cruces Fire Department
Bonnie Ennis, Community Development, Recording Secretary

I. CALL TO ORDER (6:00 pm)

Crane: Good evening. Welcome to the April 23rd meeting of the Planning and Zoning Commission. Let me start, as we usually do, by introducing our Commissioners. To my far right is Commissioner Stowe who represents District 1; then Commissioner Scholz who is the Mayor's representative; and our new Commissioner, Joanne Ferrary, who has an extensive background in public affairs in New Mexico and is most welcome to us and she is representing District 5. Commissioner Beard is with District 2 and I'm the Chair, Godfrey Crane, and I represent District 4.

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.

Crane: As usual we start with asking the Commissioners if they have any conflict of interest concerning tonight's agenda, all indicating "no;" and the City representatives, any conflict of interest? All indicating "no." Thank you.

nobody on the Commission..." "...is that 'if' nobody on the Commission..." and the next line, line 39, the very end of the line, we need a comma after "matter." "...If the public has any interest in discussing this matter 'comma' we just vote on it without discussion."

Shipley: We need a small "w" there, I guess.

Crane: Pardon me? Yeah, a lower case "w" on the "we;" page 4, line 39 and this occurs in another place so I'll bring it up in a minute, "r-o-l-e" should be "r-o-l-l." Yes, that's also on page 36, line 42; and finally, page 15, line 36 the number "12" is repeated. You could cut out one of them. It says, "12 more 12 Tuesday afternoon..." I'll entertain a motion that the minutes as amended be accepted.

Scholz: So moved.

Shipley: Second.

Crane: Mr. Scholz moves and Mr. Shipley seconds. All in favor, "aye."

All except Scholz and Ferrary: Aye.

Crane: Any against? Ms. Ferrary is abstaining.

Scholz: I'm also abstaining. I wasn't at the meeting.

Crane: Okay, Mr. Scholz is abstaining.

Scholz: Thank you.

IV. POSTPONEMENTS – NONE

Crane: So we move onto the Postponements, which is still "none."

V. CONSENT AGENDA

START

Crane: Next we have the Consent Agenda and, for the benefit of those who haven't been here before perhaps, the way this works is that unless some member of the Commission or City employee or somebody with the public wishes to have any aspects of any one of these three items discussed we will just vote on them without discussion as a group, let's say just as a group of cases.

1. **Case ZCA-13-01:** A request to amend various sections of the 2001 Las Cruces Zoning Code, as amended. The amendments primarily seek to change various provisions related to the public notification process for the various cases processed by the City pursuant to the code. Notification deadlines are proposed to be

normalized and methods of notification and procedures for same involving neighborhoods and neighborhood groups/associations are being defined and/or modified. Submitted by the City of Las Cruces.

2. **Case SA-13-01:** A request to amend various sections of the 2006 Las Cruces Subdivision Code, as amended. The amendments specifically seek to change various provisions related to the public notification process for the various subdivision cases processed by the City pursuant to the code. Notification deadlines are proposed to be normalized and methods of notification and procedures for same involving neighborhood and neighborhood groups/associations are being defined and/or modified. Submitted by the City of Las Cruces.

3. **Case S-13-003:** Application of Sonoma Ranch North LLC for a Preliminary Plat known as Sonoma Ranch North Tract 2C Lots 1 and 2. The 6.158-acre portion of the 107-acre Tract C would be divided into two lots: A 3.366-acre Lot 1 and a 2.792-acre Lot 2. The property is located on the south side of Northrise Drive east of Sonoma Ranch Boulevard, Parcel No. 02-36081 and 02-36083, and lies within an R-3 (Median-density Multi-Family) zoning district and would be developed into apartments. Council District 6 (Councillor Thomas).

Crane: Any member of the Commission wish to address any of these? Mr. Shipley.

Shipley: Yes, case 3; S-13-003.

Crane: You would like to address that? Okay, we'll move that to New Business, first item. Any member of the City Planning discussion? Any member of the public? No, okay... Ms. Harrison-Rogers, do I have to have a motion to get that moved to the New Business? No. Okay. We'll take up case S-13-003 on New Business and we'll vote on ZCA-13-01 and SA-13-01 as part of the Consent Agenda. May I have a motion to approve the Consent Agenda?

Scholz: So moved.

Crane: Commissioner Scholz moves.

Shipley: Second.

Crane: Seconded by Commissioner Shipley. All in favor, aye?

All: Aye

Crane: Any opposed? It passes 6-0.

← END

VI. OLD BUSINESS

1. **Case No. Z2859.** Application of The Burris Brothers, LLC to rezone property

PLANNING AND ZONING COMMISSION
WORK SESSION
FOR THE
CITY OF LAS CRUCES
City Council Chambers
March 19, 2013 at 6:00 p.m.

BOARD MEMBERS PRESENT:

Godfrey Crane, Chairman
William Stowe, Vice Chair
Charles Beard, Secretary
Charles Scholz, Member
Ray Shipley, Member
Joanne Ferrary, Member

BOARD MEMBERS ABSENT:

Donald Bustos, Member

STAFF PRESENT:

Vincent Banegas, Deputy Director, CLC

Becky Baum, Recording Secretary, RC Creations, LLC

I. CALL TO ORDER (6:00)

Crane: Good evening. It being six o'clock this work session is called to order. In the absence of the public I guess we will not have to identify ourselves except I should formally welcome our new Commissioner, Joanne Ferrary, who now completes our little Board. And how do you want to run this? You're going to make a presentation, I imagine?

Banegas: I do have a presentation that'll kind of walk you through the amendments that are before you under consideration and some history behind that.

Crane: First we should ...

Scholz: We need to approve the minutes.

II. APPROVAL OF WORK SESSION MINUTES

1. February 19, 2013

Crane: ... approve the minutes, as I was about to say. Thank you. Actually, I saw your arm wave peripherally and I thought I've done something wrong already. First we will approve the minutes of the last work session, which

was February 19th. Any Commissioner have any points to make on this? Mr. Shipley.

Shipley: I'm looking. If somebody else wants to go first I've got to come to it 'cause I wrote it down at home but I don't have my page yet.

Crane: Well, I have ... Anybody else before the Chair steps in? Page 15, line 16, I think what I said was, "City Council should say no, developers will be fine", not "fined". I've no problem with fining developers. They have to do something bad first. I think I said "fine." I have two more: page 26, line 17 and Mr. Michaud's remarks; I've a feeling he said "I'm using a context based approach", but I'm not convinced of that. But "contact" doesn't seem to make much sense there.

Scholz: I think you're right, Mr. Chairman. I think it is "context."

Crane: All right. And finally, page 33, line 44. I think we should delete the "e" from "Santa Clause". This really made me upset. Mr. Shipley, you find your stuff?

Shipley: I think the word that I wanted to change, I think it said "tome" and I couldn't figure out what that was, but I think it was sets the tone, but I haven't found it in my ... I didn't have my notes from home. I did it at home.

Scholz: You weren't thinking of Marisa Tomei.

Shipley: Tomei, no. I thought it would be easy to find when I got here. I'll get to you later.

Crane: Okay, shall we vote to accept the minutes?

Shipley: I move to approve the minutes as amended.

Scholz: Second.

Crane: Second was Mr. Scholz, was it? Those in favor aye.

All: Aye.

Crane: Any against? And Ms. Ferrary's probably going to abstain.

Ferrary: Yes.

Crane: And when I see the red light up here I know you want to speak and I'll recognize you or whoever else in turn. Thank you.

III. NEW BUSINESS

1. **Case ZCA-13-01:** A request to amend various sections of the 2001 Las Cruces Zoning Code, as amended. The amendments specifically seek to change various provisions related to the public notification process for the various cases processed by the City pursuant to the code. Notification deadlines are proposed to be normalized and methods of notification and procedures for same involving neighborhoods and neighborhood groups/associations are being defined and/or modified. Submitted by the City of Las Cruces.

2. **Case SA-13-01:** A request to amend various sections of the Las Cruces Subdivision Code, as amended. The amendments specifically seek to change various provisions related to the public notification process for the various subdivision cases processed by the City pursuant to the code. Notification deadlines are proposed to be normalized and methods of notification and procedures for same involving neighborhood and neighborhood groups/associations are being defined and/or modified. Submitted by the City of Las Cruces.

Crane: Okay sir, Mr. Weir, right?

Banegas: Mr. Chairman, Members of the Commission, Vincent Banegas for the record. I'll be presenting the cases that are going to be before you for formal action at your April regular meeting. Tonight, however, we thought it'd be very prudent to give you a first blush, if you will, of the proposed amendments to the Zoning Code and the Subdivision Code. Before I go over that I thought it'd even be more beneficial to kind of walk you through some the history behind these amendments and what conversations have been held with not only staff, Planning and Zoning Commission, but also City Council. So with that, let me start my presentation.

The issue at hand is, of course, public notification and examining some of the procedures that we could consider for public notification improvement in terms of our processes. With that a very brief history: back in February 2012 some of you might recall that at a regular meeting there was some discussion over ways in which we can improve our notification and at that time it was recommended that staff consider a 21-day threshold for sign posting, for mail out notice, for newspaper advertisement, etc.

We took that under consideration and discussed that quite thoroughly at the staff level and obviously it caught some momentum because on March 19, 2012 that same year at a City Council work session City Council wanted staff to present information regarding notification measures in use and kind of give a background as to where they came from and how they compared to what other regulations or statutes might be in place that govern that. So to that end staff gave a presentation that

compared State Statute provisions for all the types of things that we examine: subdivision related, zoning related, variance related, those types of things that come before this Body and sometimes before City Council, either for final approval or on appeal.

We gave a summary or cursory overview of those standards and we discussed some opportunities for some improvement to those Standards. It was at that time pursuant to a work session packet that was distributed to Council that we also include an excerpt of the minutes from this Body from the February meeting that talked about that 21-day threshold. Following that discussion presentation, staff was directed to look at the issues a little bit more thoroughly and examine them more closely to see what specific elements can be adjusted in order to make the public notification process a little bit more successful in casting a broader notification net for all the citizens that we ultimately impact with the issues that we discuss and/or approve.

At a September 2012 City Council work session follow-up up there were two documents that were presented to the Council. I believe those were included in your packet or at least I hope they were. One was called the Public Notification and Participation Report, an Analysis of Option for a More Informed Community. That document took a look at everything we had in place at the present time, looked at other communities in terms of what they used for public notification measures, examined ways at which we can either incorporate some of those measures or modify the ones we had on the books presently to see how to improve the process. Then it gave a recommendation as to what elements and how they might be adjusted in terms of what we could look at for incorporation into our notification processes.

The idea of that report was to identify the plethora of options available for each of the departments throughout the city to consider the menu items, if you will, I consider that kind of a "menu listing" of options, consider what options might benefit their operations within their respective departments and pull together a departmental policy, if you will, on notification measures that they could incorporate into their activities. Parks and Rec for instance, obviously in the location of public parks they might consider selecting some of the menu options from that report and improving some of their notification processes, some of the street crews, as an example, when they repave might also do the same.

Taking the lead on that, the second document that was included in your packet was called a Citizen Notification Policy Manual for the City of Las Cruces Community Development Department. That report or that document intended policy manual is pulling from that first report the menu items that we feel can be incorporated into a successful notification procedure for the things that Community Development carries out in concert with the Planning and Zoning Commission and City Council and all the plans and cases that we bring forward at one point or another. Some of the elements that are discussed in that document are strictly

policy. It's going to be very difficult to incorporate them into an ordinance form but nonetheless, the intent is to take that policy manual up to City Council for approval as a policy document and via resolution procedures.

Other elements that are included in that document are definitely intended for implementation via our ordinances and, to that extent, the two Ordinances that are here this evening, those being the Zoning Code, the 2001 Zoning Code as Amended, and also the 2006 Subdivision Code as amended. That is also one of the documents that is subject to amendment in order to incorporate those provisions.

Right now, just to kind of briefly bring you up to speed, many of you are aware, some of you are not, we deal with development cases in one form or another. Dealing with annexations, zoning, Special Use Permits, Planned Unit Developments, the list is very large and we also deal with long range planning projects. In fact right now we're getting ready to bring you some information regarding our update of the Comprehensive Plan and along with that there're neighborhood plans, there're the community blueprint type plans and other regional or sector plans that we may bring forward and definitely impact the community. We have public notice processes for those as well.

The two types of notice that we carry out in the department, it's kind of a two-tier approach. The primary, of course, is agenda posting, the typical. We have newspaper advertisements about the cases that going forward to this Body and also to City Council. The City Clerk handles much of that. We have mail out letters that also go out to property owners in the affected area.

Secondarily, we have the website, which I should note that prior to the movement towards the new City website, our old website had a webpage dedicated solely to development activity. Any cases that were brought forward or submitted to the City Community Development Department we would list on that webpage and try to keep a status or a rolling status check on where it sat and whether it received approval, denial, or those things of that nature. With the new website we recognize that there have been some limitations as to what we can and cannot post. There's been a lot of behind the scenes work trying to get the website up and running, certainly to the extent that it once was, if not better and so we're still working on that. But we see the website as a use not only for existing but for the future wherein we can inform the public about cases that come before the City for consideration and ultimate approval.

We also have a Notification Association Policy that was also included in your packet and that is an approved policy that is in place today. It is a policy and, to the extent where it identifies the responsibilities of the City, we do carry out those actions. However, in terms of the responsibility for neighborhood associations and developers, we definitely strongly encourage the participation as listed in that policy. But in many instances we don't have the leverage to require notification, say, of the developer to the neighborhood association in order to inform

about proposals, be that subdivision related, zoning related, or what have you so therein lies some of the weakness with that policy.

Just to compare and kind of show you what we showed City Council: we have the State Statutes on the left. I just chose the three columns, Subdivision, Zoning, and Variance, and to that end this column defines some of the features that are required or the elements that are required for notice as it relates to the actions on the far left side. So for agenda posting, as an example, when we're dealing with subdivisions in accordance with state statutes, the Municipal Body determines what is reasonable and same for zoning and same for variance. Our mail out deadline for subdivisions is five days prior and the State Statutes are very quiet on zoning and variance related matters and so on down the list. So you can see that there are a lot of open-ended issues related to State Statutes as it ties to notification. When you compare the City of Las Cruces Standards in almost every point... well, I will say on every point we either meet or greatly exceed the Standards of the notification thresholds that the State requires.

Some of the concerns that we have with them, however, is there's a lot of variation in some of the thresholds themselves, timing, as an example. If you're dealing with subdivisions you can deal with six days prior to the hearing, nine days prior to the hearing depending on what type of action or notification action you're carrying out; and then if you jump across activities, say over to zoning, you could be dealing with 10 days or 15 days, so there're multiple thresholds that are included in today's notification procedures. There's also distance variation. We have 200 feet whereby we notify property owners within proximity to a subject parcel that's going through development proposal type action and that excludes rights-of-way. But we also have a 300-foot notification distance for neighborhood associations pursuant to that policy that I previously mentioned, so there's some variation there.

When the matter went before City Council, obviously there were some notification concerns that were raised to the individual Councilors. I know you all probably have heard them. I know staff has heard them from time to time and we kept hearing that our current processes weren't reaching enough people. We weren't casting wide enough net, if you will, and our notification distances were too short. Sometimes we would have property owners right across the street from someone else who received notice yet they did not and that could very well be the distance just didn't quite get there. There's always somebody who's left out of the notice, someone who's within it. So, we heard about that. Our methods were not entirely inclusive.

We have a set number of methods that were in use and we've been using those for quite some time but we never branched out and took a look at other options. Some of the processes like certified mail became a burden to some property owners because if you're not there to receive your certified mail you might receive a note from the Post Office or from

the mail carrier that says you need to go to the Northrise office and pick up your certified. It'll be there when you're good and ready to pick that up. So it becomes a burden for the property owners to make time and do just that; not to mention with certified mail we have received our fair share of complaints regarding the cost of that. It is the cost of doing business but last I checked, and I think it's still the same, I believe it's $5.75 per letter to send certified mail out. Yeah, that's a hit. And we would get a lot of those and depending on the case and depending when we're taking matters to the P &Z and City Council, we would have many envelopes returned unclaimed. So, it's quite a hit in more ways than one.

We had limited use of technology that was readily available and so we just needed to examine new methods that were also mentioned and, of course, with all these different processes being considered, we also have to consider the ease of application. We have to consider the practicality of the methods, you know. Does it cause excessive time constraints on the developer, on the citizens that are notified, on staff for carrying out the review? Is it easy for staff to carry out these notification procedures or is it a substantial burden in which to meet these thresholds? Those things have to be considered.

Safety and liability: we once had a group of Boy Scouts commit to helping our department distribute some little door hangers, I guess they were called, and they were helping us with some readdressing efforts out on the East Mesa. The first day they went out there we had the little door hangers made up and they went out doing the civic duty for their civic pin, I believe or badge, and unfortunately one of the kids got bitten by a dog. Needless to say that was the last time that they went out. The next day the flyers were brought back and they were no longer interested in assisting. That happened to be a Boy Scout but it could easily have been City staff or what have you doing the same thing that has that same thing happen to them.

We've also talked about signs, larger signs and posting them on private property. We've talked about from time to time the fact that if we put larger signs on property that requires more digging, posthole diggers, or something like that. We could encounter drip irrigation lines or sprinkler lines or some other type of line that we would severe or puncture or rupture in some way, shape, or form and that's a liability to the City as well. So those types of things we've got to keep in mind as we examine these methods and how to improve our notification measures.

Costs: I've mentioned some of that with the certified. Also there was a discussion at City Council that there was a perception by the public that there's a substantial amount of protest with the cases that we deal with and, therefore, that requires an extended or a more deliberate need to look into the notification process. When we looked into that I realized that this isn't hyper-current. It's going through July, the end of July of last year and I suspect the numbers will change a little bit but the point probably will not. But out of that time period we looked at the number of

cases that were submitted and there were 171 that got submitted to the City for consideration. Of those, 84 of those were either administratively approved, dropped by the applicant and at that time awaiting P & Z. Eighty-seven cases were acted on by a decision making body. So 87 of those 171 were actually acted on and when we looked further at those based on the minutes, we found that 30 of those cases or 34%, there was no protest; 47 of those cases, individuals who spoke at the meetings were merely seeking clarification on what was being heard; 6 of those cases there were concerns raises or considerations requested by the public, maybe a mitigation issue that you all could act on as a condition for approval, that kind of thing. They weren't really protesting. They were more just kind of informing the Commission of "if you do this," "could you please consider," that kind of thing. Four cases had strong protests. You know, we dealt with a cell tower up in Sonoma Ranch region that had substantial protest. So I'm not saying it doesn't exist, it just ... the numbers were so low for those type of cases. That was one of the points.

Crane: May I interrupt for a moment? This is the results of the public discussion at the public Planning and Zoning meeting or other meetings as well?

Banegas: This was part of the discussion at the City Council work session when we raised the issues of public notification in general.

Crane: Okay, thank you.

Banegas: So to that end we were again asked to look into notification methodologies and we did so. We looked at the region, looked at other communities in New Mexico, some in Texas, Arizona, and Colorado and took a look at their codes, their notification methods and we found several nuances that many were very much like what we had in place and there was some deviation.

Notification boundaries: keep in mind we had that 200 foot less excluding rights-of-way and we found that some of the boundaries that these other communities had were higher and some were lower. Some communities notified not only the property owner of record but also tenants. I think that would present some problems for us, but nonetheless that's what we found. Some communities required mandatory neighborhood meetings period and some under certain conditions or circumstances and it was kind of a case-by-case review of the case at hand. Notification timing was more standardized across the board but no one was higher than the 15-day threshold. We do have 15 days in place today for some of the zoning issues, as you recall, on that table, but others are less than that.

Then there was some discussion about applicant responsibilities in those various communities in terms of costs, you know. How do we ...? If you're going to do other types of activities for public notice that all comes

with a cost, so how do we share that cost? So, you know, it outlined in the various instances that the applicant picked up some of the cost and the City picked up other costs and then the applicant was responsible for certain activities in terms of the posting and the City was responsible for other parts, so those were kind of the nuances we found.

So based on that, the report that I previously mentioned was prepared and we looked at the issues, concerns, and viable methods and associated costs and all that and that was the menu item that I presented or discussed just a minute ago where we selected out the options that could be considered and it identified some of the changes that might need to be made to those options in order to make them work for the City. As I indicated, it prompted the departments in the City to pick and choose what might work for their department operationally and then to adopt the policy.

I also mentioned just a minute ago that the Community Development did just that and so we selected from the report, we modified some of the existing practices and we incorporated some of the new methods that were examined as part of our strategy for an improved notification method. Part of that policy does talk about cost and we are looking via the proposal to consider cost recovery on the mail outs, on the newspaper ad, and on signs. If you look at the grand total, because of the methods at which we're seeking to utilize mail out provisions etc., the costs aren't going to go up that significantly for anyone. We're trying to keep the cost low. That's why we're looking at strict state statutes which I'll go over in a minute in terms of mail out and that will help on the certified mail cost. So because of their cost savings there, newspaper ad, etc, they're only paying their pro-rata share of the ad, those types of things. We don't anticipate a huge hit with any of the proposals that we're bringing forward. Those additional cost recovery fees, I should mention, will be in addition to the standard set fee that they already pay.

So, more about our method, our chosen departmental strategy, it's a five-step method. We do as I indicated: seek to modify the existing process. All our agenda, newspaper, sign posting, and letter mail out will now meet as proposed: a 15 day, calendar day threshold. There's not going to be any of the 6, 9, 10. It's all 15. The mail out notice to the neighborhood associations will now follow a 500-foot boundary period. It's no longer going to be the 300 feet. We're going to the 500.

The staff determination on early notice and potential for early meeting need pre-submittal is being incorporated into the proposal. What that means, and I'll go into that in more detail, but basically at a pre-application meeting that City staff already holds weekly, developers or anyone, any applicant can come before the staff at this meeting, present their proposal with enough information and specificity to allow us to determine whether or not we think it's going to cause concern with the neighborhood.

If that determination is made, based on some criteria that I'll go over here in a minute, then we are going to ask the developer to go seek

... to prepare an early notice to the neighborhood groups and, in the absence of an adequate coverage of neighborhood group, to the noticed area; that being the property owners that we would normally notify, give them information about the proposal, what it means, give them contact information and invite the opportunity to meet with them on an agreed upon time, place, etc. between neighborhood and developer or applicant, and discuss the matter at hand.

We are also going to seek, for the submittal of the proposal which is 15 days. This all has to take place 15 days before they submit. But as part of the submittal proposal they will have to provide a copy of that letter and also either verbatim or summary minutes which they prepare based on their discussions with the neighborhood. That'll be a submittal item as well, so all that theoretically gets brought into the City, one neat package ahead of time before any formal submittal takes place, and that also gets distributed to you all for further consideration.

Now the ability for this Body or even City Council to require additional meetings with the neighborhood: that still will remain in place. This early notice and the potential for meeting with them is "in addition to," so if you know everything breaks loose here at one of the cases and you feel that, you know, there's still some unresolved issues that need attention you could certainly postpone the case and recommend that the developer or applicant meet with the neighborhood further and discuss the remaining issues. So that'll still be left as a tool in your toolbox for consideration of these cases.

The sign posting now will become, as proposed, the responsibility of the applicant. We will provide the signs. We will provide the content that goes on the signs. We will even provide the posts which will be more substantial than the little posts that we have because the sign's size is increasing to four foot by four-foot standard. We're still going to use the corrugated plastic, call it Coroplast I think, but it's still that material. We're trying to keep costs down. But nonetheless, the posting or the sign posts will have to be a little beefier than that and we can easily get those at Home Depot and they're not the high end, super-sturdy type but they're definitely more sturdy than what we use now.

The applicant will have the responsibility to not only posting it in accordance with the 15 day threshold but making sure it remains posted not only through the approval process either by this Body if you have final action; but if it goes to City Council for final action they make sure it remains posted through that process as well. Some of the information on the sign will have to change and we will guide them on how to change that, but the sign needs to be posted and if it's not posted and that's determined to be indeed the case, they may be subject to postponement until they meet whatever requirements the Code would require them to follow. So, there is some expectation on the applicant's part to meet the requirements as well.

The general notification boundary, like the neighborhood group or

association boundary notification, is also at 500 feet so there's consistency there. We're no longer looking at that 200 feet, excluding right-of-way. We will be applying a strict application of the State Standards for Certified and First Class Notice and I've a little scenario that'll help explain that a little bit better. It's a little convoluted, doesn't necessarily impact Planning and Zoning Commission per se, but certainly zoning cases that go to City Council for final action where we end up dealing with certified letters, it'll definitely play a role there.

The second step, if you will, is the development and planning project webpage which I've mentioned. Those items on the screen indicate what we anticipate including as information for the public on the cases that come before us for consideration: the key one being Status Indicator, as I see it. The intent here is to have all our cases updated as we cross milestones either, maybe there's a neighborhood meeting that takes place. Well, five days after that event the expectation is that we update that status column or field and indicate that, you know, neighborhood meeting held, general consensus reached, or some notation that gives some idea of where it's at in the process. If it goes to Planning and Zoning Commission, what was your recommendation? We would note that and so forth. So, hopefully, that informs the community a little better.

The third step we're going to examine is social media. The thought was maybe we can create a CD Department Facebook page. The City has relaxed internally some of the standards for utilizing social media and I'm not saying Facebook is necessarily the way to go, but something along those lines. We would investigate doing something like that or we could just make announcements and allow people to, you know in this case, Facebook case, become friends of Community Development or something like that. So we would post cases and that way they would know that, you know, cases of "X," "Y," and "Z" type have been submitted and that would be another way at which we would get the word out. How successful that will be, we don't know, but we're going to examine how to do that.

The Las Cruces notification system is the fourth step. That is the new notification system. Some of you may have subscribed to it. You get, there're options to it, but I myself get little I think they're e-mails that come from the City of Las Cruces when there's an accident that closes part of Highway 70 or maybe there's the distribution of the City Manager weekly newsletter that goes out every Friday. Sometimes I get notified of that and so what we envision there is to notify the public, whoever subscribes to that system, public meetings this meeting, neighborhood meetings, meetings where we take blueprint proposals, for instance, to the community, that type of thing. So we would just include an agenda listing the items under consideration, that kind of thing.

And finally there's the City of Las Cruces TV. There are some static bulletin boards that they use in public information office and we anticipate using those to announce development proposals, much like the

webpage. We would include information about projected and actual meeting dates to the extent possible. We'd update the information weekly and we would try to leave one month's worth of information intact so people can see that, you know, whatever item they had their interest on earlier, you know, several weeks ago is still in whatever status condition, so, hopefully, we can inform in that way as well.

So, what does the new notification measures mean? How does that impact as it relates to first class and certified mail out? I mentioned we're taking a strict application of the State Statutes. We have a map here that can be anywhere USA, but it happens to be a neighborhood in Las Cruces right off of Sonoma Ranch, which is right about here. Sonora Springs Avenue is right here. So this neighborhood is being used for this example and we've got this parcel and let's pretend it's going for a zone change so it's cross-hatched to indicate that that's the given parcel. Right now this grey area represents the 200-foot notification boundary that we follow. That's today standard. We exclude rights-of-way so if you add 50 to the 200 feet you get 250-foot radius. Fifty-foot is basically the right-of-way width for your typical residential roadways as part of this example. What we're looking to do is increase that to 500 feet, as previously mentioned, so you can see there's a dramatic increase in the number of properties so notified to the extent that under the existing provisions there are 37 properties notified or property owners notified but under the proposed there will be 81 so a huge increase in the numbers notified.

With this issue and the notification process is considered, the State Statutes state that when you are rezoning property of one block in size or less which certainly meets the criteria for this example, you only need to notify properties within 100 feet of the subject parcel by certified mail. So that red line around the property indicates that that's the 100-foot boundary. Beyond that red line boundary the 100-feet up to our 500-foot distance State Statues are quiet. So what we're proposing to do is still notify the individuals but via first class and trying to remove that burden of picking up certified mail. We're trying to do that so they'll receive first class mail, costs are reduced, and so that's what we're seeking to do. What that means and this a little confusing, but what that means is at least with zoning cases at the P & Z level, we never send out certified, but first class. We do send out a notice and there are 81 first class notices being sent out under what is being proposed. At the City Council level, because it requires certification under the existing provisions, if we're to go up to the 500 foot boundary there would be 81 certified letters mailed out and none of those would be first class. The proposal keeping the 500-foot distance; there's no change at the P & Z level. But at City Council this is where you get 19 properties receiving certified and the remainder outside this red line receives the first class notice to the tune of 62 of them. So there's a significant difference with that.

This boundary here represents the 300-foot notice distance for neighborhood groups or neighborhood associations pursuant to the

existing policy. Under the proposal we are going to match the property notification distance of 500 feet and you'll see that it has a slightly bigger impact because neighborhood association boundaries are larger and so there's not going to be that many that are affected normally. In this case you see these boundaries by this thicker, darkened line here. There's one boundary. Here's another boundary and you begin to see a third just popping out here. But nonetheless, with the new 500-foot distance we're impacting two neighborhood groups, theoretically casting a broader net and notifying more individuals. So to that tune we're doubling the number of associations or neighborhood groups that are notified. So that's what the provisions mean graphically anyway.

That's the history of where we've been and kind of a summary of the provisions that are being considered for implementation. Specifically, as it relates to the cases that will be heard by this Commission, we have Zoning Code amendment, we have Subdivision Code amendment and to explain those fairly quickly since I've gone over some of the nuances. There are some key sections that will be affected. Section 38-10, which deals with the Planning and Zoning Commission powers and authority, we are introducing the pre-application procedure. I've touched on that. It will impact annexations, zone changes, SUPs, PUDs. Variances will also be impacted. It takes advantage of the pre-ap meeting that is already existing. There's no procedural change that staff will have to make for that.

It will require or introduce determination as for need for early notification to neighborhood groups and/or noticed area when neighborhood groups are not well represented in the area and the determination will be made on some factors. We're not just going to say, "Yeah, we think this neighborhood likes to be noticed on whatever development matters." We're going to have to base them on some criteria and so we decided to look at traffic impact as an example. If there's a proposal for change of zoning to commercial and it's a long a roadway that already has a level of service that's questionable; I mean, based on traffic analysis that has taken place and the introduction of commercial zoning might even decrease the level of service further. That could be a reason for the notification.

Land use conflicts: if they're seeking commercial zoning and it's right next to residential and we think the neighborhood's going to come a little unglued with that, that could trigger a need for early notification, and so forth. Other neighborhood concerns could also be considered and those are tangible, you know, requests or issues that can be raised or that have come up throughout interaction with them. But types of issues that we will not entertain triggering the early notice is, you know, when we hear that that vacant private parcel represents open space that, "I enjoy and I walk my dog through the property," and so forth and, "I'm losing that open space." Well, it's not an element that staff would consider for early notification. That's just not going to do it. Other things might be, you

know, "I enjoy 35-foot height requirement in the R-1 zone and I don't want my neighbor to build up to 35 feet, I only want 25 feet," and they let us know that that's their concern. Well, the zoning's in place. There are set standards that already apply across the board. We're not going to consider that a legitimate neighborhood concern. Things like that I try to write into the proposed amendment, things that could trigger early notice, some things that we wouldn't consider as trigger for early notice.

The proposal: the early notice seeks to inform the community early about the proposal, gives them information about who the applicant is, contact information, gives them information about staff; who they can contact at the City level to ask questions, relevant questions about zoning in general, things of that nature and it also invites the opportunity for a meeting, an agreed upon meeting, time, place, all that good stuff between the developer/applicant, and the neighborhood. It seeks to have that meeting handled prior to submittal so within 15 days is when all this takes place. If they agree to have a meeting beyond the 15-day threshold that could delay submittal of the application in its entirety so the developer has to kind of take that under consideration. They need to push for meeting within that 15-day window prior to submittal but they could certainly exceed that if they're willing to push back their submittal deadline.

Even after that first 15 days, let's assume a developer submits his packet; no meeting was requested by the neighborhood and then later on the neighborhood requests a meeting. It's day 16 or day 17, the packet's been submitted. That's okay. We're not going to hold up the developer but when the matter reaches this Body the developer will have been told by staff, "You know, it's probably a good idea to go ahead and meet with them anyway. We're not going to hold you up but, you know, when you get to the Planning and Zoning Commission it'd go a heck of a lot smoother if you meet with them and resolve some of the concerns they might have, because if you get here and again everything goes haywire, you might postpone the case and ask for the same thing that we've asked them to do." So we're still going to encourage that but it's not going to be a requirement if they exceed that 15 day pre-submittal window.

One point I really want to make is building permits in terms of development and what might trigger consideration of early notification. Building permits are not part of the overall types of development that will be considered under these amendments so it is specifically referenced in the Code as an "exclusion." I do know in various parts of town we've been asked to notify neighborhood entities when building permits get submitted and it's everything we can do to make sure that they get processed in a timely manner and to all the appropriate individuals for review etc., and so we try to let them know. But we don't, as a matter of policy, do that and we're certainly not considering that as part of this amendment process. I talked about the 15 calendar day threshold. I'm not going to go over that again.

Sign size: I've hit at four by four. Note on that is we're going to

require one sign per street frontage so even if it's a residential lot and you have dual street frontage, you're probably going to be looking at two signs to post and if you're dealing with a zone change or something like that or a master plan on a very large tract of land you may have multiple signs to post as well. Staff won't be making that determination.

I talked about State Statutes regarding mail out notice. One clarification on there is it'll apply to all final action items of P & Z with exclusion of the subdivisions that you hear. Those all are handled first class mail and that'll remain. But it also applies for final action items at City Council and it ties to items, for instance, that are like a PUD site plan with no concept plan. It ties to items such as Special Use Permits, the infill processes, etc., just to kind of give you an idea of those type of items where it applies.

Recommended cases to City Council from this Body and subdivisions: just to further clarify following the existing first class method, there's no change there. I talked about the one block or less, the 100 foot certified and first class thereafter and first class notice to neighborhood groups. That will remain pursuant to that policy.

Let's see, at the City Council level Section 38-13 is also being amended. It basically incorporates some of the same information that I've just gone over for the authority of the Planning and Zoning Commission and it'll point to those sections rather than just reiterate them so there's not going to be a lot of wording changes in that section. We're also bringing forward proposed changes to Section 38-49 under the PUD. PUDs as we all know can be substantially controversial and so there's language in there that again echoes what I've just gone over under the previous Section 38-10. We also impact Section 38-54 SUPs, very similarly as the PUD and as the other section, no need to go over that. There is one miscellaneous clean up on 38-10 and that was tied to the conditional zoning. I'm merely making you aware that. It has nothing to do with this notification amendment. I just thought it was necessary and long overdue.

There's a discussion in the Code over conditional zoning and when revocation takes place and there are certain conditions that you all can place on, as a recommended element on a zone change, as an example, where you can prohibit billboards. You can prohibit certain types of use and if that gets carried forward to City Council and City Council acts on that and approves that. We're just clarifying that those types of prohibitions aren't subject to the two year trigger for revocation if nothing happens to that property. In other words, it'll remain in place until they either get the condition lifted through another ordinance action or end of days. I don't know. But, regardless, that's what it's seeking to do is just to clarify and it's merely clean up in that nature.

Subdivision Code amendment: the only thing I would say about that is it's very similar to the Zoning Code. It's carrying the same type of amendment language over from the Zoning Code. It's just that the Zoning

Code is set up where you have annexation, master plan, preliminary plat, and all the other platting mechanisms and there's a lot of repetition in there so you're going to see a much thicker document and a lot of language added. I would've loved to have figured out a better way to organize that document but I didn't have time. So there's a lot of format issues with that document that I'll have clerical staff clean up before I bring it forward formally. But nonetheless it has the same type of issues, newspaper notice, agenda, all those same early notice requirements are also included.

For pre-application meetings: if the type of application didn't have a pre-application section one was introduced and if it was rather vague. We clarified what was meant by pre-application meeting and that there was a potential for early notification in neighborhood group meetings. So, that's what that does; nothing out of the ordinary other than what I've already described.

The only other item I'd like some ... A few other items I'd like some discussion one, at least one element of it is the Subdivision Code amendments will obviously impact annexation, master plans, preliminary plats, and final plats. Final plats typically are considered completely in line. In fact when we think of final plats they're the last step towards the full subdivision process. You normally go master plan, preliminary plat, final plat, and then you file the thing or at the County that allows you to sell lots and develop and go to town. The final plat is normally very... it should be very consistent with preliminary plat, which is consistent with the master plan. So those don't require any review by the Planning and Zoning Commission.

However, there are other processes that might require Planning and Zoning Commission consideration and those are infill subdivision processes, alternate summary when there are two lots being created, and re-plats where they were increasing the number of lots, previously filed subdivisions, that's the catch there, and of course vacation plats. Sometimes those types of plats, final plats can receive a little friction, if you will, from the neighborhood and so that's why they're being included in these proposals for amendment.

The only thing I'd ask of this Commission is some feedback 'cause of the infill subdivision process, if some of you are familiar with that. We have an infill plan and we have the processes that identify not only in the Subdivision Code as to how to do an infill development. But we also have it in the Zoning Code and for the Subdivision Code the whole idea of including infill into this amendment language can fly in the face of the very reason it exists. We're trying to take advantage of vacant or underutilized properties in the City; trying to take advantage of existing infrastructure that might be immediately adjacent to vacant property or underutilized property; and as an incentive for people to want to develop it further and improve these underutilized properties and therefore add greater value to the tax rolls. One of the things we said is we would try to streamline the

review process. Well, if we add infill into this scenario for amendment it's not going to streamline, it's going to add more time to it. But as you know in the past we have had several infill cases that have come before you and its neighbors have not been entirely pleased with the proposal. So that's why I added it. What I'm asking this Commission is: what do you think? Should we keep it there? Should we remove it from amendment consideration? Your thoughts would be very much welcomed on that.

Then just one final note is the miscellaneous clean up on the Subdivision Code, the authority of the Commission and the voting. I'm just making your voting description consistent with the zoning provisions and also the Municipal Code. It's worded really awkwardly in the Subdivision Code so I'm just making it consistent so there's really no change there. And that concludes my presentation, Mr. Chairman. I'd be happy to entertain any questions you might have.

Crane: Thank you, Mr. Banegas, and let me speak on behalf of the Commission and say you've done an immense amount of extremely detailed work here for which I admire tremendously and congratulate you and your staff for having lasted through it.

Banegas: Thank you.

Crane: So at this point you would like whatever comments we have, correct? Mr. Scholz.

Scholz: Just two quick: one I would hesitate to bog down the Infill process...

Banegas: Okay.

Scholz: ... because I really feel like we should work on that; that is, we should make that as streamlined as possible. We do give notice don't we?

Banegas: Yes, we do.

Scholz: So I think, you know, giving a regular notice, I think, would be sufficient, at least that's my opinion, because I'd like to see those properties used. You know, when I drive around neighborhoods and I see these empty lots in otherwise built up neighborhoods I say to myself, "That's a real shame, you know. Why isn't that land being developed?" I think we have, you know, several groups like Habitat and things like that that are anxious to utilize places like this and so I think we have people who are willing to do, you know, good work on those plats. I do recall an instance, oh probably four or five years ago, where somebody wanted to build townhouses or apartments and that's the one you're referring to.

Banegas: Yes.

Scholz: Yeah. That was in a neighborhood south of Lohman as I recall.

Banegas: That's correct.

Scholz: And they had like quarter acre lots in those days and, you know, I think we resolved it by having the developer meet with the people...

Banegas: Correct.

Scholz: ... and eventually he reduced the size of the development and I think it was compatible.

Banegas: Correct.

Scholz: But I like the idea of infill. I think it's, you know, a critical thing. My other comment is an interesting typo I discovered as I was scanning through this. It's on page four of the Administration of the Zoning Code, under item two, Neighborhood Group Notice Meeting, and it says "...And the general nature of the conversation that tool place". It should be "took place".

Banegas: Took. Yes.

Scholz: And that's something that spell check won't catch, I know.

Banegas: Okay. I got it.

Scholz: Other than that I agree with Chair Crane. You did a great job on this. This is a good update.

Banegas: Thank you.

Scholz: And I think it will ... I think, in a sense it will encourage people to comment on it, which is what we'd like.

Banegas: Yes.

Scholz: In another way, I think, it'll also alleviate some of the problems that we've had.

Banegas: Thank you.

Crane: Mr. Shipley.

Shipley: Mr. Banegas, I thought it was a very very good job as well. On the Citizen

Notification Policy Manual, as I was going through that I had a question about page eight, there is a... about the sixth or seventh line down it says "Long term staff should strive to have the page graphically oriented and be more interactive for the user and."

Banegas: Oops.

Shipley: So I don't know what the thought was, whether that was period in the wrong place and the "and" should go away or whatever. Further down on that same page in the next paragraph, about half way down it says "the item will be left on the page for no longer than one month".

Crane: Excuse me, Mr. Shipley, which page are you on?

Shipley: Page eight.

Crane: Eight. Thank you.

Shipley: Of this.

Crane: Yep.

Shipley: The Citizen Notification Policy Manual. And it says, it's talking about the items left on there for one month so that, "... to view past actions, so that the page primarily reflects current activities while providing a small window on which to view past actions." I kind of thought that probably should be two months and the reason I say that is that that's kind of the history and if somebody didn't get a chance to participate or attend a meeting or whatever, one month is generally not long enough for ... so that they can have a chance to at least understand what happened, what goes on.

Banegas: Okay.

Shipley: You know it's there ... you say it's there four weeks and then it's gone. That's really just a blip on the screen.

Banegas: Okay.

Shipley: I wanted to also say that I think the idea of using Facebook and CLC TV are very, very good ideas. I think we need to become technologically savvy and use every media that we can and again, I think, that was ... I said the two-month's activity was there. I really like the way you consolidated. I thought the four by four signs; that's absolutely fantastic because the signs that we have now get blown away too quickly and they're too small and too many people don't even notice them. Four by four signs will work very well. That's a great ... I just want to say, as Mr.

Scholz said, it is a very very good package.

Banegas: Thank you.

Shipley: I like the 21 days because of mail but if you're going to first class mail people will get the mail and open it sooner than they would be going to get a registered letter.

Banegas: Yes.

Shipley: So I think that 15 days is okay.

Banegas: Okay.

Shipley: But thank you very much for your hard work and your staff's hard work.

Banegas: You're welcome.

Crane: Commissioner Beard.

Beard: I thought it was a very good presentation and I agree with your numbers. The certified mail was a problem with me, to tell you the truth. I got certified mail the day that I came here to listen to it and it was because of this round robin type of thing. I just didn't get it.

Banegas: Right.

Beard: So I like the first class mail to tell you the truth. The infield, infill I mean, I've seen where there's controversy quite a bit there and personally, I would like to be given a chance to hear it. If it's just put on the agenda ... well, if there's a proposal for an Infill and somebody complains about it, will it automatically be heard here?

Banegas: Mr. Chairman, Commissioner Beard, the infill development proposals will still come forward to this Body and there will still be notice, whether or not it takes the type of notice or the potential for early notification and/or neighborhood group meeting. That's kind of the issue at hand which could delay submittal and delay development of the infill parcel. But this body would still debate.

Beard: So we would see it regardless?

Banegas: Right.

Beard: And we would approve it also?

Banegas: That's correct.

Beard: Okay.

Banegas: The only caveat to that is if it's vacant land it's already zoned and they're merely looking to build something consistent with the zoning and they want to take advantage of the quick review of building permit submittal that does not come before this Body. But if they're looking to use a use or put a use on the property that's not allowed. It's considered a use variance. It's under the infill process that would come before you or if they're looking to subdivide land and take advantage of infill provisions that would also come before you.

Beard: Good. Good. I like that.

Banegas: Okay.

Crane: Commissioner Ferrary.

Ferrary: I also found this very interesting and helpful, Mr. Banegas, and as the new kid on the block, especially so. I also agree with, you know, doing the Facebook and, you know, having that so you can get more interaction than a website would be. I don't know if anyone's considered, you know, to Twitter or have, you know, if the City has, you know, something people can react to and we can get information also. Sometimes it's kind of dangerous, but a lot of fun too. But also on the signs, have you thought of instead of wood posts have you thought of steel posts? Easier to get in and out of the ground.

Banegas: Mr. Chairman, Commissioner Ferrary, the steel posts that we, I call them T-posts. They're kind of those ... ranchers use them to some extent. They're the green metal posts and they have a heavy-duty version and they have a lighter duty version. It's the lighter duty that I think will be just fine for purposes of posting signs here.

Ferrary: And then just Zip Ties to the back.

Banegas: Correct, absolutely. Punch holes in the corrugated plastic, Zip Tie them, and "Bob's your uncle."

Ferrary: Real easy.

Banegas: Yeah.

Ferrary: Thank you.

Crane: Commissioner Beard.

Beard: The signs bring up another question to me, too. If a contractor is doing everything by the Code but somebody complains about what they're going to put on there, such as the building's going to be higher than the next door neighbor wants it, so that is going to be heard? Is the contractor still required to put that sign out for that particular protest?

Banegas: No. Mr. Chairman, Commissioner Beard. I'm assuming, based on your description of the framing of the question, you're talking about just a building permit that would be applied for on this whatever parcel you're talking about. If that is the case there would be no need... People will come to the pre-app meetings for all sorts of reasons and we have had individuals come and say, "You know, what are my setbacks? I'm looking to build a house or something," and if it's consistent with the zoning and it meets all the development requirements for that zone, height, setbacks, etc, they can submit their permit and get it reviewed and if it passes muster then they get their permit and they can build. They don't have to post signs. They don't have to come before this Body. It's an administrative function. If they are doing something under the infill proposal and the use is different than what the zone would allow and they're looking to build something, that would come before this Body for consideration and, you know, building height might be an issue discussed. But if it's consistent with the zoning district and they're not exceeding that, you know, there's not a whole lot of basis for denial on my opinion.

Beard: Thank you for clarifying that.

Crane: I have a number of points and let me make sure I understand this infill business: in the interests of a smooth, streamlined procedure for handling infill development you are proposing that these new notification terms not apply to that. Am I understanding you correctly?

Banegas: Mr. Chairman, as presently written in your packets it is included as part of the amendment so it would be subject to potential early notice requirements, potential neighborhood group meetings, before submittal. So it is being considered but I raise the question of whether or not that should remain. You know should we remove it from consideration.

Crane: I appreciate the idea, speaking personally, of streamlining that process but I don't know what is so distinctly different from infill versus other kinds of development. That means the infill process should not be subject to the same review and notification. I feel that the public may get used to the idea that there is this new, more uniform notification process and miss the fact that if we pull infill from it that is not covered and then there'll be an outcry that people did not get the notification they expected. So I feel it

might be safer to include it.

Banegas: Okay.

Crane: Another point I have is that the Citizen Notification Policy Manual is internal for the Community Development Department.

Banegas: Mr. Chairman, that will be an internal policy manual that we will follow as Community Development staff but we do anticipate taking that forward for City Council approval via resolution.

Crane: Well, I have a number of picky little points to make which I'm not going to bore you or the Commission with. I wonder how I should get them across to you economically. I was hoping you would say this was entirely an internal document and therefore I shouldn't worry. I'm talking about commas and stuff like that.

Banegas: If you'd like, Mr. Chairman, you can just provide me those changes and I'll be happy to ...

Crane: I'll mark it up and send it to you. There's nothing substantive. Okay.

Banegas: Okay.

Crane: And then the public document, Section 38 and Section 37; I think it was Section 37, Subdivision Code. I had a point which may be the same one as, I think it was Commissioner Shipley raised, yes, "tool." So page 25. And in regard to fixes, I noticed that as you pointed out there's a great deal of boilerplate in here which is transferred almost verbatim between, I think, in some cases ... in one of your two documents five or six different places. So if I happen to notice something some place, maybe your staff could go back and look at the others. Okay.

Banegas: Yes.

Crane: Section 38, Article II, Administration of Zoning Code, page II-III, I'd love to see a comma in line five at the top, "but not be limited to, the following", and a hyphen in paragraph B, three lines from the bottom, post (hyphen) meeting. I tripped over that and had to go back and re-read it, realize what you said, what you intended. I know it's small but it is our City Code.

Banegas: Right.

Crane: And V, page 163, what was my point here? Oh, yes, we have "minotes" instead of "minutes" and that cannot stand.

Banegas: Yes.

Crane: So I was as picky as I could be and found very little fault which grieves me but shortens the meeting. Any other Commissioners have any points for Mr. Banegas or questions? So, sir, what do you require of us tonight?

Banegas: The purpose was just to apprise you of these, kind of the history and these two proposals coming forward in April at your regular meeting for recommendation to City Council, approval recommendation hopefully.

Crane: April, not this coming week.

Banegas: That's correct, April.

Crane: Okay. Thank you. Any further comment gentlemen and lady? Thank you, Mr. Banegas.

IV. ADJOURNMENT (7:15 PM)

Banegas: You're welcome.

Crane: We stand adjourned at 7:15.

Banegas: Thank you.

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Chairperson

City of Las Cruces

Community Development
Interoffice Memorandum

To: Robert Garza, City Manager

From: Vincent M. Banegas, Community Development Deputy Director

Subject: City Council Work Session – Public Notification

Date: September 14, 2012 M-12-219

Pursuant to the upcoming September 24th City Council Work Session, I have taken the liberty of preparing and providing various documents intended for Council distribution that will aide in the discussion of public notification. The first document that is included is called the Public Notification and Participation Report and Analysis of Options for a More Informed Community. This report was prepared at the direction of Brian Denmark, Assistant City Manager/COO and examines a multitude of public notification options that could be considered by all departments within the City organization. The format may be considered as a menu from which departments may pick and choose notification options that may serve their departments well in context to their operation and mission. The Staff Recommendation section of the report actually encourages each department to consider enhancing existing notification processes using the options presented. Each option is discussed in context of possible notification use with many of the activities the City carries out with regard to meetings, projects, development review, etc. In addition, most options are also scrutinized in context to cost and other resource related factors in order to help determine viable use with internal administrative operations. Please note that the emphasis of the report is public notification although reference is made to participation/involvement and as such has as an attachment titled Public Involvement Plan and Toolkit which was created during the Picturing El Paseo project completed over one year ago. Inasmuch as the toolkit addresses participation/involvement, staff's current effort, along with the presentation that is forthcoming, emphasizes notification and more particularly, Community Development notification processes.

To that end, the second document that is attached is entitled Citizen Notification Policy Manual for the City of Las Cruces, Community Development Department. This report is in draft form and represents the Community Development Department's proposed notification process for planning projects, meetings and development review submittals (annexations, subdivisions, zoning, variances, etc.). This report and the options presented therein will be the focus of the presentation on the 24th. As proposed, there

is substantial modification to what presently exists and the addition of new processes that hopefully enhance our ability to reach a much broader community in context to our mission. This policy manual is intended to be brought back for adoption via resolution at a later date should its contents be acceptable. If and when approved, staff anticipates bringing forward along with the resolution, ordinance amendments that implement the policies identified within the draft manual.

The third document is the existing Identified Neighborhood Association Information and Notification Policy. It is presented as reference in context to notification provisions associated specifically with registered neighborhood associations. This policy is being referenced in the department's policy as a process that will continue with modification which will be explained at the work session.

With this, staff awaits the opportunity to present relevant information to the City Council at the stated work session. In the interim, should there be any issue you feel needs particular attention, please advise.

cc: Brian Denmark, Assistant City Manager/COO
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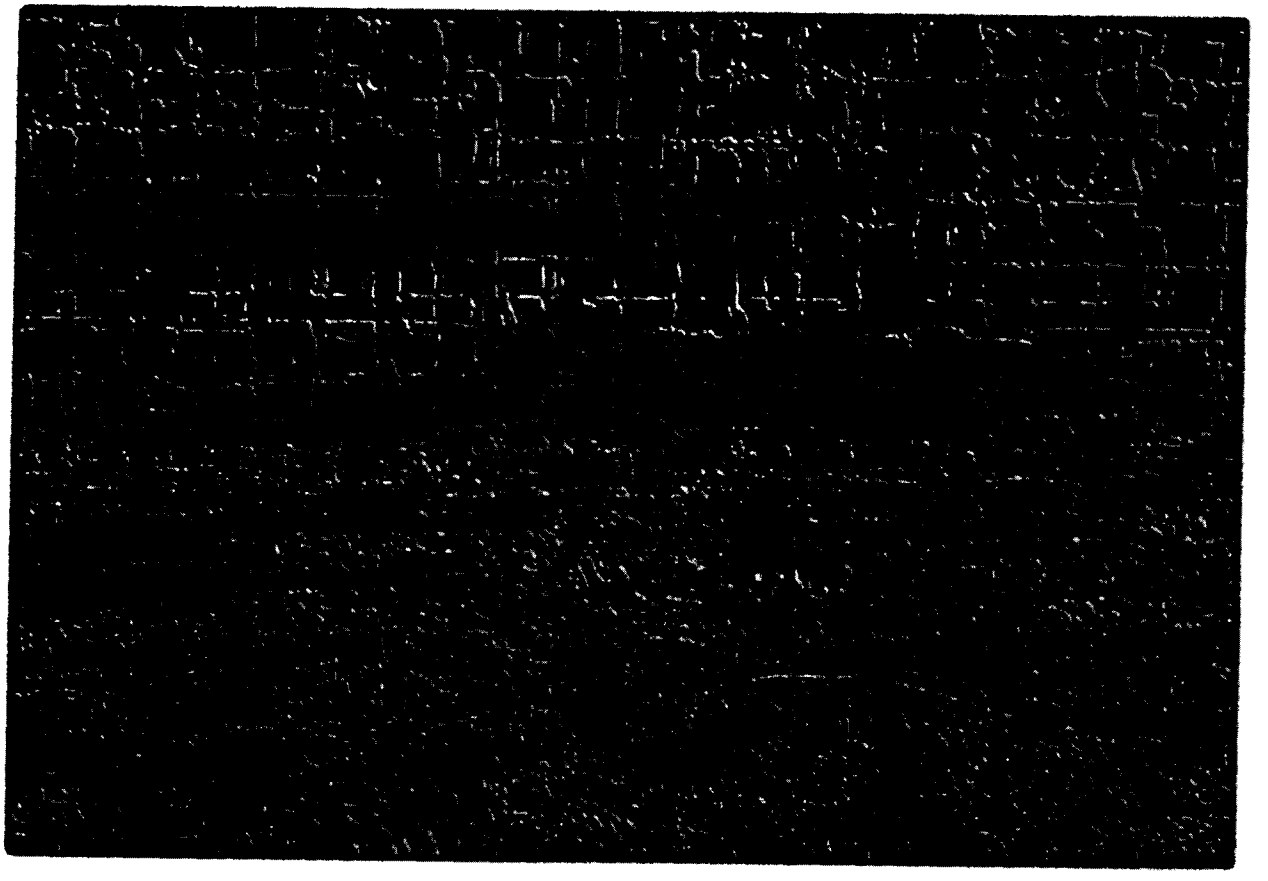
Public Notification and Participation Report and Analysis of Options for a More Informed Community



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June 26, 2012

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Purpose

This report is intended to examine and analyze the various issues, methodologies and strategies regarding public notification and resulting participation that are in play within the existing City organizational structure and also within other agencies across the region. Ultimately, this effort will focus on the production of a set of "best practices" geared toward efficiently and effectively notifying, and as a result, soliciting participation and input from the general public regarding affairs of municipal government. Such an effort promises to achieve a more informed community on matters that span the spectrum of City sponsored activities often focused on general informational meetings, land use planning, proposed development, infrastructure improvements, and community-wide activities/events that ultimately create some degree of impact on City residents. The outcome of this effort and ultimate implementation of recommended practices is intended to be used by the City organization as a whole and not solely one or two individual departments.

Background

For several years, the City of Las Cruces has actively sought the distribution of information to its residents in hopes of obtaining their input and insight into various municipal activities believed to have some impact and/or benefit to the community. In fact, it is not only the position of this City to engage its citizenry, but also one shared by other communities and State and Federal levels of government. Since the City derives much of its authority from enabling legislation through the State of New Mexico, so to must the City at minimum, follow and regulate notification procedures in accordance to those provided via State Statutes. These standards for the notification of the community are the minimum standards that municipalities must meet or exceed.

It is important to note the manner of notification that State Law mandates of municipalities. Table 1 illustrates these standards presently in place for the processes/activities listed. Where the table identifies "None", the State Statutes are silent as to the requirements that apply to the stated action. Other processes/activities like holding a general public information meeting not rising to the level of requiring a quorum of appointed board, commission or council members, establishing law or policy, or otherwise carrying out official governmental action or business other than to inform and solicit input from citizens were not identified within the statutes and thus, do not have any specific notice requirements. As a result these activities are not recognized in Table 1, but are still discussed as part of this report.

From a development code perspective, notification procedures have been used albeit not in the same manner or fashion as they are presently applied since the adoption of the 1930 Las Cruces Zoning Code. At that time, newspaper notification and compliance with *Section 5 of Chapter 27 of the New Mexico Session Laws of 1927* governed all related proceedings. In fact, in consideration of previous codes, the same provisions in use today are quite similar to those in use since adoption of the 1969 Las Cruces Zoning Code; the code that regulated all things development at that time.

Standards used as of the writing of this report, have been the very same processes in use since the adoption of the 1981 Las Cruces Zoning Code, as amended, the 1991 Las Cruces Subdivision Code, as amended, and adoption of the 1989 Extra-Territorial Subdivision Code, as amended. Since adoption of these codes, discussions have ensued over possible modifications to notification efforts, but to date, no amendment to these standards have been made. It should be noted however, that some notification experimentation has taken place. Circumstances surrounding these attempts will be discussed later. Table 1 also identifies the standards in use by the City today. These standards exceed those minimum requirements established by State Statute in almost every area State Statutes speak to and as evidenced by Table 1, address other activities that typically involve public participation and input. In every case, the standards established by the Open Meetings Act are met through the applicable requirements.

Table 1: State and CLC Minimum Notification Standards Comparison

	Subdivision		Zoning		Variance		Plans		Code Amend.	
	Entity									
Action	State	CLC	State	CLC	State	CLC	State	CLC	State	CLC
Agenda Posting	Reasonable, defined by body	6 days prior to hearing	Reasonable, defined by body	6 days prior to hearing	Reasonable, defined by body	6 days prior to hearing	No reference	6 days prior to hearing	No reference	6 days prior to hearing
Mail Notification Timing	5 days prior to hearing	9 days prior to hearing	No reference	10 days prior to hearing	No reference	10 days prior to hearing	No reference	10 days prior to hearing	No reference	10 days prior to hearing
Mail Distance	No reference	200' excl. ROW; 300' NA	100' excluding ROW	200' excl. ROW; 300' NA	No reference	200' excl. ROW; 300' NA	No reference	200' excl. ROW for Neigh. Plan; None for comp. plan	No reference	No reference
Mailed Parties	Applicant = Owner of Sub.	Property Owners W/I dist.; NA	Property owners W/I distance	Property Owners W/I dist.; NA	No reference	Property Owners W/I dist.; NA	No reference	Property Owners W/I dist.; NA	No reference	No reference
Newspaper Publication	No reference	9 days prior to hearing	15 days prior to hearing	15 days prior to hearing	No reference	15 days prior to hearing	15 days prior to hearing	15 days prior to hearing	2 weeks publication of title	15 days prior to P&Z. City Clerk process CC.
Sign Posting	No reference	9 days prior to hearing	No reference	10 days prior to hearing	No reference	10 days prior to hearing	No reference	10 days prior to hearing	No reference	No reference
Sign Size	No reference	No reference; Use 18"X24"	No reference	No reference; Use 18"X24"	No reference	No reference; Use 18"X24"	No reference	No reference	No reference	No reference
Sign Location	No reference	Conspicuous locations	No reference	Conspicuous locations	No reference	Conspicuous locations	No reference	No reference	No reference	No reference
Other/Misc.	Regular mail	1st Class	1 block or certified mail; > 1 block 1st class mail	Min. 15 unique property owners; 1st class P&Z, cert. CC	No reference	Min. 15 unique property owners; 1st class P&Z, cert. CC	Refers to Comp. Plan creation	1st class P&Z, cert. CC	Actions that do not amend zoning map	Assumes general code amendment

Other types of activities not identified on these tables such as Councilor held District meetings, general informational meetings, and issue specific meetings wherein information is either collected or distributed by elected official or City staff yet where no official action or decision will be generated have no set State mandated criteria to follow. These activities tend to utilize a variety of differing notification strategies singularly or in tandem such as newspaper ads, first class mailings, postcard mailings, radio spots such as those announced for community events, email distribution, utility bill insert/mailer, neighborhood association notification, door to door flyer placement as well as others.

In that no single notification method is an absolute guarantee of "getting the word out," over the past several years, the City, mainly through its Community Development Department has attempted to test other means of notification as an opportunity to not only solicit comment from a broader cross section of persons, but to also generate greater participation in projects and programs. Staff has sought out notification options that are different from the normal processes and through that message, communicate and demonstrate to the public that participation is a large part of what staff may need to better understand project approach, key issues and obtain general consensus of related issues both large and small.

The following examples demonstrate new methodologies used in the notification of various stakeholders. Each attempt, while beginning with the initial "casting of the notification net" to inform the stakeholder, also focused on techniques to engage said stakeholders while in attendance at the specific venue. In this regard, please understand that the engagement techniques although important to planning processes, exceed the scope and purpose of this report.

In September, 2008, the Las Cruces Metropolitan Planning Organization formally adopted policy provisions of public participation strategies that were in use for many years. As mandated by Federal Transportation Regulations, MPO's serving regions with a population of 50,000 or greater are required to adopt a planning process that considers projects beneficial to the furtherance of sound transportation practices. As part of that effort, adoption of a formal public participation process was completed. Therein, the MPO establishes not only the planning process for much of its scope of work, but also the means or tools by which the community notification and engagement will take place. For example, the plan discusses the use of press releases to print, radio and television related media sources, website utilization, an e-newsletter and master mailing list to name a few. These techniques although not always 100% successful in reaching the MPO stakeholders, have proven to at minimum reach a broad cross section of interested parties in an attempt to solicit input on the issues at hand.

Another example involves the significant update and amendment of the University Avenue Corridor Plan and its companion University Avenue Corridor Plan Overlay District. During this effort, first class and certified mail notification, radio spots, flyers, comment boxes, informal discussions with focus groups at area businesses, open houses and "meet and greets" at area businesses were used not only for notification of related stakeholders, but also the advertisement of the project by word of mouth from one interested stakeholder to another.

Finally, a third example involves the recently completed Picturing El Paseo project wherein staff through the United States Environmental Protection Agency's Smart Growth Implementation Assistance program partnered with the United States Environmental Protection Agency, United States Department of Housing and Urban Development, the United States Department of Transportation and a host of local businesses and community based groups and the general public to seek out ways to solicit and engage the public in a planning/visioning process for the El Paseo Corridor. In particular, the effort focused on the inclusion of those groups that historically have been underrepresented and/or otherwise might have felt disenfranchised in past planning efforts. As such, substantial efforts were undertaken to notify and solicit public participation on development of a vision for the El Paseo Corridor ranging from traditional methods (e.g., flyers, posters, surveys, websites, or radio spots) to the contemporary use of social media such as Facebook. Once notified, an equally broad-based approach to engaging the general public ensued to foster trust and buy-in to the planning process. As a result of this project, a "toolkit" for public participation was created with each "tool" identified and discussed in a report entitled *"Public Involvement Plan and Toolkit for Las Cruces,"* a document prepared by EPA staff and consulting staff with considerable input by Community Development staff. This report although not the focus of the issue at hand can be found in Appendix 1.

As illustrated, efforts in the past and present regarding public notification have varied and have in large part been robust in application. As previously indicated, no one method or combined use of various methods can guarantee 100% notification of the target stakeholder. Ultimately, a determination as to the best public notification approach has to be made using a pragmatic application of available options. As such, it is the intent of this report to identify techniques used in the past and present along with emerging trends that can be considered for future notification efforts that are well suited for the variety of issues that require public notification.

After review of the strategies in place today along with consideration of those tested, a comparative review of surrounding communities both large and small was done in March, 2012. The idea behind this comparison was to glean a possible "best practices" model by which to gauge changes to the local notification efforts. A total of seven communities in New Mexico, Arizona, Colorado and California were examined with much of the data obtained speaking to the respective development processes those communities practiced. In summary, the review seems to reveal that although there are some differences in terms of how notification is handled when compared to our measures, there are far more similarities to what we have in place. *This seems to imply that "best practices" at least with notification is what works best for a given community.*

Research showed for instance that notification time frames were often streamlined to reflect one time frame regardless of case type resulting in less confusion for staff and citizen alike. This differs a bit from what is used here in Las Cruces due to our processes having various time frames being imposed depending on the type of case and the method of notification. Also, neighborhood association and/or neighborhood meetings in the absence of an association were often called for early in the application submittal process as a requirement. Here in Las Cruces, we have a policy that has the City notify any applicable neighborhood associations when a development proposal is within association boundaries or within 300 feet of said boundaries. It is the responsibility of the planner handling an applicable case to check for neighborhood associations that may fall within the distance thresholds. The policy also calls for the applicant to give notice via certified letters to association representatives within five days of submitting an application to the City of the intent to develop and to provide detailed information of said development plans. Development as defined by the policy is a submittal package for a zone change, variance, special use permit, master plan, preliminary plat, or annexation. Other nuances gleaned from the research show at least one community providing notice at various times throughout the review/approval process as deemed applicable by the planning manager. Additionally, distance thresholds for notification by that same community are varied and are also determined by the manager based on the merits and or assumed impacts of a given proposal. Thereafter, most of the requirements the communities used fall in line with what Las Cruces presently follows.

Current Issues

At the present time, the City maintains a policy of transparency regarding the many issues it must address on behalf of the citizens of Las Cruces. To accomplish this, the City continues to investigate ways to better inform and/or solicit input in order to make an informed decision. From time to time, some of the issues are contentious and elicit a variety of emotions and input regarding the topic at hand. It is the general feeling and attitude of the public, elected officials and administration that due to these realities, some of the current notification practices are insufficient at notifying the affected stakeholder. As a result, the City has been asked to investigate and implement as applicable, better notification practices to ensure that no stakeholder with significant investment on a given issue is left out of the discussion. This section will examine some of the realities that have to be considered when modifying notification policy. At times it becomes easy to suggest a new approach to notification, but upon further analysis of logistical realities such as operational impacts, it appears that some ideas might be better left for special circumstances as opposed to a matter of general practice.

Cost of Doing Business vs. Assessed Fees. Ideally, the practice and standards in place for notification of the public regarding a great many public processes undertaken by the City are funded in part by applicable fees associated with a requested activity. As an example, when a property owner wishes to convert the zoning of owned land, by regulation, consideration of the request must take on a staff and public review process which has inherent steps and notification measures built in. These processes and steps are in part covered by the fees assessed for the type of request submitted, but are also subsidized by tax-payer dollars. As such, efforts are made to inform the public in a number of ways, each having associated costs. In that these fees are subsidized with general fund monies from City coffers, standard practice dictates utilization of more economical and as a general rule, accepted methods of notification versus approaches that are expensive and suspect in terms of success. It should be mentioned yet again that the last fee increase for a great many of the processes that at least impact Community Development (CD) type activities took place in 2000 with the exception of sign fees being last updated in 1990. In 2006 CD staff analyzed all development fees excepting building permit related fees and proposed various increases based on a more assertive cost recovery model with less subsidy. At that time, staff was asked to continue monitoring the issue, but to not effect fee increases promulgated by the study. The present fees in place are those referenced in the 2006 presentation and are actually those fees established in 2000. Further analysis of notification costs will be undertaken in the Options and Analysis section of this report.

Notification Expectation/Perception. The perception variable of who should and should not receive official notice is one that City staff frequently battles particularly when addressing contentious issues. Again, following established codified notification requirements, staff is invariably presented with questions or concerns over why one neighbor was notified about a case while another neighbor sometimes immediately adjacent to the first was not. In many of these instances, the notification boundaries established simply do not extend far enough to include the second neighbor even though the property may very well be immediately adjacent to the one that received notice. Often, in instances such as these, the general public overlooks the fact that other notification methods are also used such as newspaper notices that in essence provide notice to all City residents, agendas being posted in public locations such as City Hall, and website information (more on this presented later in this report), etc. Staff recognizes that not all citizens receive the newspaper, have a computer and internet capabilities or visit City Hall often enough to catch notice of an upcoming meeting, but the reality is those methods are also used and put into play because no one method has proven 100% effective in notifying affected stakeholders on any given issue. The very nature of required certified mail notification to property owners itself has been shown to be very problematic. In many instances, letters get returned through the post office as undeliverable and/or unclaimed. Such is the nature of certified mail and since the costs for this method are great, the usefulness is often drawn into question.

Resources. Staff and monetary availability for the conduct of notification is also a very real barrier at times. Related to cost of doing business and revenues available to conduct said business, assigned resources are often spread thin for all assigned work. Some of the new innovations or ideas that are labor intensive in nature become really impacted by staff resources. In a recent work session discussion on notification strategies (March 26, 2012), the distribution of flyers (door to door) option was identified as potential enhancement of current notification procedures. What wasn't said; however, was that short of volunteer efforts or payment for services rendered, Community Development staff would be selected to distribute flyers in this manner which then raises a question of whether that effort is truly an effective use of time and money (salaries and benefits) for the staff conducting the work. If the payment for services option is used, current fee assessment in no way considers this cost which then raises the issue of potential fee increases to cover operations. Volunteer efforts could be considered and as a point of fact have been in the past (once - early 1990s) when a group of Boy Scouts offered to deliver re-addressing flyers in the east mesa area. After the first day, one of the scouts was bit by a dog and resulted in the cancellation of their volunteer effort.

Safety and Liability. As important as the need to notify and be inclusive, so to must each option weigh the importance of safety and potential liability exposure. Under the previous paragraph, the door to door option unveiled a very real safety and liability concern. That example did not impact a City staff person directly, but could have if City personnel were used in the conduct of this activity. If not an animal causing concern, there have been many instances when City staffs, acting under their dutiful authority, have been aggressively approached by a citizen questioning the purpose for their presence. Sometimes this approach is assertive in nature and sometimes truly aggressive. Point is there are City positions that can more readily take on that role of asserting their presence and the reason for it (e.g. Code Enforcement Officers, Police Officers, Fire Fighters) while those such as Community Development staff, short of a City issued I.D. card and verbal communication, have little else to assert the validity of their presence. Another example speaks to potential placement of much larger property notification signs (signs currently used for notification of a zoning case, variance, etc. on a subject property). Presently, staff erects these signs on the subject property when application of a development action is made. These signs although designed to draw attention are relatively small to allow ease of placement on the given property. If a much larger sign is considered, installation techniques will have to be changed which may be more of a work hazard to the staff person installing the sign, but also opens up liability issues should placement of the sign cause damage to property such as sprinkler/drip systems buried underground.

Variability. As indicated earlier, notification processes are carried out for many different reasons to alert citizens about a variety of issues. This report highlights activities to a large extent carried out by the Community Development Department, but in truth, several other departments also conduct meetings with members of the general public. As such, these departments must conduct some form of notification as well in order to adequately inform and create successful dialogue with the public. Sometimes the purpose of meetings are directed to known stakeholders that are easily contacted resulting in successful notification while others take on a broad spectrum of stakeholders where direct contact is less manageable requiring other notification options in order to cast a broader notification net. It is for this reason that the options ultimately approved for use as a matter of practice remain flexible and variable depending on the issue and or general circumstances involved. There cannot be a one size fits all approach to notification because doing so may result in a process that far exceeds its goal and becomes inefficient in practice.

Options and Analysis

In order to aid in determining the most suitable approach to conduct notification efforts, this report seeks to identify the most realistic options available and to glean relevant information to aid in the determination of which options might be considered appropriate for use and the circumstances for said use. Information presented will talk to Community Development activities at minimum and will go beyond to those tasks conducted elsewhere in the City when applicable. The data presented will be actual values derived from case files/reports, source information when third party efforts are involved and/or provided by those who are familiar with the respective processes. Where applicable, ideas on how to adjust the stated methods will be presented to improve upon the method identified.

Traditional/Conventional Methods

Mailings – This process is required pursuant to State Law under specific circumstances. The City ordinances also speak to this method and exceeds the time thresholds established by law. If measures are to change, they must be amended within the appropriate sections of the Municipal Code to coincide with revised standards. The average number of letters mailed out varies considerably based on communication purpose and related issues. For case handling within Community Development, the variation is directly related to the type of case and case location. For instance in the core part of the City, the parcels are typically more densely arranged resulting in more letters that are required to meet code. Locations outside this area and particularly on the fringe of the City have larger lots and thus, require less mail-out. However, for purposes of this exercise, the average size mail-out being considered is 25 letters.

Certified Mailings. This mail out method is required pursuant to State and Local law as specified in codified provisions. Cost of certified mailings up to 1 ounce in weight (typical notification letter) currently costs $5.75 per letter (return certified receipt). Other online options for preparing and tracking certified mailouts appear cheaper by $0.80 per letter, but when adding the United States Postal Service approved certified envelope to coincide with the online printing format, the costs actually increase by as much as $0.75 per envelope bringing the cost upwards of $6.50 per certified letter. Using the case average of 25 letters, the average notification costs involving certified mail-outs is $153.75 (includes envelope cost of $0.40 each).

Potential Adjustment. In that certified mailings have been problematic with property owners due to USPS delivery parameters and the need to pick up the letter from the post office when delivery was attempted and not successful (property owner not available for signature), the City may opt to more closely follow State Law minimum requirements and only carryout certified mailings for zoning related cases and even then, only send certified letters when zoning of property is one block or less in size. Certified letters would be distributed to the subject property and to the properties within the first 100 feet (state law minimum) of the City's prescribed 200 foot notification boundary; excluding right-of-way. Anything rezoned above the one block size would all be sent notification letters via first class mailing consistent with State law. Amendment to City regulations will be required should this be considered an acceptable approach. As an alternative, local codes and State Statute merely indicate the use of certified mailing when necessary, but do not require signed return paper receipts as has been standard practice for years. As such, opting for electronic email receipts in lieu of paper receipts saves $1.20 for each letter bringing costs per letter to $4.95. A certificate of mailing option is available through the post office, but based on website information, is NOT considered as a form of certified mailing. If it were, costs would equal the email receipt option.

Table 2. Mailing Cost Comparisons

	1st Class	*Certified w/printed return receipt*	*Certified w/email receipt*	*Certificate of Mailing*
Service Charge	-	$2.95	$2.95	$2.95
Postage	$0.45	$0.45	$0.45	$0.45
Printed return receipt	-	$2.35	-	-
Email receipt	-	-	$1.15	-
Certificate of Mailing	-	-	-	$1.15
Envelope Standard	$0.40	$0.40	$0.40	$0.40
Sub-total per letter	$0.85	$6.15	$4.95	$4.95
Total cost for average 25 letter mailing	**$21.25**	**$153.75**	**$123.75**	**$123.75***

*Note: May not meet certified mailing definition pursuant to State Law.

First Class Mailings. With Community Development case handling involving subdivision, and any other process that requires recommendation from a subordinate body to City Council, first class mailing announcing that body's hearing or meeting is required. Currently the cost for up to a 1 ounce letter is $0.45. Assuming the case average of 25 letters, total subordinate hearing mailing costs are $11.65 (includes envelope costs of $0.40 each). Beyond those activities conducted by Community Development, first class mailing is not a requirement for notification of affected property owners but is often recommended. In instances where notification is prudent, first class letters should continue to be used as the method of choice for notification. Any board or committee that has criteria for "reasonable notice" calling for certified letter notification should modify said criteria to use first class mailings unless state law prohibits this action.

Potential Adjustment. See Certified Mailings discussion for any modification to existing practice. Also, examine reasonable notice provisions with all boards and committees and modify letter notification requirements to coincide with a first class mailing option.

Newspaper ads, Legal Section – Presently both State (dependent on process) and local ordinance require posting of meeting and case related information in "a newspaper of general circulation" prior to the public hearing where said case will be heard. The two local newspapers where posting may occur include the Las Cruces Sun News and the Las Cruces Bulletin. Although the Bulletin has been used in the past as an alternative, the Sun News has the most readership and circulation numbers particularly on Sunday editions where numbers jump considerably. Additionally, the Bulletin is a weekly paper whereas the Sun News is a daily paper offering better opportunities to meet posting requirements and reach out to the largest group for notification purposes. Cost associated with an "average" ad regarding a Planning and Zoning Commission meeting listing the respective cases slated for consideration is $144.00. Obviously fluctuations exist on a monthly basis, but generally speaking this average exists for this specific body. Other subordinate boards also require ads to be posted and costs for those postings is likely to be very similar in that similar requirements to meet New Mexico Open Meetings Act standards apply to all committees, boards, commissions, etc.

Potential Adjustment. None is recommended. That said, in the past, various citizens at least from the Community Development perspective have advised of the need to post a "regular" ad in the State/local section of the

newspaper rather than the legal section. The legal section has been used for decades in that the ad is a legal requirement and that this section of the newspaper is where said postings are placed and where citizens have gone to seeking information on municipal government meeting activities. Additionally, placing an ad elsewhere in the newspaper in a manner similar to the ads placed when the City seeks board members, etc. (2"X4" ad) are considerably more expensive. In fact, the amount for a weekday posting is approximately $255.00 and approximately $277.00 for weekend postings. Additionally, there is no incontrovertible proof that ads placed elsewhere in the paper receive more attention than those placed in the legal section.

Property Signs – For all cases presently heard by the Planning and Zoning Commission and/or the Extra-territorial Planning Commission, signs identifying the case and relaying relevant information about the upcoming meeting where the case will be heard are placed in the most suitable location on the property in question. These signs are printed on a material called "duraplast" which is in essence corrugated plastic (similar to corrugated cardboard) and measure 18" by 24". Much of the information contained on the sign stock is pre-printed requiring some to be hand-written indicating the specific case number and date of the respective meeting. For cost savings, the Community Development Department will often purchase signs in bulk from the same company for all case types handled. Generally, these signs cost $4.04 per sign. Depending on the size of the parcel being acted on and the number of frontages said parcel may have, two or more signs may be erected on the property in order to more adequately provide notice.

Potential Adjustment. As of the writing of this report, staff was unaware of any requirements by any other body calling for sign posting. In order to provide better communication to the general public, staff would recommend that all boards, commissions and committees that have an issue specific to a tract or parcel of land wherein said board, committee or commission will act on an issue potentially impacting surrounding properties, neighborhoods, etc., post signs in similar vein as what is done in Community Development. Said adjustment does not guarantee a higher degree of communication with the general public, but does serve as an added measure if none currently exists.

Neighborhood Association Notification/Mailing. As previously stated, a policy is in place for notification of registered neighborhood associations when development takes place. Three key performance aspects call for 1) the City to notify any applicable registered neighborhood associations when a development proposal is within association boundaries or within 300 feet of said boundaries; 2) the applicant to give notice via certified letters to association representatives within five days of submitting an application to the City of the intent to develop and to provide detailed information of said development plans; and 3) the neighborhood association to allow open membership to persons within prescribed boundaries, hold at least one meeting per year along with other operational parameters deemed to be fair and democratic in nature. For purposes of the policy, development as defined by the policy is a submittal package for a zone change, variance, special use permit, master plan, preliminary plat, or annexation.

Potential Adjustment. As earlier stipulated, some communities have codified the requirement regarding neighborhood association notification when pending development is imminent. The provision could call for proof of notification and proof of holding a meeting (assumes association contact only) to discuss the aspects of the request prior to scheduling the case before the first hearing body to which the case would otherwise be directed. Failure to provide the necessary proof to City staff would then cause the case to be postponed indefinitely until evidence can otherwise be presented. Amendments to an original submittal made by the applicant could cause additional notification and meetings with the association. It should be stipulated that notice to association bodies could be via first class mail or email to the top representatives of the group. It would then be their responsibility to notify their membership of any and all meetings with the applicant on the matter. As a point of reference regarding existing operations, staff routinely recommends notification of pending developments by the applicant to neighborhood associations, but has not codified authority to ensure this has taken place.

Contemporary Methods

Website Information. The City of Las Cruces has maintained its website for approximately 10 years having changed format and software once since its inception. For approximately four years under the previous format, the Community Development Department along with other City departments utilized the website to announce meetings, issues and various informational items that were a benefit to the community at large. The Community Development Department as an example, structured a few web pages for the sole purpose of announcing incoming development proposals submitted for further processing, consideration and approval. Said proposals were related to planning, subdivision, zoning, annexation and variance activities. As designed, a customer could in fact review the titles of all proposals, determine the date of submittal, review a synopsis of the development application, and finally track to an extent, the review process and status of said proposal. In that the posting of information was handled in-house, costs associated with the upkeep of said data was limited to staff salary and benefits per the amount of time taken each month to maintain the data. It is estimated that approximately $1,900 per year was spent maintaining this information on a monthly basis. This amount was derived by taking the Planning Technician Senior salary and benefits multiplying this amount by the approximate number of hours each month taken to update the information (approximately 6 hours), times 12 (number of months).

With the launch of the new City website, the old webpage format for posting of development information became incompatible. As such, efforts are presently underway to launch a similar development notification application in the new web environment. Staff has met with the Information Technology Department to determine how best to approach this transition. Staff has requested significant changes in how the information is displayed so that a more interactive and graphical query process and delivery of information can be achieved. Unfortunately, staff has been advised that there are limitations to requested improvements especially where the graphics are concerned at the present time. Staff hopes that in the near future, the new information can be posted and maintained so to provide the needed information to those that can gain access via the internet. Although initial costs to establish the new environment will be higher than the $1,900 due to the number of staff interacting on and engaging the development of the application through the new environment, ongoing maintenance is expected to remain virtually the same as before with perhaps slight increases per annum as salaries are adjusted. This option is a very useful tool for the dissemination of information however as stated, is limited to those

with internet access only. Those without, will see significantly less benefit, but can utilize one of the other options discussed and presented.

Potential Adjustment. Staff is in the process of creating a similar application as before within the new website environment. Staff will continue to pursue a more interactive and graphical approach to querying out case, plan or information items that are specific to geographic areas that might be of interest to citizens as opposed to City-wide issues. Doing so will allow neighborhoods and property owners/tenants an opportunity to see what issues are potentially taking place in their neighborhood. Should such an application come online with these features in mind, staff recommends that all departments maintain a similar setup in that they too have issues that are often applicable or of interest to neighborhoods and/or residents city-wide.

Listserv/Email Notification. The idea for a list service whereby users that have "opted in" for emails to be sent to their pre-defined email address informing them of issues has been in use for several years in the computing world. The idea is not too different from what is discussed in the Newsletter option that follows in context to the distribution aspects, but through the use of software specifically designed to host a listserv, the flexibility to create, provide and distribute information and allow subscribers a venue for interaction on a given topic is far more robust. L-Soft Corporation for example presently sells a product called LISTSERV and can be used in tandem with our existing website and is scalable to serve the City's existing and future needs. The product, based on initial review, is compatible with the City's existing computer environment and allows the management of all types of mailing lists, including email newsletters, announcement lists, discussion groups and email communities. Features within the product allow for the management of content posted on a given topic and include security features that prevent the software's use from becoming a threat to the City's network. Further research is pending on the ListServ option by the City's Information Technology Department and costs for implementation of this technology varies depending on software version purchased and number of seats needed. As such, prices may range from $500 to roughly $9,500. Assuming the upper price range considers far more licenses that the City may need, initial estimates place an anticipated price for purchase of the product at approximately $4,000.

Use of a simple email distribution list is a very basic alternative. Once again, those wishing to subscribe and receive development related information would merely have to supply a valid email address which could be housed on the network if multiple departments wished to use the source or could be housed by staff handling development matters. Once a proposal was submitted, those individuals could receive basic information about the proposal along with PDF scans of all related submittal documents. The application requires no additional software other than what is in use today, but would require maintenance of the email list when individuals modify contact information and/or otherwise opt out of the service.

Potential Adjustment. None. With exception of the basic email notification aspect, this is a new application that would come online if chosen as an acceptable and implementable option.

Newsletter. Newsletters have been used by various departments within the City organization for many years and for a variety of purposes. Three current examples involve the monthly Metropolitan Planning Organization's Intersections newsletter, the official City of Las Cruces quarterly newsletter, Community Connections and finally the City Manager's weekly newsletter to City Council. The purpose for each of these newsletters is to inform the community and Council of various organization and topic specific items that may be of interest to citizens, stakeholders and Councilors/staff alike, but are uniquely different in content and associated distribution. Intersections for example, is prepared by MPO staff, contains information about activities and issues involving the MPO region and transportation planning in general and is distributed to individuals and groups that have asked to be informed of all things MPO. Thus, recipients are those that have since been identified on an email list maintained by the MPO. Community Connections on the other hand, is a newsletter that is prepared by City staff, contains a variety of topics related to the City and the services it provides and is distributed to approximately 58,000 households in the Las Cruces community. The City Manager newsletter is very topic specific to the organization and is intended to keep the City Council informed on significant issues that are ongoing within the organization or that have come up in meetings. The newsletter although intended for Council, is distributed to City staff and various stakeholders that have asked to be included on the distribution email list maintained by staff.

From a distribution standpoint, Community Connections utilizes the most current mailing list obtained through the local United States Post Office based on carrier route address data. At a mailing cost of approximately $9,000 each quarter

(does not include production costs), Community Connections is by far one of, if not the most expensive newsletters the City distributes for the purposes of maintaining an informed community. In that other departments may have a need to distribute information in a similar manner; further examination of the distribution numbers and mailing costs may need to be examined. If for example, Community Development distributes a newsletter on all things planning, zoning, housing, and development, staff would have to determine whether distribution would be via an email list created and maintained in similar fashion as the MPO and City Manager newsletters or whether staff would try and isolate the distribution to areas directly affected by the issues, developments or topics discussed therein. In addition, staff would need to determine whether to send the information to property owners only (using Dona Ana County Assessor data) or to all residents within a notification area defined by staff. In either case, distribution would try to isolate a specific distance around a development proposal or area where a plan is being drafted, and could be distributed to either all residents via data sources recommended by the USPS such as Maponics (isolating to closest carrier route level) or again, property owners specifically. At roughly $0.16 a newsletter (based on Community Connection data) for postage, costs are within reason if property owner distribution will suffice. If resident notification is desired, a service like Maponics could provide deliverable address within a prescribed distance around a subject property, but will increase costs by $100 at minimum for each distribution list provided by the Maponics service. In that their service isolates a radially defined geographic area with a centroid defined by address, intersection, or other geographic marker, staff would have to manipulate the data to a degree in order to limit the distribution to those most likely impacted by a proposal without duplicating mailing list or service costs when multiple areas within a relatively small distance from one another are under development or planning consideration. Either way, each option would necessitate a budget increase to the postage budget line item to accommodate the anticipated monthly distribution of information pursuant to the development submittal process. Other than the costs represented in this option, it is very difficult to isolate an approximate overall cost per month for providing a notification newsletter using the resident notification approach. In terms of the newsletter preparation costs, that is entirely dependent on the amount of data and information shared based on the newsletter format that is ultimately created. To give some idea of costs however, the MPO newsletter takes one staff person four hours to generate. Admittedly, the newsletter is very basic in design and not very lengthy in content. If the salary and benefit schedule used for the website application is applied, approximate production costs for a newsletter is roughly $1,300 per year.

Potential Adjustment. None. This is a new application for various departments inclusive of Community Development (non-MPO) that would come online if chosen as an acceptable and implementable option. The purpose, focus and distribution timing of such an application dictates the level of complexity and amount of resources absorbed.

Social Media. As social media grows in popularity, so to do the opportunities for utilization of this venue for purposes of public notification. The two most popular social media applications in use today are Facebook and Twitter. The applications are entirely web based, but are accessible via desktop computers, notebook or laptop computers, tablets (e.g. iPad) and even smartphones. Several studies with one of the most recent being by www.onlinemba.com., show amazing use statistics for these top two popular applications which translates into a very strong possibility of successfully disseminating necessary information to a target audience. As with most things, each application has its drawbacks. Twitter for example might be used to tweet simple announcements of no more than 140 characters in length to persons in the community that have opted to follow a specific department or related activities; however, the message, due to the character limitations, may not allow an adequate amount of information to be posted about an issue or case submittal and there are no capabilities to post or attach pictures or graphics to the tweeted message which may help convey issue specific information.

Facebook on the other hand, has a 60,000 character length limit on what is called a status update (may be an announcement of pending developments submitted for review), and also allows the insertion of pictures or graphics that can demonstrate further what an issue involves. Individuals like with Twitter, may "friend" a department and in so doing, learn about projects or other information that the department intends to share such as development proposals. Facebook allows "friends" to share information and post comments about the posted message and as such, the application can in essence become a discussion forum of sorts wherein individuals with similar or divergent viewpoints can discuss the merits or faults of a specific issue. This in turn allows staff an opportunity to obtain a clearer picture of any and all concerns regarding the subject at hand. At least with Facebook, one potential drawback may involve the need to moderate the site regularly and eliminate comments that have inappropriate content. This effort becomes an issue that directly impacts cost of service in that staff would be assigned to the task and would have to monitor activity regularly. There is presently no data that staff is aware of that can translate this effort over any given time into costs associated with doing so.

In regards to social media, the City continues to study the issue surrounding its use thus, there are no specific guidelines to follow at this time. In addition to receiving permission to use such a method, staff would be learning in part what it takes to maintain such an outlet for municipal information.

Potential Adjustment. None. Although some limited applications have either been or are currently in use, this option is for all intents and purposes a new application that would come online if chosen as an acceptable and implementable form of communication.

Robo-Calls or Voice Broadcasting. Robo-calls so called due to the nature of the outgoing call to residents by a digitally recorded message played via automated means are considered by some to be a blessing and by others the bane of human existence. Robo-calls have received national attention to say the least in that this modern technology allows a pre-recorded message to be delivered and played to large numbers of potential listeners without consuming a large amount of resources. Politicians have used this technology as of late to solicit support during an election and sometimes to garner support for a position or view. Conceivably, this technology may be used by municipalities to disseminate information on issues, policies, cases or events that the City is dealing with or involved with. The applicability can be useful in almost all of what the City may deal with throughout any given year. At least from a Community Development perspective, meeting reminders could be sent to affected residents informing them generally of cases that may be of interest to them within the neighborhood in which they reside. The timing of the message is important in that if delivered too soon, the message may be forgotten. Too late, and there may not be enough time to arrange schedules in order to attend the intended meeting. Robo-calls like telephone polls or surveys are often viewed as a nuisance to the general public in that the message or call is made generally in the evening in hopes of catching the intended audience at home or away from work where the call can be received more appropriately. During this time however, citizens are usually home relaxing from the day's activities or having dinner with family and/or friends and thus, when the call comes through, the household activity is disrupted.

Agencies that coordinate and assist with robo-calling activities do exist and based on information obtained from one source, Dynamic Interactive, they have previously provided services for the City. The agent informed staff that the lowest geographic area for which phone numbers could be provided (assuming the City had no numbers to provide) was by zip code. This effort could be provided at no extra charge. Beyond that, cost for the service was stated to be $0.03 per call. Based on website information, there exists an opportunity to have calls reach live persons with the intended message, leave messages on answering machines/services, or a blended recipient approach whereby the message could be received either live or left on or with answering devices/services. Unless the City had phone number sources available for a smaller geographic area than zip code, a "message campaign" would be received by persons in a much larger area than what may be considered the "affected area" of an issue, plan or case. There may be opportunities for the manipulation of the City's customer database via Munis and ArcMap to isolate specific persons/properties for the purpose of obtaining a more limited number of recipients by which to launch a message campaign. The effort to do this with each campaign may require considerable staff resources and may be somewhat problematic if phone number record information is absent in the customer profile. Testing of the database to select out records by a smaller geographic area and to determine available phone information has NOT been completed. Until this is done, the extent of resources to carry out the task is unknown.

The message itself will have to include as staff understands it, an opt out action at the start of the message that allows citizens a chance to end the call and also request not to be placed on a similar call campaign again. This action would comply with the Telephone Consumer Protection Act of 1991 (TCPA). Similarly, Dynamic Interactive suggests the message also include an option for more information which if selected would automatically dial the number of staff persons that may be available to provide said information. This feature could prove problematic if the limited staff on hand to carry out that role were busy and/or there were not enough staff on hand familiar with the case(s) to provide the information. The logistics of robo-calling would definitely have to be carefully considered prior to launching this option by any City department.

Potential Adjustment. None. This is a new application that would come online if chosen as an acceptable and implementable option. It should be noted that the Do not Call Registry as staff understands it, has no impact on messages of public benefit such as what is being proposed herein. With the option to opt out and an option to obtain more information, any proposed City generated call campaign appears to be in keeping with Federal and State Law.

Nixle or CityWatch. Nixle Connect, the most widely used product in the Nixle arsenal is a community information service that allows public agencies the opportunity to distribute authenticated and authorized messages to the general public via email and/or text messaging. Recipients of these messages must subscribe to the Nixle service at no cost and may opt to receive the messages either in email or text form (controlled by the subscriber). This is helpful for users that have limited texting on their cell phone service plan. Message types allowed by Nixle vary, but those supported by and relevant to this report are typically deemed priority/alert or emergency messages, less important advisory messages (like a weather advisory), traffic messages, or community information messages (i.e. announcing public meetings or case submittals, etc.). The Police and Fire Departments currently use Nixle for emergency/priority related messaging and based on the Nixle representative, use of the service for this specific purpose is free to public agencies. General community communication that might provide public announcements such as development submittal information or community meeting notices are treated differently from a cost perspective. Based on an estimate, City costs for Nixle Connect for non-priority alert purposes are based on the population and would be approximately $4,400 per year. There is no limit on the number of messages sent or the number of department representatives that become authenticated distributors of messages. Thus, from a cost sharing perspective, the service could become very cost effective. One key aspect with this service as with other methods discussed that require subscribers that opt in to that service is the need to promote and widely advertise the service and its benefits. If there is no promotion campaign that seeks out subscribers, the value of this service will be limited at best. According to the representative, current subscribers that receive emergency service announcements number 1,845. This seems like a low number based on the 2010 census 21 years of age or greater population cohort which is listed as 68,599. This cohort was selected for reference in that they are most likely to possess email or a cell phone and wish to follow municipal issues that might affect their lifestyle, property, etc

One item worthy of mention is the possibility of adding to the Nixle service a feature called Nixle Dial which allows voice messaging capabilities much like robo-calls. Costs were not obtained for this service, but the fact that it is an option might make the overall method appealing in order to accommodate future need and allow contact to those that might not have cell service.

CityWatch is software that has been purchased and is presently available for departments to use in very similar vein as Nixle. In fact based on a quick comparison, it appears that CityWatch operates much like Nixle with exception of having an option for voice messaging. Staff's understanding at this time is that the Public Information Office is promoting the product and trying to get more departments on board with its use. As of this writing staff is unaware of any ongoing costs associated with non-priority alert messaging such as meeting announcements or case submittal announcements.

> Potential Adjustment. None. For purposes of broadcasting public service messages other than priority alerts, this would be considered a new application that would come online if chosen as an acceptable and implementable option.

CLC-TV. Another outlet for distribution of information already exists and has been in use for a number of years. CLC-TV program formatting allows information such as weekly development submittal information to be displayed as part of the daily programming via static bulletin slides. With assistance from the Public Information Office, a template could be prepared that allows a designated staff person within any given department to create a table that reflects information to be shared with the public. In the case of Community Development as an example, any and all development activity and contact information could be entered on a weekly basis for display via CLC-TV and the associated static bulletin slides. Activity would be dated so that the most recent is shown first within the table with all other entries for a given month identified in the order received. The information would be updated weekly with only the current month's data reflected. Based on the document "Policy and Guidelines for the Operation and Use of CLC-TV", costs associated with this type of effort may exist, but are built into operational budgets that PIO requests each year.

Although this method is useful, not everybody watches CLC-TV and thus, the message and/or dissemination of information may not reach the intended audience or a large enough audience to have a significant impact. That said, it is yet another avenue to notify the public on municipal operational matters that might not otherwise be distributed.

> Potential Adjustment. As needed by individual departments. Although CLC-TV is in operation at present, bulletin slides for the purposes identified will have to be prepared for use through this venue. This effort would take minimal effort to carry out.

Door Hangers. The last option this report will speak to for the dissemination of information involves the use of door hangers. So called due to the method cards typically 4.5 inches by 11 inches are placed at the front entrance of residences, door hangers are what some consider a fairly inexpensive method for informing the general public of sales, services and other information. At the dimensions listed above, there is a finite level of information that can be conveyed to the public. Costs for simple card production are $75 per 500 cards printed with a price break at 1,000 cards ($110). The number of cards that any one issue may require from a distribution perspective will vary significantly, but in terms of case handling via the Community Development Department, the numbers will align with the mailing option presently in place unless tenant notification will also be required. The real costs for this type of method come in the form of personnel used for card distribution. It is unrealistic to consider entry level staff as the distributor of related information in that staff time and resources can be used more effectively elsewhere in the organization. Conceivably however, co-op students hired on by the respective departments may be used for this purpose inasmuch as the salaries for these individuals are significantly lower than full-time equivalent (FTE) positions even at the entry level. Other distribution options might include outsourcing the distribution although in discussions with a local printer that provided the printing quote, there are no businesses at present that are set up to carry out this type of effort. It was stated that typically the businesses that distribute flyers and door hangers throughout the community use their own staffs for the effort. As such, an option as in the case of Community Development case handling may be to require an individual(s) that have a case pending before the Planning and Zoning Commission or other body to distribute door hangers with all applicable information within a period stipulated by the City. These hangars could be delivered to property owners/residents located on properties pre-defined by City staff. Even with this option, in order to reap the greatest cost savings benefit, generic door hangers would have to be printed with information regarding the case number and meeting type and date left blank. It is anticipated that this information would either have to be filled in by City personnel or the applicant. It is not anticipated that a large number of hangars would be needed for any one particular case assuming property owners/locations would only receive a hangar (in lieu of residents), nonetheless, staff would view this need to be handled by the applicant.

One concern with actual entry onto private property whether by City personnel or other individuals is the safety factor involved. As previously identified, angry property owners/tenants and/or pets may pose serious problems for those distributing the hangers. Also, complaints about littering are also possibilities given our windy weather during certain times of the year.

Potential Adjustment. None. This is a new application that would come online if chosen as an acceptable and implementable option.

Staff Recommendation

Based on the information provided and discussed, staff feels that the present process for the dissemination of information regarding City issues/business can be improved. At least with the efforts carried out by the Community Development Department most of what presently is in place will have to largely remain as stipulated by State law. Without question, the current practice seemingly falls short of providing the necessary notice to residents that may otherwise be affected by pending actions and in many instances has shown to be a burden on property owners as in the case and use of certified mailings. As such, implementation of a few of the unconventional or contemporary ways for distributing information may positively impact and bolster notice requirements and serve to be yet another tangible option for improving communication and engagement between City government and the citizens it serves. At the very least, said improvement sets the stage for opportunities to engage the public on various matters. Once notice has been received however, the difficult task becomes how best to involve those interested on the topics at hand in order to extract the essence of all related issues, the positives, negatives, ideas and ultimately solutions that provide a win-win scenario for the stakeholders involved. Tips and strategies on how best to achieve this can be found in the document identified earlier entitled *"Public Involvement Plan and Toolkit for Las Cruces"* which is attached as an appendix to this report.

Staff therefore would recommend each department consider and engage the following actions related to the types of notification processes the City typically undertakes.

Departmental review

Each department within the City should investigate the information contained in this report to identify ways of improving overall City/Citizen communication as it relates to projects, general information dissemination, case handling and processing, solicitation of input and similar activities. Upon review of related recommendations, each department should then initiate a notification policy that will be adhered to when soliciting or seeking to engage the general public on municipal matters deemed to have a direct impact on residents. Adequate detail will be necessary to outline the various instances where notification is required, how it will be achieved and the manner by which costs will be covered if applicable.

1) Review and adherence to minimum State Law requirements should be maintained at all costs as the process/issue dictates. Legal section use for legally mandated notification will still be used primarily due to costs, but ads when appropriate should be considered as a viable alternative when issues and opportunities for said use are deemed more prudent.

2) Certified mail used in the conduct of citizen notification should be converted to first class mail as applicable. Departments should examine "reasonable notice" requirements that may have been established for themselves or the boards, committees, commissions they interact with and if certified mailings are a requirement, revision of same should be undertaken to enact notice via first class mail. In lieu of the delivery certificate certified mail provides, an "Affidavit of Notice" reflecting those individuals that were sent notice along with the date and purpose of the notice can be generated and filed for future reference with the corresponding case or project file.

3) Sign use and placement should be considered by department staff across the organization when department activities impact a specific parcel or tract of land whereby providing limited information about pending actions to the general public within reasonable distance is prudent.

4) Website modification and implementation of key projects and undertakings by each department should be considered as a means of informing the public of same and the relevant issue(s) that pertain. Anticipated actions, dates of meetings, status updates and related information should be conveyed and maintained as applicable.

5) Listserv related software should be examined for its applicability across all department lines to help establish listings of citizens wishing to engage the public process regarding issues and projects the City is involved with. Dissemination of information can then be initiated as necessary and a forum established wherein topics can be debated and input received on an issue. At minimum, email distribution lists should be collected, maintained and used for distribution of applicable information.

6) Social Media should be considered as a viable addition to methods used in informing the general public. As indicated previously, those interested in the applicable departments actions or work programs could "friend" said department and monitor work flow and related commentary received by others or the City. The popularity and flexibility of access to this method proves to be worthy of further consideration.

7) Neighborhood association notification pursuant to the policy as written should be consistently applied, practiced and enforced by all departments within the City. Respective City staff should examine how best to codify related provisions thus encouraging neighborhoods to organize and register with the City which in turn allows for a better communication conduit between City and the respective neighborhood.

8) CLC-TV should be used to convey projects, issues, development submittal, etc. through the use of static bulletin slides. The option and parameters for its use are largely in place and costs associated with this method are low.

9) Nixle/City Watch should be investigated for implementation on an organization wide basis. In fact City Watch which is already available appears to be taking this course at present. Costs for City Watch are moot at this point in that the City has already purchased the software product. Costs for Nixel should the City wish to go this direction are reasonable and may prove to have a greater benefit in that voice calling capabilities are a possible add-on to the Nixle product. Either way, promotion of this method and venue if implemented will be necessary in order to truly have the greatest impact for the dissemination of information with the added bonus of allowing those interested to opt into the service and receive updates with little to no significant impact to their daily routine.

Conclusion

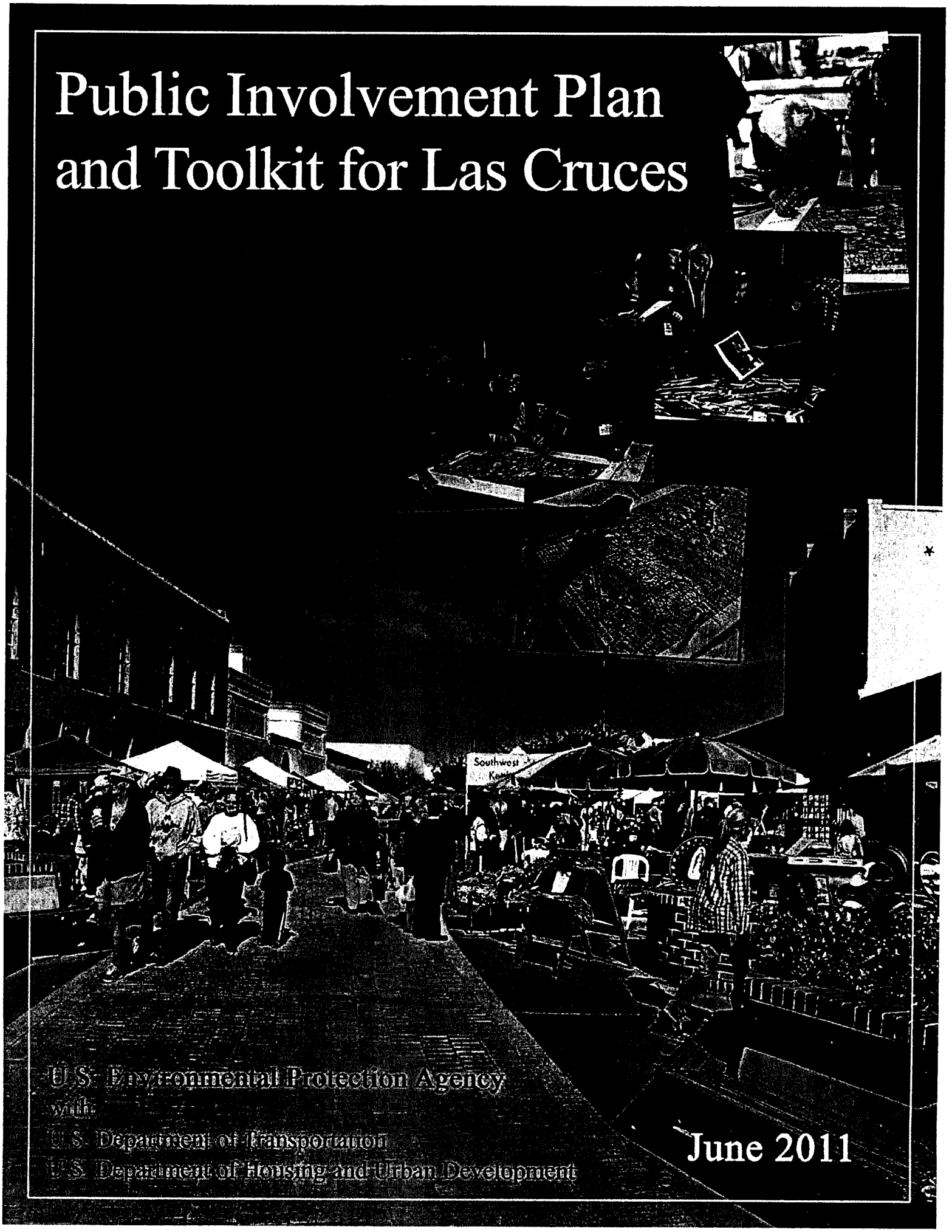
As the report stipulates, there are various departmental activities that require notification of residents and sometimes those processes are policy while others are tied to State Law and/or local ordinance. The report findings clearly demonstrate that in many instances the processes undertaken to provide notice while many, may not be reaching various stakeholder groups adequately or effectively. In hopes of improving successful notification strategies, this report suggest that various contemporary methods be examined by the respective departments within the City organization in hopes of determining which of those listed may bolster notification effectiveness as a means to better inform the citizenry. While implementation of additional methods may improve notification effectiveness, it goes without saying that there will never be a 100 percent level of effectiveness no matter how many methods are employed. Additionally, some of these methods come at a price in either soft or hard costs and as such, have to be balanced in context to the degree of which successful notification will be measured. Absorbing these costs by government can take place on a limited basis so as not to impact approved/future budgets and due to related limitations, other strategies of covering costs will have to be examined for many of the services provided particularly those involving public notification. Cost sharing as an example with parties for which notification requirements stem should be looked at and may very well come in the form of increased application/processing fees. This issue is a debate for another time and is not the focus of this report. Nonetheless, it needs to be said that the more complex and varied a process such as notification gets, the more costly the process becomes.

Appendix

Public Involvement Plan and Toolkit

Attached to this report as reflected on subsequent pages is the Public Involvement Plan and Toolkit which was referenced earlier in this report. Although different in focus, the toolkit is nonetheless part of the overall process of engaging the community once they have been made aware through notification, of any issues that may be of interest regarding municipal acitivities.

Public Involvement Plan and Toolkit for Las Cruces



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with
U.S. Department of Transportation
U.S. Department of Housing and Urban Development

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I. BACKGROUND

The city of Las Cruces is committed to developing a robust public participation model that includes deliberative planning and visioning processes. To that end, the city applied for technical assistance through the U. S. Environmental Protection Agency's Smart Growth Implementation Assistance program (see Appendix A for a description of the program). The goal was to develop a Public Involvement Plan and Toolkit that include strategies that invite and maintain the participation of all residents, especially ethnically diverse, low-income populations and others that have had limited to no previous involvement in community planning and design. Creative outreach and participation strategies that focus more on pictures than words were tested in two visioning workshops for the El Paseo corridor, a 1.7-mile corridor that extends southeast from Main Street in downtown Las Cruces to the New Mexico State University campus. The Public Involvement Plan and Toolkit summarize the process this project created and includes many, but not all, of the outreach and participation tools the project used to begin developing a vision for the El Paseo corridor. The plan and toolkit are intended to be used by city staff for all city efforts requiring public involvement.

Through the assistance, the city hopes to:

- Implement new public participation models that use multiple and non-traditional techniques to engage—and build collaborations among—the government, residents, and other stakeholders.
- Demonstrate the application of public participation tools to redevelopment efforts in the El Paseo corridor area that support fair choices in housing, mobility, and commercial activity.
- Develop options for how a public participation strategy or toolkit could be applied to the city's larger, comprehensive planning efforts.

EPA selected the city of Las Cruces because of the city's interest in developing inclusive public participation strategies that would help Las Cruces become a more sustainable and equitable community by:

- Promoting biking and walking as a safe alternative to driving.
- Reusing brownfields and vacant and underused parcels, thereby reducing pressure to develop on open space and agricultural land.
- Encouraging a mix of residential and commercial uses for residents and visitors regardless of race, ethnicity, or income level in the El Paseo corridor, as well as throughout the city.

- Incorporating landscaping into street design and site development to reduce flooding and improve water quality (commonly referred to as "green infrastructure").

Though written specifically for city of Las Cruces staff and decision-makers, the strategies and tools compiled in this document will be useful for many other communities wishing to expand the conversations about development to include populations that have often remained outside of decision-making process because of socioeconomic issues and language barriers. A more inclusive decision-making process can help communities identify and decide upon policies that encourage development that is good for the environment, the economy, public health, and the community.

"Picturing El Paseo" – A Snapshot

The El Paseo corridor was selected by Las Cruces staff as the location to test public involvement practices because of its potential to accommodate future mixed-use, development that would still serve the needs of existing residents and users. Staff from EPA, the U.S. Department of Housing and Urban Development (HUD), and the U.S. Department of Transportation (DOT), along with the EPA contractor ESMpr and city of Las Cruces staff, made up the project team that developed a public involvement process and selected (and sometimes created) specific involvement tools.

El Paseo Road is an active corridor with a mix of uses and a diverse population, many of whom rely on public transit or walking to get around, including low-income families, senior citizens, and high school and university students. The corridor is home to some of the highest commercial vacancy rates in the city. The design is heavily automobile-oriented and is dominated by strip malls separated from the street by vast, mostly empty parking lots. These design factors, combined with heavy automobile traffic, make the area unpleasant and dangerous to pedestrians.

In the spring and summer of 2010, city staff undertook extensive community outreach in preparation for workshops in the fall using the outreach tools described in Section IV. Strategies ranged from using social media and establishing a project website (www.picturingelpaseo.org) to more direct engagement with citizens through an activity called "Planners with Scanners." In this activity, city staff went out into the community to senior centers, coffee shops, and other places to gather stories about what El Paseo used to be—a vibrant street where one would go to "see and be seen."

The two "Picturing El Paseo" visioning workshops were held in the fall of 2010 to test outreach and participation strategies collected and developed by the project team. The first visioning workshop was held in October 2010. This workshop was for invited stakeholder groups to test participation techniques and to train city staff to lead the second visioning workshop. A photobook created to summarize the activities is included in Appendix B. The second public

workshop was held in November and was open to the public. In both workshops, activities were very visual: annotating maps, using visual preference surveys on computers, and artists drawing participants' ideas for El Paseo in real time. Participants were also broken into small groups to assemble photographs that city staff collected from people prior to the workshop into a collage that illustrated what they liked and did not like about the corridor area.

As part of the visioning process, the Federal Highway Administration (FHWA) funded a one-day road safety audit (RSA) in October 2010. An RSA is a formal safety performance evaluation of an existing or future road or intersection conducted by an independent, multidisciplinary team. The El Paseo team included representatives from FHWA, the city of Las Cruces, Las Cruces Police Department, New Mexico Department of Transportation, Las Cruces RoadRUNNER Transit, and Las Cruces Municipal Planning Organization. The RSA's preliminary recommendations included improving crosswalks and sidewalks and reducing the number of driveways off of El Paseo. The recommendations are generally consistent with the comments from participants of both workshops.

Finally, the city also hosted a green infrastructure workshop in August 2010. The workshop, developed by the city of Las Cruces staff with EPA assistance, was for local design and engineering professionals, city staff, and decision-makers. The purpose was to present and educate participants in green infrastructure practices appropriate for an arid climate such as Las Cruces. The workshop preceded the El Paseo visioning workshop and complemented the visioning efforts by educating city staff about green infrastructure techniques, which allowed them to include a session about these techniques in the visioning workshops.

The Picturing El Paseo workshops and associated activities provided the city with a rich collection of images and written comments that city staff began to analyze in early 2011. City staff and leaders hope that El Paseo can one day return to being the heart of Las Cruces.

II. INTRODUCTION

The Public Involvement Plan and Toolkit provide a framework for meaningful public engagement and the outreach and participation strategies necessary to build trust, excitement, and support among Las Cruces residents for a city project or initiative. When done correctly, public involvement creates the opportunity for mutually equitable outcomes, growth that increases economic vitality, and environmental stewardship. These initiatives can result in a more equitable, environmentally responsible, and economically healthy Las Cruces that is appreciated by residents and visitors.

Successful public involvement means including all voices—the traditionally represented as well as underrepresented groups. Traditionally represented groups include politicians, developers, philanthropists, and voting constituencies who routinely participate in civic affairs. Underrepresented groups include those who have, for a variety of reasons, not participated. These groups might include people with limited mobility, the learning impaired, non-English speakers, those ineligible to vote, and the low income. These voices are important parts of a rich social dialogue and bringing them together can inform the planning process in ways that create more environmentally, economically, and socially sustainable outcomes for all participants.

Involving the community requires time and resources, but community involvement is worth the effort for several reasons:

- Incorporating substantive public input increases the likelihood that the public will support the project.
- Proactive public involvement can reduce or eliminate disputes by bringing public and stakeholder interests together at key project stages.
- The project can be improved by bringing an informed citizenry together with professionals.
- Development can be expedited with a clear mandate from the community.
- Trust is created between the city and the community.

The plan presented here outlines the necessary steps for establishing realistic goals, selecting appropriate outreach and participation strategies from the accompanying toolkit, evaluating the results, and sharing those results with the community.

III. PUBLIC INVOLVEMENT PLAN PROCESS

The process to develop a Public Involvement Plan involves six steps:

1. **Ask the key questions.**
2. **Set the goals and expected outcomes of public involvement.**
3. **Develop outreach and participation for the Public Involvement Plan.**
4. **Perform outreach and participation as outlined in your plan.**
5. **Evaluate the results against plan goals and outcomes.**
6. **Share the results.**

1. Ask the Key Questions

The first step asks four key questions. These questions determine if the plan should move forward. If the answer to any one of these questions is "no," then the city should change the plan to address concerns or determine if the plan should be cancelled.

The four key questions are:

A. Do we have the right team?
B. Do we have the time?
C. Do we have the resources?
D. Does our plan meet legal requirements?

A. Do we have the right team?

This plan is intended for all city of Las Cruces departments, since public involvement is not under any single department's purview. All city-led projects benefit from public involvement whether it is a redesign of a particular street, a new housing development, a new park project, or even a new budget process. Many projects and initiatives will benefit greatly from cross-departmental cooperation. The team, though led by a particular department, could also include staff from other departments that have an interest in the outcomes. This would not only improve communication among departments but also expand the participation of community stakeholders that traditionally may have only been involved in the activities of one specific department. A diversity of voices will ultimately produce richer results.

B. Do we have the time?

The time needed for a public involvement process can vary greatly. Typically, three months of outreach prior to the involvement activities (e.g. public workshops) will be enough time to raise awareness through the Internet and media and to engage community-based organizations and other interested parties.

C. Do we have the resources?

Sufficient resources are needed to put the PI Plan into action, including time and staff to develop the PI Plan, generate all materials needed, and perform the outreach and participation tasks. Tasks can be resource intensive, and a team of staff members or volunteers will probably be required.

Language considerations must be taken into account during the execution of the public involvement plan. All information should be available in both English and Spanish. Spanish-language information should be presented in the local dialect and use plain language free of technical jargon. Staff should consult with native speakers regarding each initiative governed by this plan to ensure that Spanish information adequately matches all English materials in content, form, and tone. In addition to producing materials in the two most commonly used languages in the area, the city should accommodate those who speak other languages. Showing the willingness to translate materials to make them more accessible will demonstrate to target audiences the city's commitment to engaging them, and they will hopefully appreciate the effort to communicate and be more interested in working with the city.

D. Does our plan meet legal requirements?

Regulations and laws at various levels of government affect public involvement, often requiring specific outreach activities or participation techniques. All legal requirements will need to be considered as the city implements the plan to create legally defensible processes. The following legal issues are among the requirements that the city might need to address, where appropriate, in the plan:

- Americans with Disabilities Act.
- National Environmental Policy Act.
- Federal Transportation Planning Requirements.
- Environmental Justice Requirements.
- Housing and Urban Development Requirements.
- State of New Mexico Open Meetings Act.
- State of New Mexico Inspection of Public Records.

2. Set Goals and Outcomes

Setting goals for the plan is important to determine the activities that comprise the plan and to evaluate the success of public involvement. The goals and desired outcomes should be defined in a document that all involved parties have a chance to review prior to involvement activities. If the goal is to create a community-driven design, an expected outcome would be substantive

public input to give to designers. Writing these expected outcomes down makes evaluating the involvement process after the plan has been completed much easier.

3. Develop Outreach and Participation Activities

After asking the key questions and setting the goals, the city would develop specific outreach and participation activities. Outreach and participation tools are described in the toolkit in Section IV. Outreach activities should be well defined and include details such as target audience, budgetary implications, and who is responsible for developing and distributing outreach materials or performing outreach activities. Participation activities should be described so they can be understood by the public and should include details such as step-by-step instructions to perform the activity, the results that will be generated, and how the results will be used. Describing the outreach and participation activities creates a work plan that will guide the project team and become part of the public record of the project. Additionally, defining public involvement activities in writing clearly lays out the city's commitment to involving the public.

4. Perform Outreach and Participation Activities

After the public involvement plan for the project or initiative is crafted, it should be reviewed and discussed by the project team—those who will actually perform the outreach and participation tasks. Team members need to be realistic in understanding the amount of work involved in producing the outreach materials, distributing these materials, developing participation, and facilitating participation exercises. Additionally, team members will benefit from occasionally taking a step back, looking at the big picture, and ensuring that they are honestly listening to other people.

5. Evaluate the Results

Upon completing the involvement activities, team members should evaluate the input received and the process used. The results of this evaluation can be as important as any input gathered, as the lessons learned can help improve subsequent plans.

A successful public involvement process may result in a great deal of public input, often gathered through multiple methods. This input needs to be carefully examined and summarized. Then the input should be shared with the public, allowing the public to "double check" the results. This step also maintains transparency in the involvement process. All input should be synthesized into a format that is clear and understandable to the public and to future staff and decision-makers to provide insight into the process used to gather it.

After synthesizing public input, the team should evaluate the entire public involvement process to identify lessons learned. This exercise will help the team determine which activities were most successful in meeting the goals. If the process and the results align with the expected outcomes and goals, the lessons learned can provide guidance for similar success in the future. If there is a disparity between outcomes and expectations or if goals were not met, then the city should consider how future attempts at similar involvement could be modified. Furthermore, even if outcomes are not what were expected, sharing this fact can build public trust by demonstrating that the city values honest, transparent communication and not just results.

7. Share the Results

As with all aspects of the public involvement plan, the performance evaluation should be well documented. By writing documents that describe the processes, the results, and the evaluation of those results and processes, the city creates a public record for each initiative. This public record helps staff look back on the process and understand the effort involved, the benefits realized, and the lessons learned. The documents also allow all members of the community to share in the project's success and facilitates public dialogue about the results of public involvement processes. The city can keep two-way communication open after sharing the results to give the public avenues to comment on these results. Comments regarding the results can steer decision-making, gauge public sentiment, and develop buy-in from stakeholder groups, other city departments, and the public.

Tailoring the Public Involvement Plan to a Project

To tailor this plan to a specific project, the team needs to determine what level of involvement is needed and set the goals accordingly. The goals outlined for the plan will drive the outreach and participation tools described in Section IV. Outreach requires identifying target audiences and specific strategies to reach these audiences. In participation, the techniques will change depending on the type and level of participation needed to develop the input the project needs. The Public Participation Spectrum (Figure 1) can be used to determine the level and type of involvement for the project. The spectrum can be used as a sliding scale of public involvement that starts with basic involvement that simply informs and goes up to empowering the public to make decisions. A particular project will fall somewhere on this scale, and the team can "slide" the outreach and participation activities to meet the needs of the project or initiative.

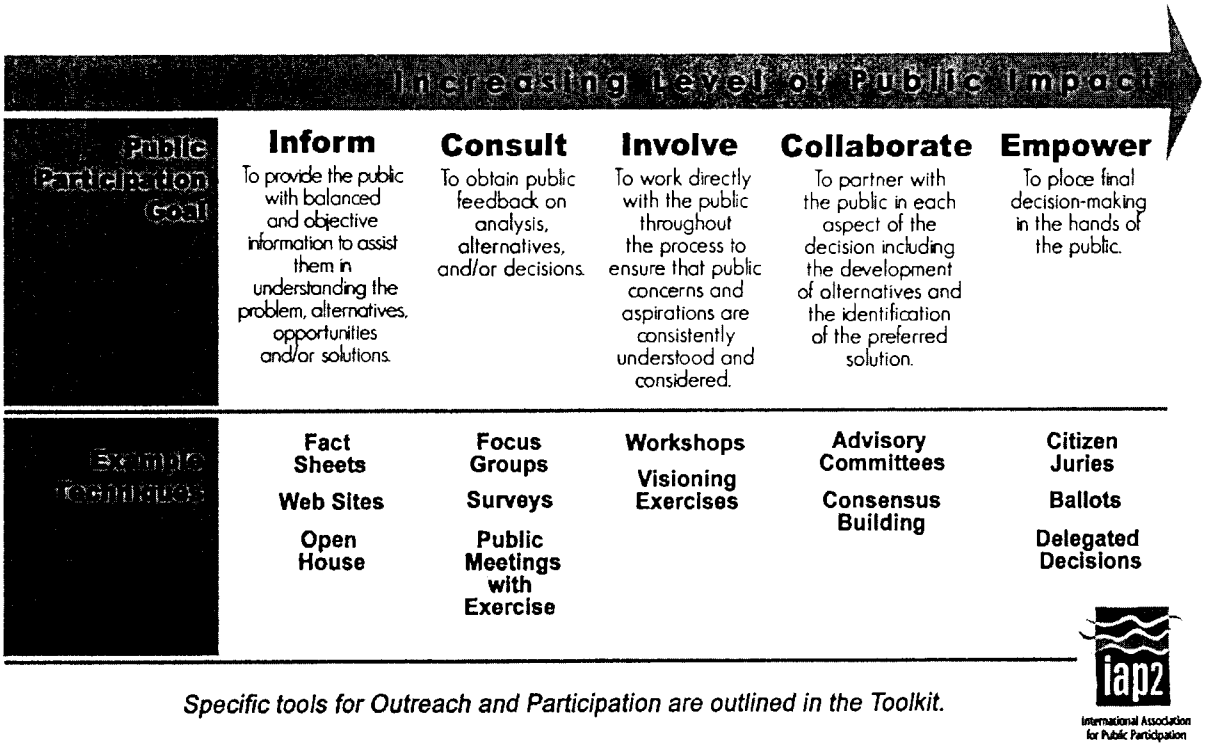


Figure 1. International Association of Public Participation (IAP2) Public Participation Spectrum (http://www.iap2.org/)

Summary

This public involvement plan process provides specific methods to reach out to and involve the public in municipal actions. This engagement allows interested parties to learn about and influence decisions that affect their community. Decision-makers can use the public involvement process to gauge public sentiment and gather helpful input for current and proposed policies and projects. The community has a better chance of reaching equitable outcomes when all parties are involved, informed, and included in decision-making. By using this tool for decision-making, a community can make decisions that balance economic vitality, equity among citizens, and environmental stewardship. By honestly and earnestly seeking to incorporate public aspirations, advice, concerns, and considerations, the city of Las Cruces creates a great opportunity to move forward in the best interest of all community members.

IV. TOOLKIT

1. Introduction

The toolkit contains outreach and participation tools the city could use in their involvement process. Like any tool used to repair or build something, the tools described in this section are designed to be used in concert with one another to accomplish the goals and objectives established for a particular public involvement effort. The toolkit includes:

- **Outreach tools** to inform and engage all segments of the population, including those who may be affected by an initiative, the general population, and those who have traditionally been underrepresented.
- **Participation tools** to create and document useful input.

Certain tools will prove widely useful and could be used frequently on multiple projects or on iterative efforts. Other, more specialized tools may not get used as often but are available in this toolkit should they be needed. As work moves forward, new tools may be needed to perform a specific function. These tools can be added to the toolkit using the New Tool Worksheet in Appendix B.

Upon completion of any public outreach or involvement effort, city staff should write a summary memo that documents and analyzes comments received. The memo should also document the tools used and the success of those tools in achieving the effort's goals. Lessons learned will help with subsequent outreach and involvement activities. To assist in evaluation efforts, the team can use the Evaluation Worksheet in Appendix B.

Finally, staff availability is crucial to the success of any outreach and participation efforts. As noted in Section III, a cross-departmental project team should be established at the beginning of any effort. On that team should be a primary staff contact who responds to public inquiries and forwards correspondence to the appropriate project team member for timely response.

2. Outreach Tools

Outreach tools help connect staff and elected officials with audiences to develop awareness of and participation in the project under consideration. These tools also provide basic project information and direct interested parties to additional resources that give more information. In general, implementing as many of these tools as possible will provide more information to the community about a project and the opportunities to become involved. Outreach should be two-pronged—focused outreach to specific residents and stakeholders whose input is needed for an

inclusive involvement and more general outreach to reach a broader audience. Focused outreach involves city staff going out into the community—reaching the businesses, religious institutions, schools, and social clubs of those residents who have, for any number of reasons, not been engaged in city planning and policy efforts. Involvement strategies to reach a broader audience include more traditional media campaigns (e.g., flyers, posters, websites, or radio spots) but also social media such as Facebook and Twitter. Although the "more is better" approach may be tempered by time and budget constraints, the city should go straight to the people to involve them.

A. Project Announcement

A project announcement is a simple, one-page description of the effort that the city is undertaking. It tells readers who is involved, what the project is, where and when it is happening, and how the process will work. It is developed in print and digital formats and released to the public, businesses, institutions, agencies, and members of the community who are targeted for outreach. The announcement should be translated into the predominant languages of the community. In print format, the announcement may take the form of a flyer, bulk mail piece, or poster. The digital format can be an image file or a PDF that is uploaded to a relevant website, used in social media, or sent by e-newsletter. Costs may be higher if the city uses professional graphic design, certain distribution methods, or multiple distribution methods.

B. Partnerships with Community-Based Organizations

Community-based organizations (CBOs) are groups that serve a broad range of community interests. Organizations include senior centers; civic groups; business organizations; churches and other faith-based organizations; service clubs; schools that provide English as a second language programs; service providers for youths, families, and persons with disabilities; and many others.

Community-based organizations provide the opportunity to connect with specific audiences and are an integral part of identifying and reaching out to underrepresented groups. The city can reach out to specific organizations to provide these groups with project information and encourage them to become involved. Should these groups have specific needs that might affect the involvement process, the city should clearly outline strategies to meet those needs. For example, organizations that represent people whose first language is not English should be invited to participate in exercises where they can receive information and provide input in the language with which they are most comfortable. Often, the organization can provide the venue and opportunity to meet with the group and perform a participation tool exercise, such as a coffee circle (described in the Participation Tools section).

C. School Partnerships

School administrations can publish information in school websites or newsletters or send email to distribution lists to engage students and their parents. Outreach activities can also be integrated into school curricula to inform students about a project through activities such as learning games and field trips. In high school, educators can create modules for classes and clubs involved in activities such as photography, computer science, art, civics, or creative writing. For instance, if the city of Las Cruces is undertaking a planning effort for a particular neighborhood, students of the local school could undertake a history project documenting the neighborhood. Or a multimedia class could produce short films documenting a "day in the life" of neighborhood residents.

D. Project Website

A project-specific website gives detailed and extensive information and allows for two-way communication. It should complement, not replace, other outreach and involvement efforts, since many people do not have access to the Internet or do not use it frequently. The website can stand alone or could be integrated into the city's existing website. If possible, the city should use an intuitive URL, such as www.[project name].org or www.[city name].gov/[project name]. Websites should be easy to access and to navigate and have translations available in Spanish or other appropriate languages.

E. Social Media

Social media and social networking websites include Facebook, Twitter, YouTube, and blogs. For any initiative, the city could create a social media strategy and invite target audiences (identified using city email lists or previously interested groups) to participate. It is important to choose the social media and networking platforms that have the best chance of reaching the intended audience. If the medium allows for public commenting, the project team should moderate those comments to ensure content is appropriate.

F. Electronic Newsletters

Email newsletters quickly and easily disseminate information to contact lists. While e-newsletters can be inexpensive if sent electronically through a listserv, an e-newsletter service may provide a more attractive-looking and engaging newsletter, but at an increased cost.

G. Media Campaign

A comprehensive regional media campaign often is the primary source of outreach to the broader community. A media campaign might include press releases, public service announcements, press conferences, feature articles, or interviews, depending on the nature of the project and the resources available. To ensure media exposure, the city could buy advertisements but should do so strategically to keep costs low. Keeping a consistent media message across all channels requires generating and distributing talking points to project team members.

3. Participation Tools

Participation tools are designed to create a meaningful dialogue between city staff and the community. Each participation tool is a structured activity that allows participants to learn about the project, ask questions, and provide comments. The input that is generated in participation activities can be used for analysis, and create buy-in for a project. Similar to outreach tools, participation tools can be used in combination with one another to elicit input from target audiences through multiple avenues, which is especially useful when participation is desired from several different groups in a community.

The first set of participation tools described in this section focus on face-to-face meetings, with a particular emphasis on city staff going to places where a particular population already gathers. This effort pays off by demonstrating that city staff is committed to hearing the concerns of those groups who do not participate in more conventional public processes such as larger community meeting and workshops. These tools include ones that help participants create a vision for their community. Several of the visioning tools use pictures to tell a story. Using images is not only more fun for participants, but also more inclusive and equitable in that it relies less on words to express ideas and concerns. This technique is most helpful when working with community members who might not speak or read English well or with children and young people who find images more exciting than words.

The project website and social media described in the outreach section remain pertinent to participation efforts. A project-specific website can be used to disseminate information and gather comments. Additionally, social media websites can allow people to create and exchange content about a specific topic. Again, a major caveat is that not everyone has access to or the ability to use the Internet, so online tools should complement, nor replace, face-to-face participation tools.

A. Meeting with the Public

The term "meeting with the public" is used deliberately to differentiate from "public meeting." Meeting with the public means actively going into the community, talking with community members about a particular city initiative, and most importantly, *listening* to their concerns. Though potentially staff intensive, the time committed to informal meetings can build a significant amount of trust with the community. Feedback is likely to be more candid since staff is on the residents' "turf," and people can discuss their concerns in conversation rather than having to speak in front of a large group, which many people find intimidating. Furthermore, community members may feel more engaged in the process and thus be more willing to attend larger, traditional-format community meetings and workshops.

Meetings with Community-Based Organization – As described in Section III, community-based organizations include senior centers, civic groups, business organizations, churches, service clubs, and others. Community-based organizations often host meetings that provide an opportunity for city staff to discuss particular city initiatives and projects. Meeting with groups at their regularly scheduled meeting times and in their format demonstrates a willingness to work with the group to listen and understand their position.

Coffee Circles – A coffee circle is a small meeting with a specific group, generally in an informal setting such as a person's home, a business, or a community center. To generate conversation, the facilitator can start by asking engaging questions such as "What was it like here when you were growing up?" or "Where is your favorite place in town to spend time, and why?" Once the conversation is flowing, the facilitator can get into the specifics of the project.

World Café – A world café is a specialized technique using a leaderless dialogue that simulates café-style conversation, where small groups engage in conversation to explore a given topic. To set up the meeting space, tables are placed around the room, each one accommodating four to six people. A host is stationed at each table to listen, take notes, and facilitate discussion, not to lead the group discussion. Each group should discuss the topic, listen to each other's viewpoints, and share their views. Participants switch tables periodically, while each host remains, allowing ideas to move around the room.

See: http://www.ilo.org/public/english/support/lib/knowledgesharing/meetings.htm

B. Public Meetings

More conventional meeting formats are described below. At all meetings, staff should provide sign-in sheets and comment cards. In addition to comment cards, participants could be asked to

fill out a card at the beginning of the meeting stating their concerns and motivation for attending the meeting. This is their "declarative statement." These cards could be posted on a bulletin board so others can read them. At the conclusion of the meeting, participants would be asked to revisit the cards and fill out the other side with "what they heard" and if their opinion on issues has changed. This before–and-after response will help city staff gauge how effective their messaging has been and where there is room for improvement.

Community Meeting – The community meeting is a structured meeting with an agenda during which the project team conveys information, listens to comments, and answers questions. It may include a formal presentation, a question-and-answer session, and an informal discussion period.

Open House Meeting – An open house meeting provides more opportunities for the project team and public to interact informally. An open house uses information stations staffed by project team members, allowing the public to talk with those involved in the project to learn more and provide input. This type of format is useful to gather input from participants who may not feel comfortable speaking in front of a group. It is good practice to have two team members at each station so one can focus on speaking with participants while the other records input.

Workshop – Workshops engage the public in interactive exercises to develop ideas and input. Workshops provide a venue for discussions of goals and alternatives, as well as creative problem-solving. Activities chosen for a workshop depend on the demographics of the group and what kinds of responses the staff hopes to elicit.

Design Charrette – A charrette, as best described by the National Charrette Institute, is a collaborative design event that lasts a minimum of 4-days. A multidisciplinary charrette team, consisting of consultants and sponsor staff, produces the plan. Stakeholders–those being anyone who can approve, promote or block the project as well as anyone directly affected by the outcomes–are involved through a series of short feedback loops or meetings. Most stakeholders attend two or three feedback meetings at critical decision-making points during the charrette. These feedback loops provide the charrette team with the information necessary to create a feasible plan. Just as importantly, they allow the stakeholders to become co-authors of the plan so that they are more likely to support and implement it. Charrettes takes place in a charrette studio situated on or near the project site. The charrette team first conducts an open public meeting to solicit the values, vision, and needs of the stakeholders. The team then breaks off to create alternative plans or scenarios, which are presented in a second public meeting usually a day or two later. The team then synthesizes the best aspects of the alternatives into a preferred plan that is developed in detail and tested for economic, design and political feasibility. The charrette concludes with a comprehensive presentation at a final public meeting.

See: http://www.charretteinstitute.org/

Expert Panels – An expert panel is a public meeting that mimics the "Meet the Press" format. A panel of media representatives or a facilitator interviews experts to show an issue from different perspectives. A neutral facilitator ensures a balanced discussion. The public can be involved in a question-and answer-session following the panel.

Focus Groups – Focus groups are a message-testing forum with selected members of a target audience. Testers show these individuals messages and interview them to gauge their reaction to those messages.

Fishbowl – A fishbowl is a small group of people, generally between five to eight individuals, seated in a circle, having a conversation in full view of a larger audience. The fishbowl is most often an open discussion, with public officials, decision-makers, or stakeholders taking "permanent" chairs at the table, with several chairs open to members of the audience who want to sit down and discuss an issue. Audience members can move to the central table as issues are discussed and when the discussion moves to another issue, that individual returns to the audience, opening a chair for someone else. This format allows the public to participate in a conversation that can answer questions and aid in understanding the decision-making process, especially where controversial or "hot button" issues are concerned. While significant moderation is not needed, a facilitator may help the discussion progress smoothly.

See: http://www.ilo.org/public/english/support/lib/knowledgesharing/meetings.htm

Webinar – A webinar is a meeting that is presented online. Currently, technology allows for public meeting "webcasting," or broadcasting via the Internet, and two-way electronic communication. While webcasting can be relatively simple, participatory techniques are difficult to implement in a webinar format. As technology improves, webinars may emerge as an increasingly useful tool.

C. Visioning

Visioning exercises can take several forms and can be incorporated into the meeting formats previously listed. Visioning tools can be used to solicit public ideas in the initial stages or to help shape components of the project as it evolves. At each stage, if the results of the visioning process are shared with the public for ongoing feedback, the public is reassured that their input shapes the community vision to the greatest degree possible. Visioning performed early and throughout the life of the project helps ensure that the public vision is realized as the project moves through the municipal decision-making process towards implementation. Material gathered can be synthesized in various ways, which will depend largely on the anticipated use of

the input when the exercise is designed. All input should be treated equally and collected in such a way that the public involvement process moves forward and is informed by this input. The input should include a detailed explanation of the visioning exercise that aided its development.

Shared Perspectives – A shared perspective exercise uses a photograph or image of an existing condition and an overlay sheet of trace paper on which an artist can draw. The artist or another member of the team talks with a participant about the particular issues illustrated in the photos and elicits ideas about what the participant would like to see there instead. The artist captures these ideas immediately and draws them on the trace paper on top of the photograph in front of the participant. In essence, the artist is serving as the hands for the participant. This type of activity generates a lot of excitement, and participants can be invited to do their own drawings if they want. The result is a rich set of images that can be categorized according to common visions that emerge and discussed afterwards in a meeting of all participants.

Mapping Exercise – A mapping exercise uses a map or aerial photograph to help develop input regarding a specific geographic area, location, or corridor. The input can be free flowing and cover a range of topics, or it can be targeted to gather input on a specific topic, idea, or issue. In cases where a discussion of alternatives is part of the process, two alternative maps can be used to develop input. Mapping exercises can be performed in various ways. One way involves printing large maps and encouraging the public to draw or write their ideas on the maps themselves. This input can then be scanned, photographed, or catalogued. A facilitator is present to explain the map, answer questions, guide input gathering, and keep the discussion focused. Some participants may have difficulty reading maps at first, so it is helpful to have printed eye-level photographs of places depicted in the map to help participants get their bearings. Another method is to ask participants to draw their own maps based on their knowledge of the area of interest. These maps, though likely crudely drawn, can be valuable in highlighting how the participant experiences the area.

Photovoice – Photovoice is a participation tool developed at the University of Michigan. The underlying principles are that that images teach, and pictures can influence policy. It is a facilitated process where participants use photographs to explain how they perceive their current circumstances and also explain what they like and do not like. Pictures can be collected through a variety of means; participants can bring their own photos to a workshop event or upload photos to the project website prior to an event for city staff to print. Another method is distributing disposable digital cameras before the event; staff can download the images at the meeting and print the photos on site. Alternatively, staff could distribute cameras at the event and take participants on a tour of a project area, allowing them to note their likes and dislikes with pictures rather than words. The "comments" gathered through Photovoice are images that are assembled by participants (with assistance from a facilitator) into collages. These images can be

presented as a public art display to generate community awareness of issues, to create a collage or educational tool, or to generate a lively discussion.

See: http://heb.sagepub.com/content/24/3/369.short

Visual Preference Survey – In a visual preference survey, participants look at two pictures of a similar place or element—e.g. a street with on-street parking versus a street without parking, or an stream with a pathway along it versus one without a path that looks more natural. Participants are then asked to select which image they prefer. Surveys can be taken on computers or using display boards and a ballot sheet. Public feedback developed through the visual preference survey is most helpful in determining public opinion related design aesthetics.

Computer Simulations – Computer simulations are an increasingly useful visioning tool in helping the public understand choices, see possible future scenarios, or see how their input may be used. At a basic level, a computer simulation is similar to the shared perspective exercise in showing simple before-and-after representations of how a project might look when complete based on participant comments. Simulations are developed by a professional graphic designer or architectural renderer and can be time-intensive, depending upon the desired quality of the final image. The most basic image looks like a photographic collage. This exercise therefore is best suited to a multi-day charrette where participants can see the image or images evolve over the course of the event. Typically, the designer will take these images back to his or her office to create a more realistic image.

Keypad Polling – Keypad polling is where participants use handheld remote devices that allow them to vote on polling questions at a public meeting. The exercise is included in the visioning section because the results of the polling are shown immediately on a screen. The facilitator uses the outcomes to guide discussion. Polling is anonymous so those who do not feel comfortable publicly voicing their opinions can still share their thoughts.

D. Tours and Audits

Tours are facilitated group excursions that help participants familiarize themselves with a project area. Audits are similar but involve developing inventories to provide quantifiable data regarding the typical public experience. Both activities have city staff, designers, officials, and community participants walking through their community to identify issues that affect the public. Although participants may feel that they are already familiar with the study area, a facilitated tour or audit helps them see the area with a new perspective. Walking tours are most helpful when a study area is relatively compact or when a workshop's goal is assessing the pedestrian experience of a street or neighborhood. For large study areas, vans or buses may be needed.

E. Simulation Games

Simulation games are exercises that lay out a set of real or hypothetical conditions and ask participants to simulate a decision based on those conditions. While these games may be resource intensive to develop and test, simulation can be an effective participatory technique.

Budget Exercise – The budget exercise is a method to develop a vision while working with budgetary constraints. The exercise gives participants hypothetical amount of money and asks them to choose how to spend the money. This exercise encourages people to prioritize wants and needs in a scenario that mimics what decision–makers face. The budget exercise can be performed in various ways, generally dictated by the meeting and the initiative. When possible, budgetary constraints and alternatives or choices should mimic the applicable scenario facing decision-makers. The budget exercise can use a worksheet, or a Monopoly-style game, representing budget dollars. The budgets created in this exercise will help project organizers better understand public priorities and spending concerns. These conclusions should be documented for later reference to substantiate decisions that might be made about the project.

Wikiplanning — Wikiplanning offers an integrated approach using technologies that are increasingly available to the public. Using the Wikiplanning tools, residents are invited to log into their community's project website and then are led through a series of activities throughout the project life. These activities include a mix of project-specific, multimedia learning sessions, online chats, message boards, surveys, and podcasts offering walking tours through the project's principal sites. Although some sessions, like chats, would occur in real-time, most activities can be arranged around participants' schedules.

See: http://www.wikiplanning.org/index.php?P=virtualcharrette

V. Appendices

Appendix A – EPA's Smart Growth Implementation Assistance (SGIA) Program

Appendix B – Picturing El Paseo Photobook

Appendix C– Worksheets

- Evaluation Worksheet
- New Tool Worksheet

Appendix A

EPA's Smart Growth Implementation Assistance Program (SGIA)

Communities around the country want to foster economic growth, protect environmental resources, and plan for development. In many cases they need additional tools, resources or information to achieve these goals. In response to this need the Environmental Protection Agency's Office of Sustainable Communities launched the Smart Growth Implementation Assistance Program in 2005 to provide technical assistance through contractor services to selected communities. EPA assembles teams of specialized consultants, bringing together expertise that meets a particular community's needs. While working with community participants to understand their aspiration for development, the teams bring experience from working in other parts of the country to provide best practices for consideration by the assisted community. The goal of the program is to help participating communities attain their goals, while also producing a resource (such as a report or set of guidelines) that can be useful to a broad range of communities facing similar challenges.

The Smart Growth Implementation Assistance Program is designed to help communities achieve growth that supports economic, community and environmental goals. People in communities around the country are frustrated by development that gives them no choice about driving long distances between where they live, work and shop; that require costly expenditures to extend sewers, roads and public services to support new development; that uses up natural areas and farmland for development while land and buildings lie empty in already developed areas; and that makes it difficult for working people to rent or buy a home because of development that focuses only on one or two costly housing types. Smart growth strategies create new neighborhoods and maintain existing ones that are attractive, convenient, safe and healthy. They foster design that encourages social, civic and physical activity. They protect the environment while stimulating economic growth. Most of all, they create more choices for residents, workers, visitors, children, families, single people, and older adults—choices in where to live, how to get around, and how to interact with the people around them. When communities undertake this kind of planning, they preserve the best of the past while creating a bright future for generations to come.

More information about the program, including information on how to apply and links to reports from past recipients can be found at http://www.cpa.gov/smartgrowth/sgia.htm.

PHOTOBOOK

Visioning Workshop #1

October 1 & October 2, 2010

City of Las Cruces

PEOPLE HELPING PEOPLE

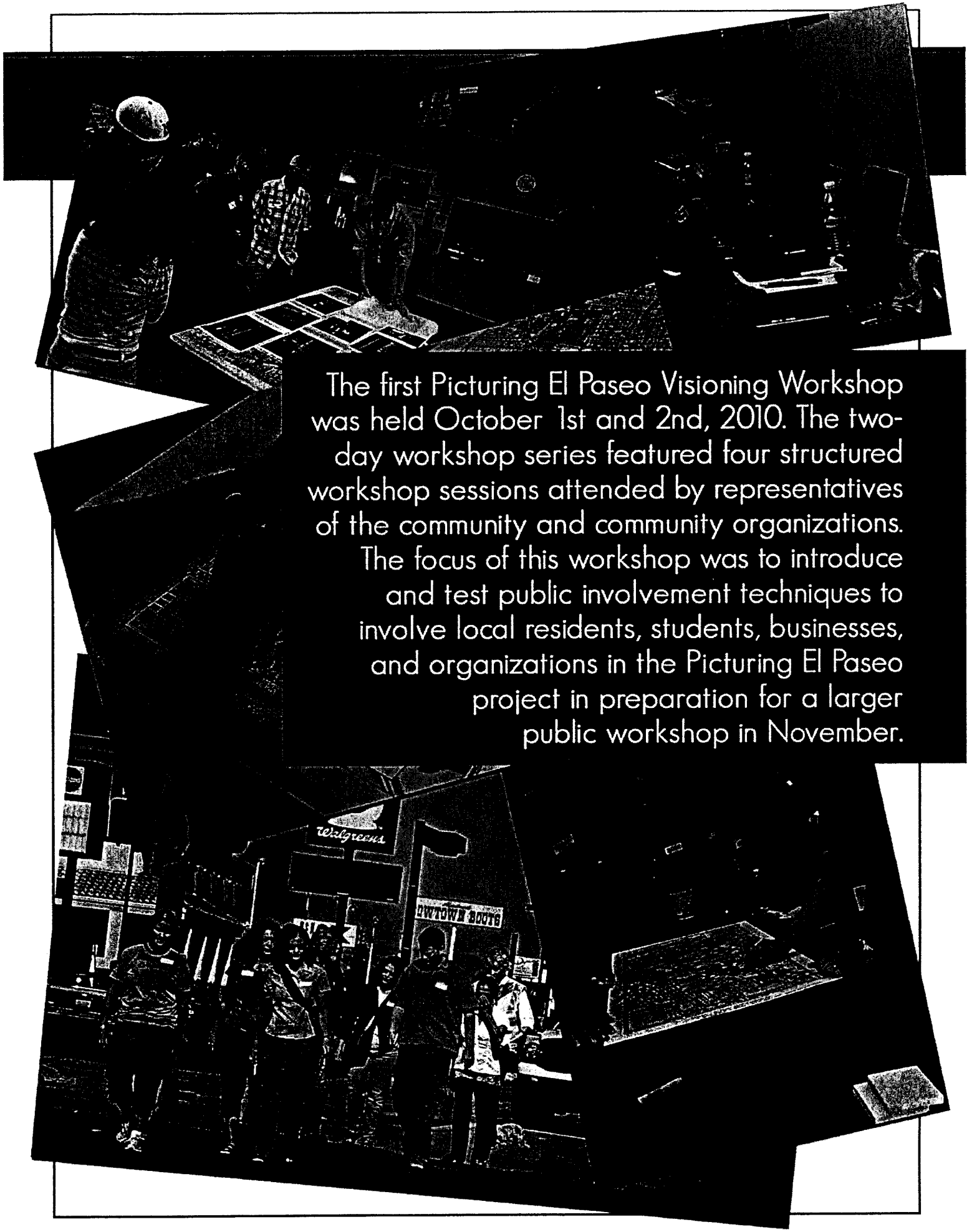
UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

DEPARTMENT OF TRANSPORTATION UNITED STATES OF AMERICA

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

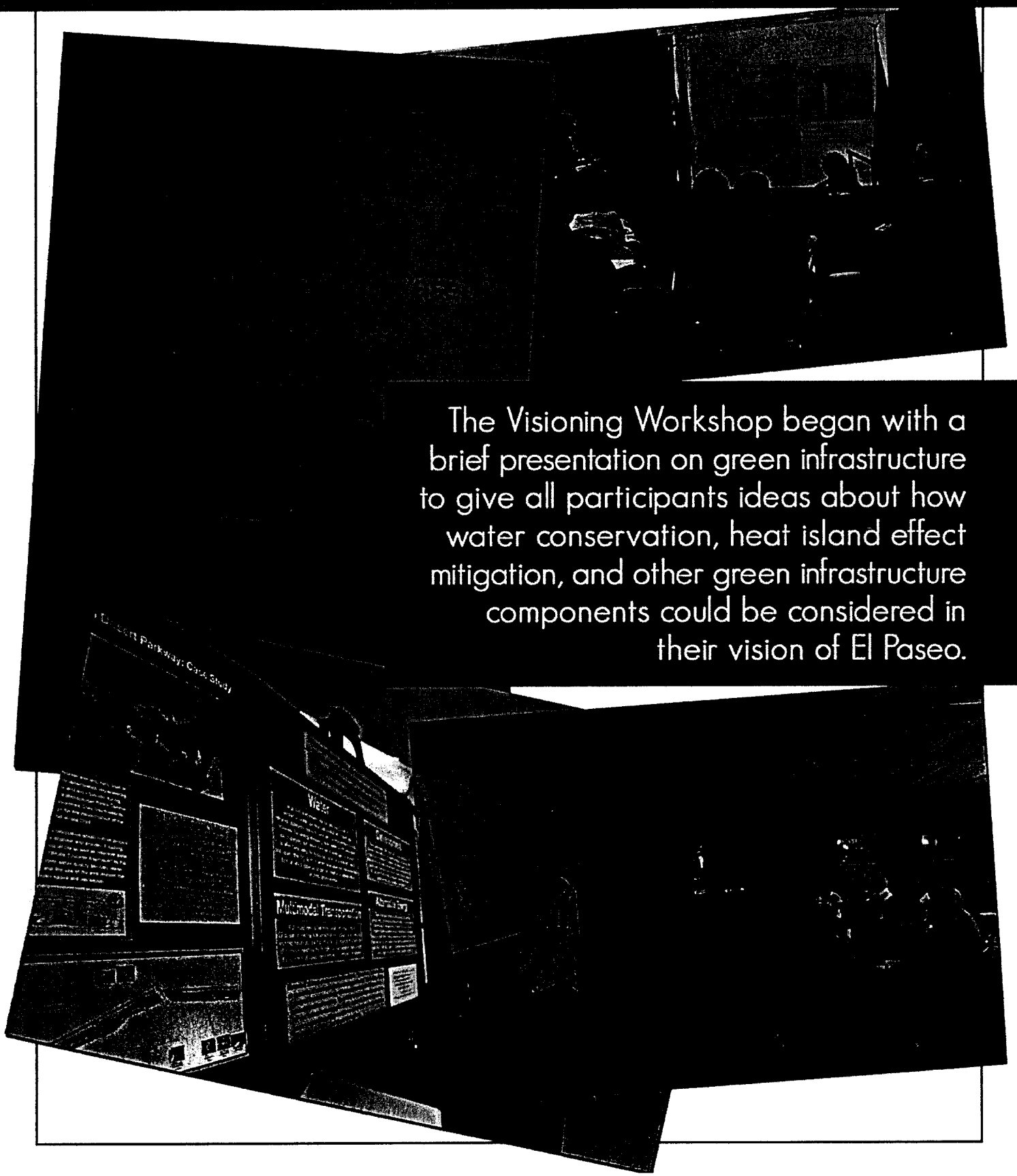
picturing el Paseo

sharing your vision for the corridor



The first Picturing El Paseo Visioning Workshop was held October 1st and 2nd, 2010. The two-day workshop series featured four structured workshop sessions attended by representatives of the community and community organizations. The focus of this workshop was to introduce and test public involvement techniques to involve local residents, students, businesses, and organizations in the Picturing El Paseo project in preparation for a larger public workshop in November.

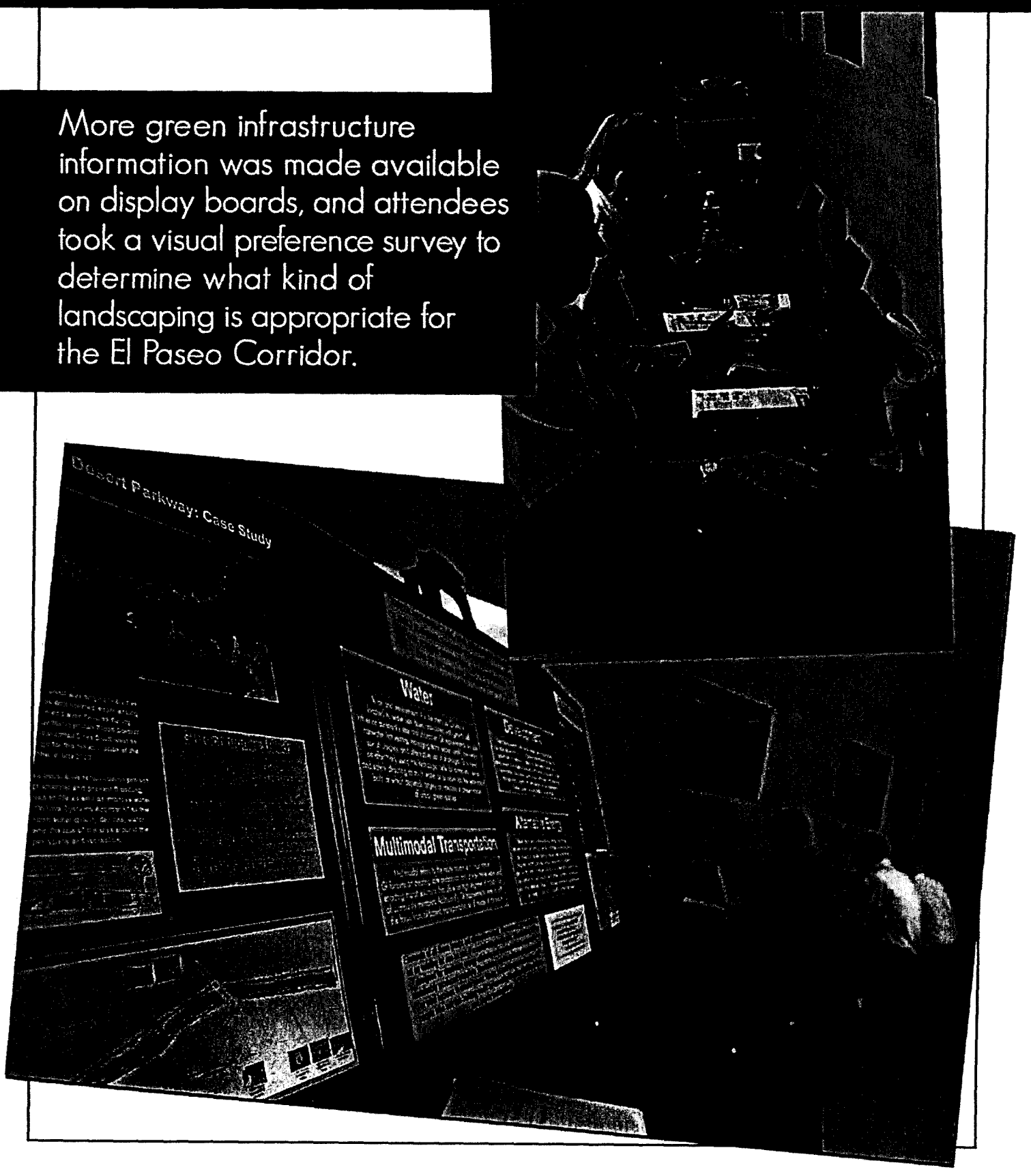
Green Infrastructure



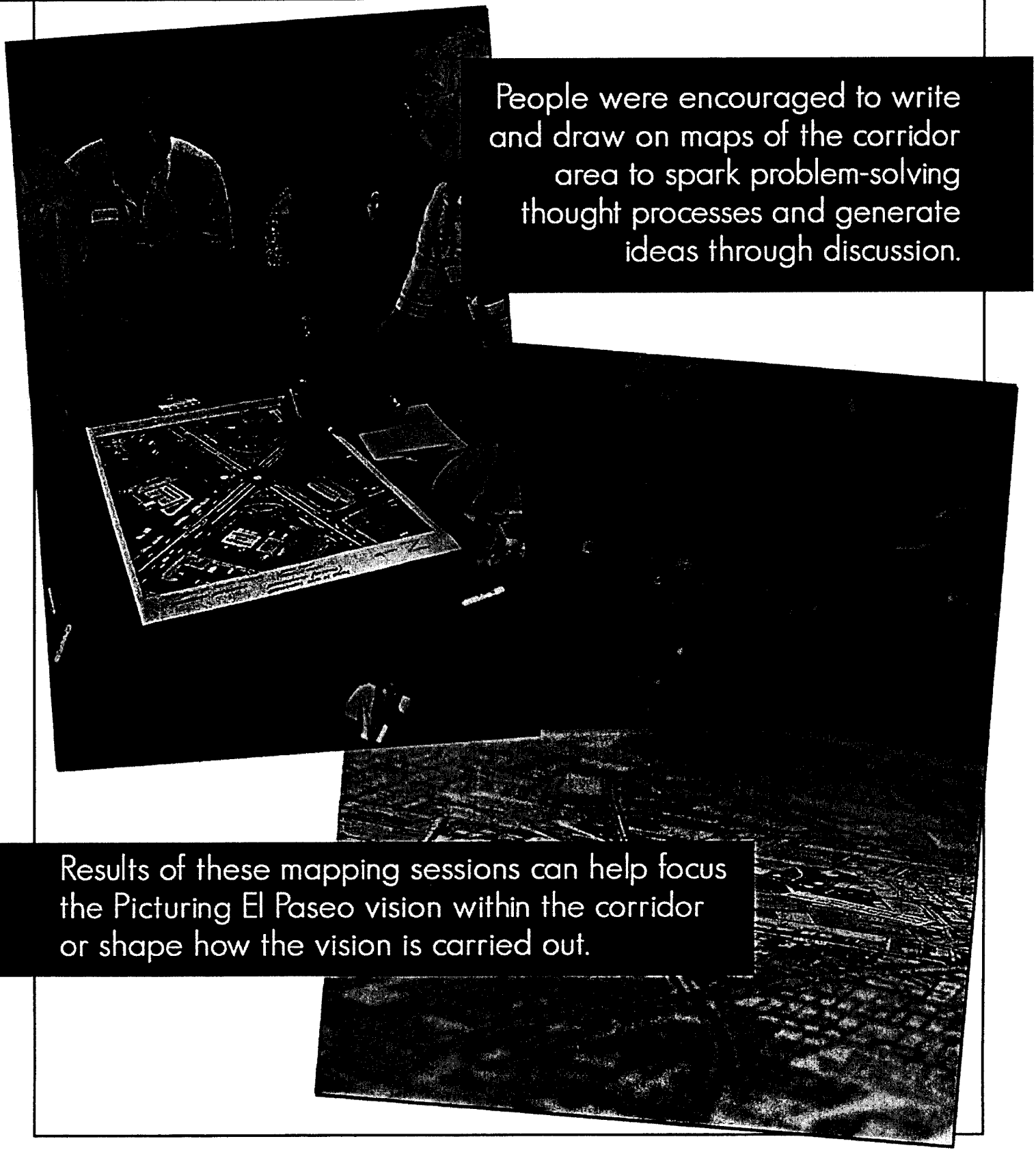
The Visioning Workshop began with a brief presentation on green infrastructure to give all participants ideas about how water conservation, heat island effect mitigation, and other green infrastructure components could be considered in their vision of El Paseo.

Visual Preference Survey

More green infrastructure information was made available on display boards, and attendees took a visual preference survey to determine what kind of landscaping is appropriate for the El Paseo Corridor.



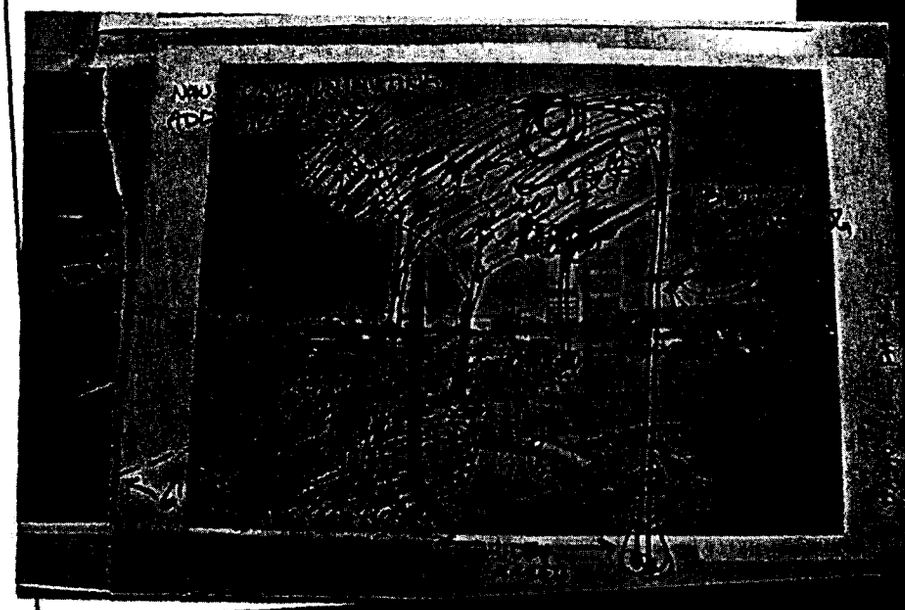
Mapping

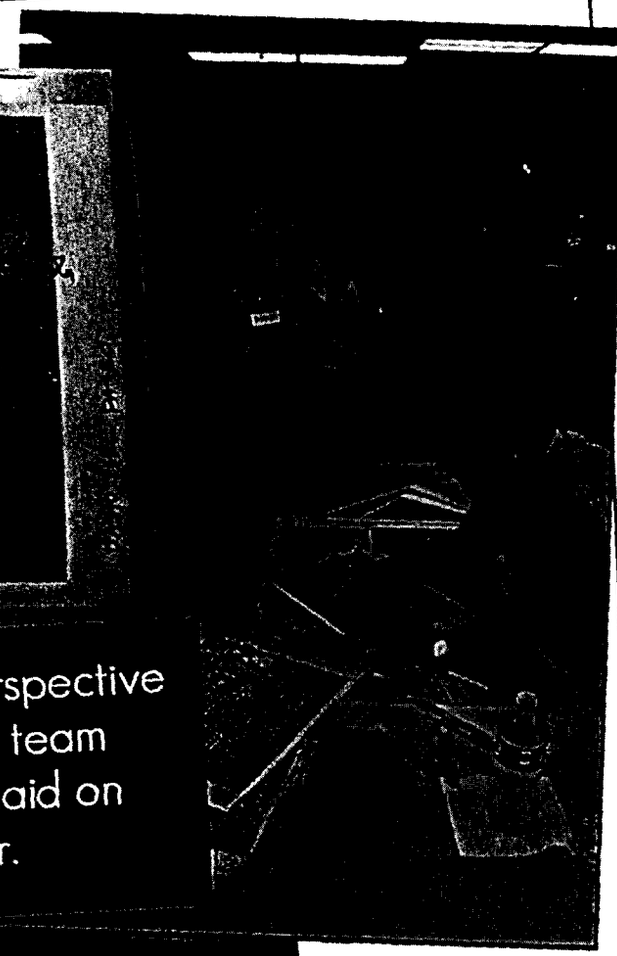


People were encouraged to write and draw on maps of the corridor area to spark problem-solving thought processes and generate ideas through discussion.

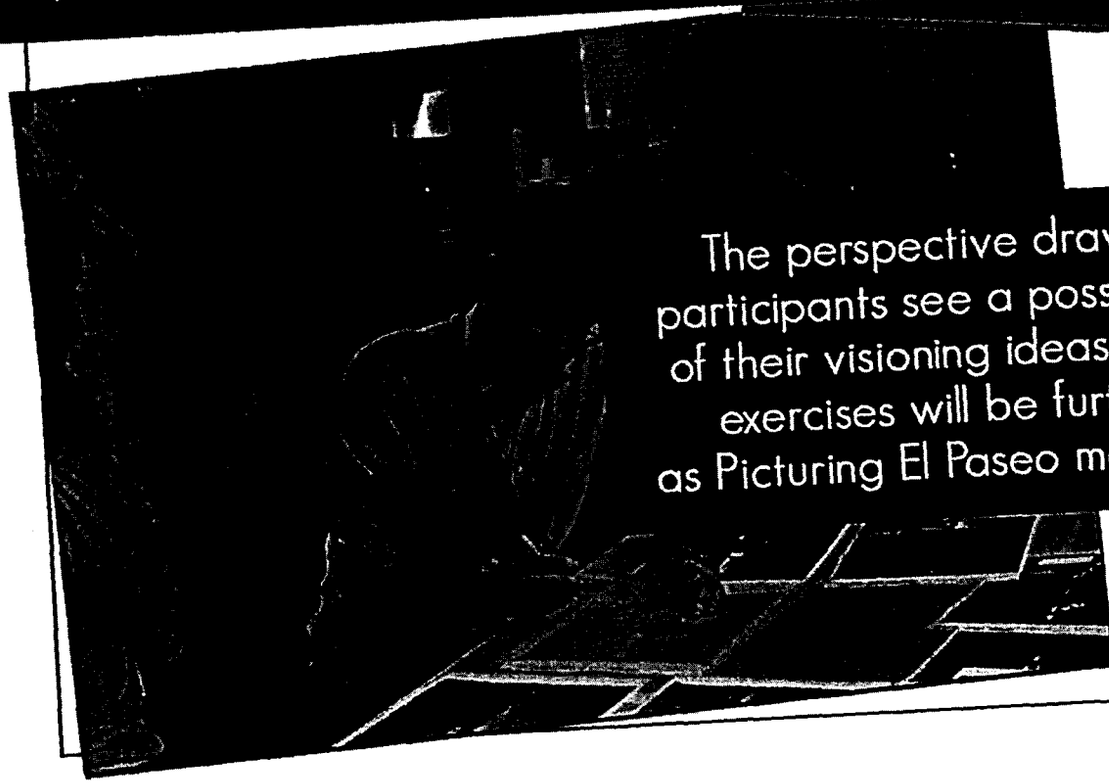
Results of these mapping sessions can help focus the Picturing El Paseo vision within the corridor or shape how the vision is carried out.

Shared Perspectives



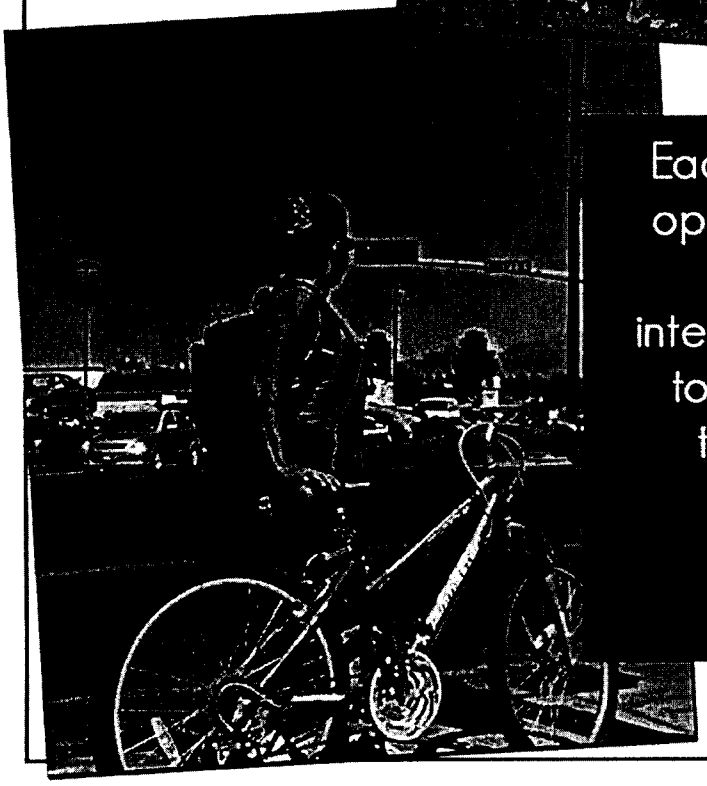


As part of the mapping exercise, perspective drawings were created by a project team member. These drawings were overlaid on photographs of the El Paseo corridor.



The perspective drawings helped participants see a possible outcome of their visioning ideas. These visual exercises will be further explored as Picturing El Paseo moves forward.

Site Tour



Each workshop session provided the opportunity for people to visit the El Paseo Road and Idaho Avenue intersection. Participants who wanted to get the feel for the walkability of the roadway were encouraged to safely walk along and across the street and record their feelings of comfort and safety.

Feedback Session

Each session included a feedback session,which was recorded for further, more detailed study. Participants learned about the Picturing El Paseo Photovoice exercise and were encouraged to give feedback about how photos can be used to create a community-based snapshot of the El Paseo corridor to effectively guide decision makers and redevelopment. This feedback is currently being used to refine public involvement techniques as Picturing El Paseo moves forward.

EVALUATION WORKSHEET

Project Name:

Public involvement goals:

Did the plans meet the goals? Yes ☐ No ☐

Please explain how:

Expected outcomes:

Did the project meet outcomes? Yes ☐ No ☐

Please explain how:

What lessons learned can be used on future projects?

NEW TOOL WORKSHEET

Tool Name: _____

Tool overview and application:

_____
_____
_____
_____
_____
_____

Comment gathering:

_____
_____
_____
_____
_____
_____

Key points for using this tool:

_____
_____
_____
_____

Tool benefits:

_____
_____
_____
_____

Project(s) where tool has been used:

_____
_____
_____

Citizen Notification Policy Manual

For the

City of Las Cruces
Community Development Department

March 6, 2013

DRAFT

Purpose:

The purpose of this policy manual is to establish efficient and effective measures for the notification of area residents on matters either initiated by or processed by the City of Las Cruces Community Development Department in accordance with rules and regulations as applicable. Varied notification measures although not guaranteeing 100% public notification are intended to cast the widest practicable notification net in order to reach the greatest number of interested stakeholders and thus, provide for a more informed community. Doing so raises awareness of impending issues and may increase input and participation on the various community related matters. Program areas to which these notification measures are to be applied include, but may not be limited to:

"Long-range" planning

Neighborhood Plans

Community Blueprints

Regional Plans

Comprehensive Plans

Consolidated Plans

Area Plans

Topic Specific Plans (arroyo, access management, etc.)

Current Planning

Annexations

Master Plans/Concept Plans

Initial Zoning/Rezoning

Variances

Preliminary Plats/Final Site Plans

Final Plats (for which Planning and Zoning Commission review is applicable)

Planned Unit Developments

Special Use Permits

Flexible Standards

Overlay ordinance development

Ordinance creation

Ordinance amendments

Project/Permit Design Review (specific boards/committees – SMDRB, UD-DRC, WMSPC)

Metropolitan Planning Organization Activities

Transportation Plan

Transportation Improvement Plan

Unified Planning and Work Program

Safe Routes to School Plan

Study Areas

Miscellaneous meetings

Public Input Meetings

Informational Meeting

South Mesquite Design Review Board

University District – Citizen's Design Review Committee

West Mesa Strategic Planning Committee

Planning and Zoning Commission Work Sessions

Planning and Zoning Commission Regular Meetings

Metropolitan Planning Organization Policy Committee Meetings

Technical Advisory Committee Meetings

Bicycle and Pedestrian Facilities Committee Meetings

Health and Human Services Advisory Committee

Extra-Territorial Zoning Authority Meetings (as applicable)

Extra-Territorial Zoning Commission Meetings (as applicable)

Departmental Methods of Notification

Within a staff-generated report entitled *Public Notification and Participation Report and Analysis of Options for a More Informed Community* hereinafter referred as "the report", numerous methodologies of providing notification to the general public were examined. It was recommended that of those identified, each department was to select the various methods that could be utilized for the purpose of providing notification on the various activities the department was responsible for. From that report, various methodologies are drawn and are to be utilized to the extent possible for the specific activities identified. Under certain circumstances, amendment of ordinances will have to be completed in order to carry out the method as intended and as such, staff will need to propose the amendment at the earliest opportunity possible.

Some of the methodologies suggest new processes that have not been used to any large extent, if at all, and thus will require the creation of applications that are intended to fulfill the requirement. Examples where this is necessary include Facebook and the Community Development Web page (new web site environment).

Finally, one method (requiring recognized neighborhood association, watch group or neighborhood organization meeting) may be used sparingly, and only when development theoretically creates a significant impact to the neighboring community. Instances where this is likely involve annexation requests (with all parts under review), stand-alone master plans and concept plans or other development proposals that will be known to create significant protest and/or impacts to the surrounding areas. Significant impacts as deemed by staff may include, but not be limited to, proposed development that is likely to pose significant traffic impacts due to limited roadway access, significant traffic congestion on a roadway that may be subject to decreased operational design capacity as a result of the proposed development, land use conflicts in terms of what is proposed to what exists in the area, potential imposition on known neighborhood concerns, etc.

Staff intends to document how successful all methods are in order to determine necessary adjustments to make implementation more meaningful. Said adjustments will only be considered once enough data (cost/benefit and efficacy) is available to make an informed decision.

The methods to be applied include:

- Modified current practice as outlined by existing State law and/or local ordinance.

  As outlined in the report, variance, subdivision and zoning related cases share both similarities and differences in the various notification processes required by ordinance. These cases typically go before the Las Cruces Planning and Zoning

Commission (P&Z), but other committees, boards and commissions have development proposals, plans and general planning related matters to address as well. In that granting additional time for meeting notification on all business items may help citizens with the notification process, staff will amend any and all existing provisions to meet a minimum fifteen (15) calendar day agenda posting, newspaper advertisement, sign posting (as applicable), notification letter (as applicable), staff notification of recognized neighborhood association, organization or watch group pursuant to approved policy, and newspaper advertisement standard. Doing so also benefits staff in that the stated time frames in which to carry out these tasks becomes normalized to one standard as opposed to the many as it now exists.

Modification is also being made to any and all required certified letter mail out provisions. Said adjustment requires first class mail in lieu of any provision that otherwise requires certified mail use unless State law stipulates a minimum certified mail standard. For example, zoning cases require a recommendation from the P&Z before being forwarded to City Council for final approval. Presently, first class mail is always used as a means to notify the public within the notification boundary of the P&Z hearing date, time and location. Upon reaching City Council however, certified mailing is then used to apprise these citizens of the pending City Council hearing. The new standard which will apply is to follow strict State law mail out notification requirements. For instance, if one block or less is being rezoned, the subject properties and those properties within 100' would receive certified mail. From that first 100' distance up to a revised notification boundary of 500' (200' was the past standard), first class mail would then be used. Subdivision processing pursuant to State Statutes and local ordinance does not have a certified mailing requirement and thus, is exempt from the certified mail-out provision herein stated. Variance cases although presently requiring certified notification will now require only first class mailings. Furthermore, the old standard for the minimum number of unique property owners notified (15) is eliminated due to the notification boundary increase.

Sign posting on the subject property has also changed. Rather than have staff post the applicable notification sign on the property as it has been done in the past, staff shall prepare sign(s) for the applicant to post on the subject property prior to the 15 day threshold. If two signs are necessary to address recommending and final authority reviewing entities, both will be prepared and provided to the applicant. The posting(s) shall be in concert with all applicable standards for safety and visibility and it shall be the responsibility of the property owner to ensure that continuous posting of the applicable sign occurs from the 15-day threshold for sign posting through the applicable meeting date to which it

pertains. If two separate postings are required, the same expectation will be applied. An affidavit of posting shall be completed and submitted back to the Community Development Department advising of the applicant's understanding of compliance requirements and the ability to comply with posting parameters. Cases involving both Planning and Zoning Commission review and City Council action, for instance, shall require continuous posting of the first sign through to action taken by the Planning and Zoning Commission. The second sign will be posted on the day following the Planning and Zoning action date through to the City Council meeting date in that City Council provides a final decision on the matter. Those cases that only require one entity's review and consideration will require posting through that applicable meeting date. Following the meeting by which final action is provided, the applicant shall dispose of or recycle the sign in the appropriate manner. Signs used shall be 48"X48" in size. If lots have multiple street frontages, one sign per frontage shall be posted. If the property is significantly large and has lengthy frontage(s), multiple signs may be required for posting. Community Development staff shall make a determination at the time of sign issuance.

The final two modifications that are applicable involve the neighborhood association notification provisions. Due to the various organized aspects of neighborhood groups, the policy will be amended to include reference to Neighborhood Associations, Neighborhood Organizations, and Neighborhood Watch groups. The policy will be amended by title as the Identified Neighborhood Group Information and Notification Policy and throughout the document, all active neighborhood groups regardless of type that comply with said policy, shall be the focus of the policy's content. The distance threshold referenced as to when notification is required will be 500 feet (consistent with the new letter notification boundary). The need for the applicant to notify a neighborhood group shall remain consistent with the established policy. In addition to said policy, the applicant, should a development proposal be deemed significant (staff to determine significance), shall not only notify the affected group(s), but also avail themselves at the discretion of the group(s) to present proposal parameters at a meeting mutually agreed upon and hosted by the group prior to formal case submittal to the City. Staff shall provide contact information on neighborhood groups affected. Only after said meeting will the applicant be able to submit the proposal for formal review and consideration. The submittal among other required elements will contain a copy of the notice provided by the applicant and the minutes (summary or verbatim), if applicable (assumes the group agreed to said interaction), that clearly demonstrate discussion of the proposal and any and all issues or concerns, either for or against the proposal.

In the event there are no recognized neighborhood groups within the threshold, the City, upon determining the significance of the proposal, may elect to have the applicant notify the "neighborhood" and avail themselves of possible meetings in which to discuss related matters. For purposes of this provision, neighborhood shall be those properties (property owners) within a 500' radius around the subject property being developed. Submittal of the development application shall be the same in this instance as for a recognized neighborhood group.

Substantial deviation between what was presented and/or discussed with the neighborhood or neighborhood group(s) and what gets submitted may require another meeting with the association unless said deviation is an attempt to clearly address concerns or issues raised by the neighborhood group or neighborhood. This modification will not preclude any reviewing entity from thereafter requiring postponement of a case subject to the applicant holding a meeting with stakeholders whether registered as a group pursuant to the policy or not.

As a means to pay for the increased notification costs associated with signs, newspaper advertisement, and letter mail-out, staff will be collecting additional fees for cost recovery of these processes over and above the standard fee for the subject development process. These fees will be based on actual cost recovery for the materials and services provided and may fluctuate based on charges incurred at the time of processing. Cost summary information will be made available as applicable. Fees will be collected prior to the respective scheduled meeting. Failure to provide payment may subject the case to postponement action.

- Development and Planning Project Web Page

With the new web environment established by the City, the old web format for announcing incoming development proposals and planning projects has to be modified to fit accepted protocol. Inasmuch as this venue offers substantial opportunities to inform the general public about development application submittals and planning projects early in the process, a new web page format must be completed expeditiously. The web page at minimum should convey the following: name of the development or project; name of the applicant or project lead; contact information as applicable; general location; date of submittal to the City; identification of the project type (i.e. zone change, variance, flexible standard, master plan, etc.); projected hearing date (subject to change) for the respective committee, board or commission; indication whether stated

committee, board or commission is a recommending body or whether it has final authority; status indicator (i.e. in review, approved, denied, withdrawn, etc.); and finally a PDF or similar file attachment that displays a scan of the application received and any and all site plans, elevations, surveys and the like that were part of the submitted proposal. Long term, staff should strive to have the page graphically oriented and be more interactive for the user. Potentially, staff should consider embellishments like having a geographically integrated map showing areas or districts of the city that convey only those proposals within a specific district or boundary. Potentially, citizens could define a set distance around their residence to determine if any proposals are nearby.

As milestones are reached, the status of the proposal/project will be updated. For instance if the Planning and Zoning Commission heard the case and recommended approval up to City Council, the Status field should reflect "Recommended Approval to City Council" or similar disposition. Doing so not only indicates how the reviewing entity (board, committee or commission) voted, but also conveys where the application or matter is being directed to next. Upon completion of all review and consideration steps, information regarding the specific item will be left on the page for no longer than one month so that the page primarily reflects current activities while providing a small window on which to view past actions on cases and issues. Posting of submittal information and/or status updates shall take place not later than five (5) business days following acceptance of the submittal application or the latest action taken by a reviewing body. Fees for this process are part of standard fee presently collected.

- Facebook

  Staff shall seek permission from the City Manager's office to establish Facebook as an ongoing method for public notification of development submittals, planning activities and upcoming meetings. Upon approval, staff will investigate the best method for establishing the department as an entity by which to disseminate development and planning related information in the Facebook environment. Conceivably, the department can establish a Facebook page for itself (see how-to ideas at http://www.techipedia.com/2011/build-facebook-page/) and provide announcements and brief information regarding development submittals (including both tentative and actual meeting dates for the subject cases), general meetings, projects or general planning activities. Staff may have to moderate the page as appropriate and take prompt, appropriate action on individuals that misuse the page as it is intended. The timing of meeting announcements is to be in accordance with the fifteen (15) calendar day notice prior to the intended meeting date. Any development submittal announcements shall be posted within five (5) business days of acceptance of submittal. Fees for this process are part of standard fee presently collected.

- Las Cruces Notification System (formerly CityWatch)

  With the recent launch of the Las Cruces Notification System, community members may sign up and receive community level notices regarding public meetings and/or public messages. Staff will ensure that the LCNS will be used to announce, at minimum, upcoming meetings for all commission, committee and board-related entities that review, recommend and/or approve Community Development-related cases, plans or proposals. In preparing and sending the message, staff will provide a reasonable degree of information in the context of the notice (e.g. agenda) so that case nuances can be provided as clearly and accurately as possible. Timing of any and all notices will be in concert with established protocol once said protocol is created. Staff will try and align the announcements with the 15 calendar day threshold established elsewhere. Fees for this process are part of standard fee presently collected.

- CLC-TV

  In working alongside the Public Information Office, staff will develop a template that can be used on static bulletin boards during daily CLC-TV programming to display any and all development-related activity submitted for review and consideration. Every attempt will be made to post information similar to that identified in the department web page process, less status updates, but including both tentative and actual meeting date information. Any and all information will follow the protocol and usage parameters set forth for the CLC-TV static bulletin format. Said posting shall be prepared on a weekly basis as submittals are brought forward and shall be dated so that the most recent submittal activity is shown first and the oldest, last. A rolling four (4) week's-worth of activity shall be displayed so that the information does not get overly burdensome to post and maintain. Posting of information, although carried out weekly, will not be posted later than 5 business days from receipt of submittal. Fees for this process are part of standard fee presently collected.

Notification Summary Table

Notification Action	Responsibility (CLC/Applicant)	Minimum Timing	Costs	Miscellaneous Issues
Signs	*CLC* – Prepare & provide *Appl.* - Post	15 Calendar Days	Additional Cost – Cost Recovery	1 sign for recommending mtg. 1 sign for final action mtg. 1 sign per frontage Signs as appropriate for lengthy frontage.
Agenda Post	*CLC*	15 Calendar Days	Part of Standard fee	Agenda and Newspaper Adv. can occur simultaneously.
Newspaper Advertisement	*CLC*	15 Calendar Days	Additional Cost – Cost Recovery	Agenda and Newspaper Adv. can occur simultaneously
Notification Letters	*CLC*	15 Calendar Days	Additional Cost – Cost Recovery	500 ' notification boundary *Recommending bodies* – 1st class *Final Action bodies* – certified 100'; 1st class thereafter. Subdivisions and variance excluded from certified req.
Neighborhood/Group Notification	*CLC/Appl.* – initial notice *Appl.* – Mtg. if reqd.	N.L.T. 5 business days after submittal. Prior to submittal for Mtg.	Part of Standard Fee	500' notification boundary
Website Posting	*CLC*	N.L.T. 5 business days after submittal or status change	Part of Standard Fee	Announce mtgs., submittals, case updates, new projects, project updates
Facebook Posting	*CLC*	*Mtg.* – 15 Calendar Days *Submittal* – 5 Business Days	Part of Standard Fee	Announce mtgs., submittals and new projects.
CLC-TV Posting	*CLC*	N.L.T. 5 business days after submittal	Part of Standard Fee	Announce mtgs. and submittals.
LC Notification System Broadcast	*CLC*	15 Calendar Days	Part of Standard Fee	Announce meetings to include agenda.

Notification Methods Outline by General Departmental Section and Process/Activity Type

The following tables presented by general departmental divisions identify processes and/or activities that shall require the associated notification methods as listed. Due to the nature of certain projects and related meetings, particularly those associated with large-scale plan development or general public hearings, staff has the discretion on a case-by-case basis of applying only relevant portions of the stipulated processes identified. Notification letters, as an example, are not relevant in the presentation of general issues at a public input meeting or to property owners during the development of a comprehensive plan and as such, would be omitted from the defined processes.

For Metropolitan Planning Organization (MPO) notification methods, the MPO's Public Participation Plan defines the processes and steps necessary to undertake appropriate notification of stakeholders. Where said plan is absent of discussion related to notification avenues presented herein, MPO staff shall determine the appropriate measures that can be added to those already implemented. For instance, the use of social media for MPO purposes alone should be considered as a means to further inform the public. Notification of neighborhood groups/organizations as appropriate and the use of CLC-TV for posting of project or meeting information should also be considered. Additionally, to increase the amount of time by which stakeholders are informed about work flow or proposed MPO efforts, agenda posting, newspaper notices and any notification letter mail-out should seek a fifteen (15) calendar day minimum as opposed to the ten (10) calendar day window that presently exists.

Current Planning Notification Process

Case Process	Staff Notification Action	Applicant Action	General Notes
Pre-Application Meeting	Determine Neighborhood/Meeting Need	Hold Neighborhood Meeting*	*If required, applicant will hold the meeting before submittal
Submittal	Website	Neighborhood/Group Notification	No later than five (5) business days after submittal
	Facebook		
	CLC-TV		
	Neighborhood/Group Notification Letters		
Review	Website	N/A	Update no later than five (5) business days after each resubmittal
UDDRC, SMDRB, WMSPC*	Website	N/A	Update minimum of fifteen (15) calendar days before meeting
	Facebook		
	CLC-TV		
	Agenda	N/A	Minimum of fifteen (15) calendar days before meeting
	Prepare/Notify Applicant of sign req.	Post sign(s)	
	Neighborhood/Group Notification Letters	Ensure payment of any outstanding notification fees	
	Newspaper		
	Website	N/A	Update no later than five (5) business days after meeting
DRC*	Website	N/A	Update minimum of fifteen (15) calendar days before meeting
	Facebook		
	CLC-TV		
	Website	N/A	Update no later than five (5) business days after meeting
Planning and Zoning Commission, ETZA, ETZC	Website	N/A	Update minimum of fifteen (15) calendar days before meeting
	Facebook		
	CLC-TV		
	LC Notification System Broadcast	N/A	Minimum of fifteen (15) calendar days before meeting
	Agenda		
	Prepare/Notify Applicant of sign req.	Post Sign(s)	
	Neighborhood/Group Notification Letters	Ensure payment of any outstanding notification fees	
	Newspaper		
	Website	N/A	Update no later than five (5) business days after meeting
City Council First Read*	Website	N/A	Update minimum of fifteen (15) calendar days before meeting
	Facebook		
	CLC-TV		
	LC Notification System Broadcast	N/A	Minimum of fifteen (15) calendar days before meeting
	Council Action Executive Summary	N/A	*Determined by City Clerk Calendar (ordinances only)
City Council Action	Prepare/Notify Applicant of sign req.	Post Sign(s)	Minimum of fifteen (15) calendar days before meeting
	Neighborhood/Group Notification Letters	Ensure payment of any outstanding notification fees	
	Website	N/A	Update no later than five (5) business days after meeting

Advanced Planning Notification Process (Staff as Applicant – Area, Neighborhood, Community Blueprint, Overlay Plan Development)

Case Process	Staff Notification Action	Applicant Action	General Notes
Initial neighborhood meeting (discussion of issues)	Website*	See Staff Notification Action	Minimum fifteen (15) calendar days before meeting. *Assumes meeting announcement action.
	Facebook		
	CLC-TV		
	LC Notification System Broadcast		
	Neighborhood/Group notification letters		
	Website		Update no later than five (5) business days after meeting as may be applicable
Follow-up neighborhood meeting(s) leading up to presentation of formal proposal	Website*	See Staff Notification Action	Minimum fifteen (15) calendar days before meeting. *Assumes meeting announcement action.
	Facebook		
	CLC-TV		
	LC Notification System Broadcast		
	Neighborhood/Group notification letters		
	Website		Update no later than five (5) business days after meeting as may be applicable
UDDRC, SMDRB, WMSPC* (Subordinate Board Recommendation Meeting if necessary)	Website*	See Staff Notification Action	Update/post minimum of fifteen (15) calendar days before meeting. *Update aspect assumes meeting announcement action.
	Facebook		
	CLC-TV		
	Agenda		
	Newspaper		
	Neighborhood/Group Notification Letters		
	LC Notification System Broadcast		
	Website		Update no later than five (5) business days after meeting
Planning and Zoning Commission Work Session	Website*	See Staff Notification Action	Update/post minimum of fifteen (15) calendar days before meeting. *Update aspect assumes meeting announcement action.
	Facebook		
	CLC-TV		
	Agenda		
	Newspaper		
	Neighborhood/Group Notification Letters		
	LC Notification System Broadcast		
	Website		Update no later than five (5) business days after meeting
Planning and Zoning Commission Recommendation to CC	Website*	See Staff Notification Action	Update/post minimum of fifteen (15) calendar days before meeting. *Update aspect assumes meeting announcement action.
	Facebook		
	CLC-TV		
	Agenda		
	Newspaper		
	Neighborhood/Group Notification Letters		
	LC Notification System Broadcast		
	Website		Update no later than five (5) business days after meeting
City Council Action	Neighborhood/Group Notification Letters		Minimum of fifteen (15) calendar days before meeting
	Website		Update no later than five (5) business days after meeting

Advanced Planning Notification Process (Staff as Applicant – Regional Plan, Comprehensive Plan Development)

Case Process	Staff Notification Action	Applicant Action	General Notes
Initial Kick-off meeting (Introduction and discussion of process and issues)	Website*	See Staff Notification Action	Minimum fifteen (15) calendar days before meeting. *Assumes meeting announcement action.
	Facebook		
	CLC-TV		
	Neighborhood/Group notification letters		
	LC Notification System Broadcast		
	Website		Update no later than five (5) business days after meeting as may be applicable
Follow-up community meeting(s) leading up to presentation of formal proposal	Website*	See Staff Notification Action	Minimum fifteen (15) calendar days before meeting. *Assumes meeting announcement action.
	Facebook		
	CLC-TV		
	Neighborhood/Group notification letters		
	LC Notification System Broadcast		
	Website		Update no later than five (5) business days after meeting as may be applicable
Planning and Zoning Commission Work Session	Website*	See Staff Notification Action	Update/post minimum of fifteen (15) calendar days before meeting. *Update aspect assumes meeting announcement action.
	Facebook		
	CLC-TV		
	Agenda		
	Newspaper		
	Neighborhood/Group Notification Letters		
	LC Notification System Broadcast		
	Website		Update no later than five (5) business days after meeting
Planning and Zoning Commission Recommendation to CC	Website*	See Staff Notification Action	Update/post minimum of fifteen (15) calendar days before meeting. *Update aspect assumes meeting announcement action.
	Facebook		
	CLC-TV		
	Agenda		
	Newspaper		
	Neighborhood/Group Notification Letters		
	LC Notification System Broadcast		
	Website		Update no later than five (5) business days after meeting
City Council Action	Notification Letters		Minimum of fifteen (15) calendar days before meeting
	Website		Update no later than five (5) business days after meeting

WORK SESSION
SUMMARY & DIRECTION SHEET

The following is a brief summary of the Agenda items discussed at the Work Session, with appropriate direction given to the responsible staff person by the City Council. The required follow-up actions are to be taken by those responsible officials.

The City Council of the City of Las Cruces, New Mexico, held a Work Session on Monday, September 24, 2012, at 1:00 p.m., at the City Council Chambers, City Hall.

THOSE PRESENT:	Mayor Miyagishima **(Absent)**
	Councillor Miguel Silva, District 1 **(Arrived at 1:09)**
	Councillor Greg Smith, District 2
	Councillor Olga Pedroza, District 3
	Councillor Nathan Small, District 4
	Councillor Gill Sorg, District 5
	Councillor Sharon Thomas, District 6
OTHERS PRESENT:	Robert Garza, City Manager
	Pete Connelly, City Attorney
	Esther Martinez, City Clerk

Mayor Miyagishima called the meeting to order.

Mayor Miyagishima presented the Pet of the Week.

Mayor Pro-Tem Thomas: The cat wasn't too comfortable with the microphone. Since this is a Work Session, we don't have any proclamations, but I do want to remind everybody that we're ending the Tough Enough to Wear Pink Campaign this week. It culminates this coming Saturday at the football game. We have at least 4 out of 5 of us who managed to get the pink memo. Only Councillor Small doesn't have any pink.

Councillor Small: Thank you very much, Mayor Pro-Tem for pointing that out. Sometimes drawing that attention is a very good thing. I will say thank you to Councillor Smith. He did offer his pink tie, but I think it looks better matched with the attire that he does have on, and also I did want to, in the spirit of important community efforts, I did also want to remind folks that tomorrow evening, the 25th, over at the Port Avenue, there is going to be the Vida de Las Cruces. A number of initiatives, including the Community of Hope for homeless Veterans and also the Animal Services. Animal issues are being supported through the proceeds of this. It is tomorrow evening. I know that's

something that is also very important to folks but not to take away and certainly to take my lumps for not having for at least not having my pink ribbon today.

Mayor Pro-Tem Thomas: Thanks. I think the tie would have clashed with your shirt so we'll accept green. I just want to read a short blurb from the Tough Enough to Wear Pink website. "The money we raise is invested in the Cowboys for Cancer Research Endowment. Thanks to the generous part of our sponsors, community philanthropists, and countless community members who represent the money that we raised to aid in New Mexico funding cancer research in New Mexico State University and the University of New Mexico. Together with our major sponsors, local health care providers, raising breast cancer awareness through education in one of the poorest counties in the United States. As a result of our efforts, more than 300 free mammograms were made each year available to Doña Ana County women who might not otherwise have had access to this life saving procedure. So we especially want to thank Laura Kaniff, Pat Sisbarro, Magella Boston, and Mary Henson who are the co-chairs of the Tough Enough to Wear Pink and go out to the football game next weekend. Okay, we only have 1 item on our agenda and I believe Vincent Banegas is going to give us a report.

1. Public Notification Process for Zoning and Development Applications.

Vincent Banegas: Good afternoon, Mayor Pro-Tem, City Councillors. My name is Vincent Banegas. I am Deputy Director for the Community Development Department and I'll be talking to you today about all things public notice at least, where we've been, where we are in regards to this issue. We have visited this particular matter before in a previous Work Session and at that time we were examining opportunities by which we could improve our public notice measures that are undertaken for a great many things that we do and at that time we went back and examined some opportunities and took a closer look, drilled down into them to see what type of issues are tied to those cost resources, those type of things and as a result I'll be speaking to you on some reports and some issues and some proposals that staff has come up with to address the concern.

The Community Development Department currently has notification practices for all of its development related cases, annexations as you all know, zoning, subdivisions, and variances. Those are the typical development type cases for which the staff within Community Development carries out public notification for. Other items include planning projects, neighborhood plans, corridor plans, and of course more recently our community blueprint planning effort or endeavor. We also carry out notification processes with those as well. Comprehensive planning is not listed but that is certainly one that we take a little different angle on since it is so broad but that is certainly included in the planning activity. The types of notice that we provide at the present is kind of a 2 tier approach, primarily agenda posting, newspaper ads, particularly the legal section of the newspaper identifies the meeting that that particular case is subject to consideration within. We do letters to mail out to property owners within the vicinity of a subject development proposal and then secondarily we have website information that gets posted on the Community Development website or web page rather, and we attempt to identify not only the type of case but information about the

applicant and what the case involves, etc. There is currently some adjustment being made to that web page in particular to make it more user friendly if you will for staff to post the information on so as we continue to enhance that we will get that running here in relative short order with much better success. And then there's also the Neighborhood Association Notification Policy. That was included in your packet of information. It's the smallest of the documents that was included and it stipulates when neighborhood associations get notified both by City Staff, by developer, and it talks about the issues that are subject to that policy regarding the sharing of information, that sort of thing about the subject proposal.

Just to kind of give you a real brief overview, minimum notification requirements that we partake in are drawn from the New Mexico State Statute. You will notice that across the top of this particular slide, we have 3 of the key development processes that we undertake. Those are subdivision, zoning, and variance and you'll notice that across the left hand column, all those kinds of activities, notification activities that we typically engage in, the State Statutes are really generic if you will or nonexistent as to what the provisions or stipulations are for notification. As compared to the City of Las Cruces on the right hand side of that slide, we have the same information across the top, the steps that we take across the left hand column, and you'll notice that we fill in a great many of those cells that are neutral about the processes and we identified timing. We identified distance thresholds for notification and who gets notified and that type of thing. So that's.....

Mayor Pro-Tem Thomas: Do you mind if Councillor Sorg asks you a quick question?

Vincent Banegas: Sure.

Councillor Sorg: On those charts there, what do you mean by agenda posting? What does that look like?

Vincent Banegas: The agenda posting is actually the meeting agenda. It stipulates time, place, purpose of the meeting and it also has all the case.....

Councillor Sorg: The agenda I understand. The posting part I don't.

Vincent Banegas: The posting, we post not only in the newspaper, we advertise in the newspaper. We also post it here at City Hall and other places where citizens are likely to be.

Councillor Sorg: On the website?

Vincent Banegas: Well, that gets posted as well through the website, yes.

Councillor Sorg: Okay, thank you. You will notice that on the City of Las Cruces side, we have enhanced, compared to the statute side, a lot of notification procedures and some of the concerns that have been raised with that is there is no normalization if you will on some of the key features of that.

I have circled some various....the number of days prior to the public hearing that exists. Sometimes they differ by process type. For instance, along the subdivision column, you have both 6 days and 9 days mentioned and in the zoning you have 10 days and 15 days mentioned so there is variation across the processes and with an individual processes as well. Distance thresholds are also different. We have a 200 foot notification boundary identified for mail distribution to the property owners but we also have a 300 foot distance requirement for the Neighborhood Association Policy that I referenced. So again some differences on which to keep tabs on and not mess up.

Some of the notification concerns that we've heard along the way for a great number of years is that we simply do not reach enough people. Maybe we've heard that the notification distances that we follow are too short, they shouldn't be expanded. We've also heard that the methods that we implement are not all inclusive and we've also heard that in certain instances it becomes a burden to the property owner and the example I cite is the certified mail criteria that we implement. If the property owner is not present at home to receive the certified mail or letter and sign for it, I believe there is another attempt made by the post office and if that fails then they get a notice saying pick up your certified envelope at the post office and so it becomes a bit of a burden to some property owners because they have to take the time to go and seek out that letter. There has also been complaints about the limited use of modern technology to get the word out and so new methods are being considered and we're trying to implement those as well. Other relevant concerns regarding notification. We have to consider ease of application. We have to consider practicality. In certain instances if we make timing thresholds, for instance too excessive, we could impact an applicant's time frame for development and rather than going to a meeting say next month, it could be pushed back 2 months and so we have to keep that in consideration. Resources, both monetary and staff, have to be considered with these processes and safety and liability are also matters that have to be kept in mind and by that we're talking about the potential for on site activity, dogs that kind of thing. That could play a factor or in certain instances we talked about larger notification signage on the subject property and what that could bring with it and in essence the bigger the sign, the more likely we're going to be hitting things on private property such as drip irrigation, sprinkler lines, those type of things that we could damage and so we have to keep those matters in mind as we consider other options. Cost and cost recovery: That kind of speaks to the resources. We have set fees for all of our processes at present. The question becomes with new methodologies being considered for notification, are those costs that we currently collect, are they enough? Do we need to look at cost recovery in certain instances? And then the variability of the processes. They are different processes all together. Some of them bring out more interest from property owners and citizens in general and then others not too much and in many instances they don't have problems with a great many things that we do. The perception regarding that issue is that there are often times substantial protest or would be substantial protest with some of the cases we take forward and to address that, staff took a look at roughly 2 ½ years of case history and found that 171 cases were submitted. Of those, 84 were not acted on or not addressed pursuant to these numbers because they were either handled administratively pursuant to our codes, they were dropped by the applicant and no longer pursued, or simply they were waiting P&Z consideration. Now of those 171, we have 87 cases that were considered by a decision making body and of those 87, 30 of them received absolutely no protest

whatsoever. On 47 of those, there was minimal discussion and most of that if not all of that was just to seek clarification on what was being considered. Maybe they had confusion over what the special use permit really pertained to or what the zone change meant or what the zoning designation would include in terms of uses, that kind of thing and often times what we found is once that clarification was given, there was no concern. There was no further discussion and certainly no protest. Six of those cases we did find where concerns were raised and at the request of property owners or those making the statements, they asked the decision making bodies to consider conditions for instance to address their concerns and in many instances those concerns or conditions were placed in any of the actions that were rendered, and then of course 4 or roughly 5% of those 87 cases received strong protest so I think you'll see out of 2 ½ years worth of time and case history that not very many strongly protested cases are being addressed by our decision making bodies.

So, here we are. We recognize that our notification methodology could be bolstered and improved. We have no problem admitting that. The steps that were undertaken to examine what we could do was to kind of take a look at other communities within the region. I mentioned this at the last Work Session wherein we looked at 7 other communities, some of them in state, some of them out of state, but everywhere from here in New Mexico to Arizona, even California and Colorado, some of those communities were looked at in terms of what they did for their notification on the same processes that they carry out just like we do. Some of the nuances that we found: Notification boundaries for one, some of them were higher than our existing boundary and some of them were lower. We have a 200 foot notification boundary for mail out presently and we saw some 300. We saw some 100, and so it just varied. Some entities or cities notify both property owners and tenants and some on a case by case basis picked one or the other and so that varied. Neighborhood meetings, sometimes they were mandatory and sometimes they weren't even addressed at all. There was case by case review and assignment of the notification techniques by those communities based on staff perceived impacts so if someone brought in a proposal and staff felt that it would bring significant concern to a neighborhood, then they require a neighborhood meeting or an association meeting and then those that were generally felt to be minor in nature. They did not. Notification timing was more standardized, which is one of the things that I would propose that we consider but in no instance did it exceed our 15 day standard that we have in place now at least for zoning matters, and the applicant responsibilities in many instances were far greater than what we have in our codes today. For instance, doing the neighborhood meeting was all on the applicant, proving that the meeting took place was on the applicant, posting signs was on the applicant, etc. So, definitely different nuances were seen and some similarities.

So, staff based on that information did some reporting and some writing, and I've never been known for brevity, but the document, the largest document that was included in your packet, is some 32 pages of information that took a look at some of the issues that we have to consider with notification, took a look at some methods that might be considered for inclusion in notification procedure and some of the pros and cons associated with each one and at the end it has a recommendation as to what we do with the information that was contained there then. So that's what that report addresses. It's intended to be a Citywide report, not just Community Development and it's also intended to kind

of provide a menu option if you will of methodologies that could be chosen to fit a variety of needs and adjust it to fit specific concerns or issues that any one department in the City might have. It considers and encourages these departments to take a look at those items and try to incorporate them in their notification and policies that exist today and as part of that, Community Development staff rather decided to take the lead on that and we have attempted to draft up some policy that seeks to incorporate some of those same ideas into an ongoing notification procedure and that is the next document that is in draft form and it is called the Citizen Notification Policy Manual for the Community Development Department and what it does is it selects from the manual. It identifies all the steps for all the processes we carry out, subdivision variances, annexations, plan, creation, that kind of thing, and it also looks at the existing process for notification and discusses ways to improve it and tweak it so that it is more inclusive in terms of getting the word out and so it's talked about in there as well and it seeks to have this policy document proved by resolution as a matter of practice for community development and if we go with those policies and if we go with those standards that are contained and discussed therein, then there will be a need to amend other policy documents but also our ordinances, primarily the zoning code is an example where notification measures are specifically identified distance thresholds a number of days prior to public hearing, that kind of thing. We need to make sure that it would be consistent with the policy if we so agree that that's the way to go, and finally in that policy manual, the draft manual, we talk about some cost recovery on 3 elements that are discussed. The mail out is one of them. The newspaper ad is another and signs are a third. So those costs associated with those types of activities for notification would be fees in addition to the standard fee already charged. It wouldn't be substantial, but it is an attempt to get cost recovery given the recommendations that I'll go into here shortly. Since we're increasing our activities, we're increasing distances by which we're going to contact property owners. Fees obviously need to cover those costs because the current fees do not anticipate those changes.

So in our policy recommendation, we're looking to do a 5 step notification effort if you will for all planning and development related activities. The existing process is what the first section talks to and that's the modified notification process. Again we're looking at standardizing the number of calendar days before a public hearing to 15 so to all agenda postings, newspaper ads, sign postings on the property. That would all follow a standard 15 counted day threshold and it is the maximum that we currently have, which gives more time for individuals to know about specific meetings and specific cases on those meetings. The mail notice to the Neighborhood Association is currently 300 feet, and the policy, which is also included in your packet is called an Identified Neighborhood Association Information and Notification Policy. Presently it stipulates that there's a 300 foot notification boundary for those neighborhood associations. We're looking to increase that to 500 feet. The staff determination on when applicants should be required to have a meeting with the Neighborhood Association will be made at pre-application timing when an applicant actually comes forward to get with staff and make their pitch for their proposal and kind of see what kind of feedback staff will provide. At that point in time, which is very early in the process, if staff feels that the matter is or will be of great concern to the neighborhood or will have significant impact on a Neighborhood Association, that type of thing, we will request the applicant not only contact them pursuant to that policy, which is a requirement regardless, but seek a meeting with them to convey

face-to-face what their proposal means, what it includes, and that type of thing and if the meeting is held, it's got to be agreed to a time and place by the Neighborhood Association and the applicant, but if it is held, then they will have to submit not only the letter that they submitted notifying them of the case, but minutes of that case and that will all be looked at at the time of submittal if they do not have that. Staff will follow up and see what happened, and that could delay their acceptance of the submittal. So we're looking at getting more interaction early on with the Neighborhood Association through that measure. The process that I just described does not remove any authority the Planning and Zoning Commission has or this body, City Council, has in postponing a case pending the applicant getting with the neighborhood and discussing the matter further. You would still have that authority, the previous issue I described is just one that staff will implement when we feel it's necessary to do so. In either case, staff would be in attendance at these meetings to monitor them. We would be able to answer any technical questions of our codes, but we would not take lead in the discussion. We would not present the matter to the Neighborhood Association or on behalf of the applicant. It would be those 2 entities discussing the issues and hammering out the concerns, but we would be there to monitor them. Sign posting responsibility is now being proposed to go by the way of the applicant and we would still provide the signs and the standards in which to erect those signs, but then the applicant would have to post them 15 calendar days prior to the public hearing and then ensure that those signs stay up through the approval stage. So, if approval stage ends with Planning and Zoning Commission, they need to make sure that it's consistently displayed through that time period. They may receive in the case of a zoning change application, a second sign to address the discussion at the City Council level and so the day after P&Z, they would have to remove that one and post a City Council sign to convey new information regarding when it comes to this body and again they would have to ensure that it remains up throughout the hearing and through the determination stage of that case. Notification boundary: Much like the Neighborhood Association Notification Boundary, those 2 will be equal. I am looking to increase the boundary from the current 200 foot distance excluding right away. That's what it is now and I'm looking to have that match the Neighborhood Association 500 foot boundary so again we have normalization of that distance so it will increase, and finally notification via the letters that are sent out will follow the State statute provisions so we will be talking certified and first class letters, and we will discuss what that really means here in a minute but suffice it to say that a certified mail out will be lessened. The reliance on that will be lessened for many of the activities so we're likely to have people get letters early on without any burden to them to go pick them up at the post office. We're going to minimize the certified aspect and increase the first class distribution aspect and again all that would follow State statutes. The second step, although there is many steps in that first grouping, but the second step is to further develop the planning project web page and so any of the development proposals that come in for review and consideration we would post on our web page, Community Development web page, indicating that the name of the project, the applicant, the contact information and any other bullets that you see there, we would try to project the hearing date that the subject case would be going to in terms of the review body, what the status is of the case at any point in time, whether it's been staff reviewed or whether it's been P&Z approved or denied, and that you know it will be subject to City Council consideration. We will also indicate whether the reviewing body that it goes to is a final decision making body or is it just a recommending body so people have

a better understanding that there's another crack at it if you will if it is indeed recommending and not final authority, and then PDF attachments as applicable are intended to be included on each element that gets posted on the web page so people can download site plans, elevations, what have you, to get a better feel for what is being considered. Other steps: Social media. The Community Development Department this is kind of new to us, but we would be seeking permission to utilize Facebook as a measure for improved notification. We received conditional approval for the El Paseo Project as some of you may recall, the picturing El Paseo. We did utilize Facebook to kind of keep the community informed as to where we were with that project so we have a little bit of experience with that but we will be kind of venturing into new territory with what we're intending to do and that's create a Community Development Facebook page. The idea there is we would not only announce meetings, but we would announce development submittal items and there are some posting deadlines that we would try to meet in getting the word out on those items and they will follow in many ways what is also being considered elsewhere in the proposal. We also seek to utilize the newly announced Las Cruces Notification System. We would be announcing public meetings and we intend to include agenda items as part of that announcement so again people who opt in to that notification system and sign up for it would get notices from Community Development with assistance from PIO on P&Z meetings, what cases are on those meetings, that kind of thing. So, hopefully we get the word out a little bit better in that fashion as well and then finally, our own City of Las Cruces TV has static bulleting boards whereby much like the intended web posting of our development activity within the Community Development web page, we would identify those same submittal items that have come in and relay the same or similar information as what would go on our web site and we're looking to keep it relevant and current and display only 1 month's worth of information so that people can quickly look and see what's come in and not get burdened with older listings that maybe are 2 months and that sort of thing old and hopefully another opportunity by which to get the word out.

So of those things that I can show graphically in terms of what it means. I've devised this little slide to illustrate at least some of the notification procedures that allow me to do so graphically and I've selected this area. It's just a random area, random selection. There's nothing that I'm aware of that is actually taking place so I've pinpointed this parcel, which was cross hatched in red and the assumption here is that they are going through a zone change. Just making this up, this happens to be east of North Roadrunner, which is on the bottom corner of this slide. Sonoma Ranch is on the upper right corner of the slide and Sonoma Springs is here. This is to give you a point of reference, but the property that is cross hatched in red is the one that I've chosen to illustrate the changes that are being recommended. Right now the gray area that you see around that parcel represents a current notification standard, our distance, our 200 foot standard. Technically it is 200 feet less or excluding rights away so if you add 50 feet, which is our typical right away width, it's really 250 feet. So, that is what we currently have in place today. What we're proposing is a much broader 500 foot radius around that subject parcel and so you'll see the net impact of notification slightly more than doubles, 37 under the old method or the current method and 81 under the proposed method so significant increase in getting the word out to neighbors. In terms of the practice of mail out, both for certified and first class mail, here's the net result of that. The area shown in red line, red boundary around

the subject property, because we are only doing a theoretical zone change for one parcel, the State Statute says 1 block or less. We only have to do certified mail outs at the appropriate time and in this case would be at City Council consideration time, certified for these property owners that are touched and within the red boundary. Beyond that, from the red boundary out to the fringe of the green, we would be dealing with first class mail out only. So as opposed to all these individuals getting certified, only those in here get certified and beyond that first class so again trying to get the word out, trying to have less burden on property ownership, may not be home to receive their certifieds. That's the idea with this. So in terms of the numbers, P&Z with the existing process. We don't do certified, but we do first class mail out and that's 81. At City Council as opposed to the current method of 85 certified, we would not carry out any first class mail out, but what is being proposed in a similar situation is the existing for P&Z but here at the numbers for City Council so again you'll see that. Only 19 of the property owners are getting certified in 62 first class. Here's a graphical representation of what it means for neighborhood associations that are recognized and registered through the City of Las Cruces. That policy that I referenced previously seeks to have them do, but this line that is cross hatched shows you the notification, the 300 foot notification boundary as is currently stipulated. These blue lines here, here, and up in here, those are all neighborhood association boundaries so you can see 2 for sure. Here's the beginning of a third. This happens to be 3 of them within the vicinity. Currently under the present practice, only this neighborhood association would be contacted because the property falls within it or certainly within the distance for it. As proposed, it would meet the 500 foot threshold just like our mail out letters and we now are impacting 2 neighborhood associations as opposed to the 1. This little guy here, which goes further east and takes another property is outside the notification threshold, but that's likely to happen no matter what number you choose. So that is a representation of what some of those adjustments that are being pursued and requested via our policy manual will have for notification measures, and that concludes my presentation. Councillors, I would be happy to answer any questions you might have.

Mayor Pro-Tem Thomas: Thank you for that presentation. I know you've done a lot of work. I read the big fat report too. So, could you go back a couple of slides here? So, currently we do not send certified letters at the P&Z level, right? There's no notification at P&Z level.

Vincent Banegas: Mayor Pro-Tem and Councillors, at the P&Z level there are only first class mail.

Mayor Pro-Tem Thomas: Only first class. Okay.

Vincent Banegas: Correct.

Mayor Pro-Tem Thomas: But you do notify first class. Okay, so that's an 81.

Vincent Banegas: For this particular instance, the assumption being the zone change application.

Mayor Pro-Tem Thomas: So on this one you're saying under our current policy, there would be 81 first class letters sent at the P&Z level and then at the City Council level there would be 81 certified.

Vincent Banegas: That's correct.

Mayor Pro-Tem Thomas: And then it remains the same for P&Z but it changes for City Council.

Vincent Banegas: That's correct.

Mayor Pro-Tem Thomas: Okay. Councillor Sorg?

Councillor Sorg: Madam Chair, as I read this number of parcels notified, up above it says existing 37. Wouldn't the existing first class mailing be 37 under existing?

Vincent Banegas: Yeah. The existing process, that's the boundary. The current boundary that is referenced here on the 200 foot is this boundary here and so the existing is 37 within the current boundary, but the green area, which is the proposed 500 foot is where we get to the 81.

Councillor Sorg: Correct.

Vincent Banegas: These other numbers here are reflecting if we go to the proposed 500 foot distance and so that's where those numbers are coming in.

Councillor Sorg: So would you agree that the existing mailings for P&Z with what we have now would only be 37, not 81?

Vincent Banegas: This second chart, the certified versus first class, it all assumes the 500 foot notification boundaries so all of those 81 parcels affected that are shown in the green get notified first class.

Mayor Pro-Tem Thomas: So, existing means existing in terms of what the letter policy is. It's to change the area.

Vincent Banegas: That's correct. Certified first class policy aspect.

Mayor Pro-Tem Thomas: Okay. Yes, Mr. Garza?

Robert Garza: Thank you, Madam Chair. I just wanted to ask Vince for clarification. The number 19 versus the 37 is because you're recommending that we reduce the area where we send certified second table.

Robert Garza: That's correct. Mayor Pro-Tem, Mr. Garza, the 1962 follows exactly what State Statutes mandate. We would be reducing that area.

Mayor Pro-Tem Thomas: Okay. I had another question. You talked about neighborhood associations and in my District, other Councillors can comment on what their Districts are like, I have mostly Homeowner Associations and they are not easily registered with the City. I have convinced some of them to register as neighborhood associations because eventually they will have to take over the HOAs and they need to have some sort of framework to do that because there is no State Legislation for that, and then more and more I have watch groups signing up and I think, I don't know how long ago it was when we had that masters class that came and they did a little study on neighborhood organizations and so I think we started looking at neighborhood organizations as all 3 kinds of groups. They were watch groups. They were neighborhood associations and they were homeowner associations, but we called them all neighborhood organizations so at least in my district it would be helpful if we started talking about using all of those groups as a way of a communication system because it's not just mostly neighborhood associations, but I don't know about other Councillors, what is prevalent in their Districts. I'm guessing maybe watch groups more than. Councillor Sorg?

Councillor Sorg: Yeah, you are correct. I have 2 registered neighborhood associations in my District. One of them is pretty much nonexistent anymore. The only way you could contact the person in charge of it, I don't know what their title is but it was by phone, and she said she doesn't even know. I think she might have the leaving, moving to another place, but I do have one neighborhood watch, which would be very useful to have on this list, but could somebody send me a method or how does one neighborhood register with the City? What is the procedure?

Vincent Banegas: Mayor Pro-Tem, Councillor Sorg, the policy, Paul McCall is very familiar with those steps, but the policy that is contained in your packet does talk to the responsibilities of their neighborhood associations and if they notify Carol in this case of the fact that they are organized and they have a set boundary, if they relay that information onto us and they follow at present anyway the guidelines that are contained in here, they can easily become registered with us and included in our database and just for clarification, the idea or the reason that this policy exists is we're trying to number 1 keep tabs, not tabs, we're trying to recognize the duly appointed, duly organized groups and membership, the key membership because those are the individuals, the chairperson, co-chair, whatever or each entity. We're trying to keep contact with them. Those individuals would be the ones, based on our database that they supply us with, all the goodies, all the information. Those are the individuals that we would make contact with and then they in turn would notify their respective members. That's the idea behind this notification policy for neighborhood associations. I would imagine that Mayor Pro-Tem's comment regarding watch groups and other groups, as long as they operate in a similar vein, there is no reason. As long as we know who to contact, that's the key I think.

Councillor Sorg: That's what I emphasize with everybody is just to have one person that....

Vincent Banegas: Correct.

Councillor Sorg: Okay. Thank you very much, Vincent.

Mayor Pro-Tem Thomas: And for Mr. Garza, we are still looking at hiring a Neighborhood Relations Coordinator?

Robert Garza: Madam Chair, yes we are. We are in the process of finalizing the job description. We will be posting it and hiring a full time person who will be working out of the Council, the Manager's Office, right across from your office. They will be focusing full time on interacting with neighborhoods and starting to build those lists and get the word out.

Mayor Pro-Tem Thomas: And so that person could undertake putting together all 3 types of organizations. That would be okay? It's up to the neighborhood how they want to organize or operate.

Robert Garza: Yes, Madam Chair. This person would be able to focus on that. All the neighborhood organizations of varieties that are out there, being able to have a master list of all of them regardless of what they call themselves, groups of people who want to know what we're doing. So, yeah. That would be what they do.

Mayor Pro-Tem Thomas: Other comments from Council? Councillor Pedroza and then Councillor Smith.

Councillor Pedroza: Thank you very much, Mayor Pro-Tem. I think that the idea of neighborhood associations, organizations, watch, whatever is very, very good and I look forward to being able to work with the coordinator once we have members. My question has more to do with.....I take it you're saying certified mail is more of a hindrance than a help. Is that correct?

Vincent Banegas: Mayor Pro-Tem, Councillor Pedroza, yes and often times we hear complaints about that.

Councillor Pedroza: Okay. However, I wonder if the purpose behind certified mail is not being overlooked or ignored and as I recall certified mail is simply because if you in fact send out a notice and you want to be sure that the person receives that notice, then that's what you use the certified mail for and you learn a lot with the use of certified mail because I remember hearing people in the audience on those occasions when we've had a lot of resistance to a change. They said that certified mail had to be returned because those people have moved 5 years ago, 2 years ago, last week or whatever and I think that we indeed would learn that with continued use of certified mail. I don't know what the solution is but I wouldn't be too quick to get rid of the certified mail all together. I think that it really serves a purpose in.....I mean, you've been very, very creative about how to do

things. I would ask you to continue being creative because we shouldn't lose the uses that certified mail can give us.

Mayor Pro-Tem Thomas: Thank you for that. Councillor Smith?

Councillor Smith: Thank you, Madam Chair and thank you, Mr. Banegas. I believe you have taken what we've shared with you before and worked with that. I will point out that when we were talking about the costs of the certified mail and the results, that's where the conversation about people walking the neighborhoods came in so I'm sorry about the Boy Scout who got bitten in the 1990s, but I think we do need to come back to what is effectively going to get the word out because we do in good conscience want people to participate and don't want to end up with the situations where they're coming back later and saying "I didn't get notified" and so in that vein let me offer a couple of other things. Maybe instead of people walking the neighborhoods, if we had that commitment and we know we're trying to save money and be effective. We have the capacity perhaps with some of our new technology and information to actually call people and from the standpoint of local calls I know I'm going to use myself as an example. I have gotten local calls where I basically don't respond very well. I'm not saying I'm nasty but well, it's a local call. I generally don't listen very long into the message. I have also gotten some of the certified mail letters before and often times by the time I've managed to get to the post office to pick it up, it's hard to schedule one and actually be there, and so I would suggest that maybe one we look at the notification boards that you put up on the sites are sort of a golden rod yellow or something like that. Perhaps the envelopes that go out to notify people are a similar color to catch people's attention and in addition to that maybe there is this baseline and I think some of what you provided us in the packet you talked about, having some flexibility and a toolbox of things that you could use . So I would suggest we have a baseline and then you know it's always dicey using judgement and trying to figure out which of the cases are going to be the ones you really want to do that with, but to use to the best of your ability and judgement those situations where you think you know what? People in this community are going to really be concerned about this. Maybe we go the extra mile for some of these. Additionally perhaps we might use signs like in the example you use here, maybe an additional sign could be put on City property on the entrance off of Sonoma Springs, to that neighborhood so that maybe there could be 2 or 3 additional signs because somebody might live back up to the property but may never drive in front of it and may have thrown away the certified letter or whatever and simply not gotten the notification. If they had seen going into their neighborhood that there was going to be something happening, that that might perk them up. I believe you know we do want to be sure that we're doing our due diligence, that we're doing what the State requires and beyond obviously but also if we make those extra efforts, we're giving the neighbors and the interested community folks the opportunity to give their input, to be part of the process. I also look forward to the time when we are using some of the charrette process and some of these things, but having that opportunity or looking for those ways, even with a sense of humor, to find that extra little thing that is going to jog people's minds and go oh, that's what's going on and it is a block from my house or whatever. So again thank you for your efforts and thank you for taking into consideration the additional ideas. Thank you, Madam Chair.

Mayor Pro-Tem Thomas: Thank you, Councillor Smith. I wanted to ask you going back to something Councillor Smith said about how you decide whether or not this is an issue that is going to get a lot of neighborhood attention. Do you have this public participation spectrum in the packet that was put together as part of the toolkit for El Paseo? I quite like that. Do you see that as useful? I mean it kind of lays out when you need to have meetings and when you don't need to have meetings and some things probably don't actually call for meetings. Do you plan to use that or I know you included it in the packet but you didn't talk about it?

Vincent Banegas: Mayor Pro-Tem, City Councillors, the appendix if you will of the El Paseo, the toolkit that came from the El Paseo Project, Picturing El Paseo, when I was preparing these reports, the toolkit is intended to, as I read it and as I experienced the creation of it, to engage the public, to get them to participate in the planning process, whatever it happens to be. We're talking about charrettes for instance and other methodologies to get input, actual input on what is being studied, what is being considered. To me that is the next step of what I've talked about here is just getting the word out, notifying people that there is a project, notifying people that there is a pending development, that kind of thing. So, I wanted to tie it in with the toolkit because that's definitely something that on a case-by-case basis we will examine you know those methodologies for inclusion in our processes so that we can get better participation from the public and input from the public. So we do anticipate using that, but again I just wanted to clarify that this is notification and that is participation and engagement.

Mayor Pro-Tem Thomas: Their first level is inform and so I mean it includes fact sheets and web sites and open houses and then it moves up from there. I suppose if we start out with things on the website and we have Facebook and we get a lot of response, then we might want to move to some of these other levels in the toolkit, and then I want to bring up the clause again to that Councillor Smith brought up. I use those quite a bit. You know, once I discovered that is cost 1/10th as much for me to notify people by doing robocalls as to sending them a letter, even if it is just a first class letter. So, we talked about that a little bit, so you want to say something about that, about the use of robocalls.

Vincent Banegas: Yes, Mayor Pro-Tem, City Councillors. When I was looking into robocalls, you're right. You're absolutely right. It is cheap. It is 3 cents per call and I thought that was pretty incredible given the outcome if you will of at least notifying individuals. The issue that we saw, however, is at least in my mind we would be trying to or attempting to notify individuals. For instance, in the green area on this slide and I talked with Dynamic Interactive. They were a company that has provided robocall services to the City of Las Cruces for at least based on the agent that I talked with and the lowest geographic area or the smallest geographic area that they could isolate for robocall campaigns is by zip code according to what I was told and that's what was reported in the document and so what we would be doing is notifying a significant number of people for say a special use permit regarding a daycare or something like that and so I started to press them for what it would take to get a smaller geographic area to tie it to truly a neighborhood relevance if you will

and they were saying it would be very difficult for them to do that perhaps if we had resources, we could probably do that and so in my mind maybe we could tie, if it's even possible to do, account records within the City's database to our GIS System and try to query out within a given distance 500 feet or more, query out only those records that pertain or fall within that boundary that we set and so we haven't investigated that fully, but we do know that in many instances, numbers may or may not be provided, phone numbers may or may not be provided and so that could very well be problematic. That's why I did not include that as part of the CD Policy.

Mayor Pro-Tem Thomas: Well, maybe it's the problem also of people relying much more on cell phones and not having land lines so that's an issue as well, but I know that we've done it by precincts by using the County records so I guess if you could get a little more information about that, that would be useful or you might want to talk to the SPARC Lab over at New Mexico State in the Geography Department because they do this kind of work all the time. They might know other databases that might actually be useful, something we haven't thought of. So, I'm hearing here that we seem to like the fact that we are going to try to have a more robust policy here and I think that maybe we would want to hear a little more about certified letters so the expense probably is the problem with those if I can find other methods, maybe find out a little bit more about robocalls, but other than that we want to make sure that staff takes away. Councillor Silva?

Councillor Silva: Yeah, thank you Mayor Pro-Tem. Thank you, Vince and staff. You guys did a great job. I know it's not easy and working with the public is always the challenge so you know thanks for all the good work. I appreciate Mr. Garza for bringing this forward. I'm looking at a couple of things and I'm going to be looking at I believe your recommendations on page number 30, Vince.

Vince Banegas: Okay.

Councillor Silva: The first one, and this is one that I've been advocating ever since I came on board in 2007, is the sign use. I still think that our sign should be much larger. If you've ever driven down, and what brought it to my attention, was I've driven in other cities, Santa Fe most notably. I do believe they use, I'm not mistaken if it's a 4 x 8, but a minimal I think it's like a 3 x 5 foot, not inches, 3 x 5 sign. I think that the sign should be much larger than what we have. I think ours is just an 18 x 24 inch sign. I have advocated for this to be an ETZ area because I feel even in the ETZ area when you leave a lot of the vacant lots, they are not as unkept as the City in some cases and so it gets hidden easily behind debris and weeds and so forth, and so even in the City I really think a much larger sign, in particular for zone changes and so forth, should be something that we should consider and maybe we could get some examples, but I know the Santa Fe, maybe you could check with them and see their sign size, maybe we could do a comparison of the 2, maybe Albuquerque or some other cities and see what size of sign they use. Having a much larger sign, I see like on the page here where we say well, we'll expand the messages. I think if you have a large sign there and people see it, we'll get some responses you know because it's pretty evident and a lot of times mail just gets stuff away or whatever, but I think larger signs, robocalls, I'm not a fan of robocalls. I turn my off,

but I think a large sign will make a difference when someone says something is happening in my neighborhood and if they cared they would notify us. Another thing too, and I know you sort of touched upon it, but what would be the indicators to host a community meeting such as the one that we had last week. I mean I know you say we want to work with the neighborhood associations and so forth. This past Saturday, while I was walking at the Farmer's Market, many people that live up in that neighborhood who are not apart of the association, they were not pleased with the decision that this Council made in regards to shutting that street down and making a cul-de-sac. I mean their words were you're shutting down my street and nobody ever came and asked us. This was a decision that we made up here in the dieses without getting additional public comment other than I'm assuming they are members of the association, but in this case I was taking the lead of the Councillor of that area that she had been in touch and so forth, so for me it sounded like that was the general feel. A lot of persons came up to me this week and saying that the association didn't even represent most of the persons who lived in that area who exit off that area so what would be the indicators or a process like that and that's a pretty radical change to cut that street off as a cul-de-sac. Would you suggest that we go back to the general public or at least a neighborhood and get additional feedback from the neighborhood.

Vincent Banegas: Mayor Pro-Tem, Councillor Silva, the criteria that would be used at least in my mind to determine whether or not a meeting should be held with a neighborhood organization is things such as the acreage of the proposal. Intensity, density of proposed development, access. I mean maybe there is one roadway leading into a particular area and yet the density at which they're proposing the development would significantly increase traffic, congestion or otherwise. Those type of things are definitely factors. Also case history. I know staff we have various staff members who are new, but various ones that are not new and they know through case dealings in the past what are trigger points if you will for neighborhoods and so utilizing that information or that background and that history sometimes will give us a feel for whether or not they should have a meeting with neighborhood organizations to discuss the matter at hand.

Councillor Silva: So right now, we don't have a policy. It's just a matter of staff making a recommendation based on experience.

Vincent Banegas: We have the Neighborhood Association Policy that I referenced. That is in place. That has been in place for quite some time. That is the identified Neighborhood Association Information and Notification Policy and it stipulates what role the City has, what role the developer has, and what role the Neighborhood Association, in this case, has to conform to this policy and facilitate engagement and discussion of development.

Councillor Silva: And the reason I bring this forth, and I think it's a great time to have this conversation, it seems like a lot of time could have been saved if at the very beginning of the process of the developer going in and re-zoning that property, if they would have hosted a meeting from the very beginning or been much more engaged with the neighborhood. I think we could have easily taken a month off of that time frame or at least maybe the time frame would have been a little

smoother, but it wasn't until...and that wasn't the only incident. There have been many incidents since I have been up here in the dieses where we've had the neighborhood come up here. We've had the developer and the Council directing the project or the developer, whomever, to go back and host those community meetings before we take action and that's what I'm saying. What would be those indicators that all of that can happen beforehand and not just based on feel or history and everything, that we actually have some indicators built in place to host a meeting and not just with the Neighborhood Association but with the neighborhood at large.

Vincent Banegas: Councillor Silva, the indicator, and I kind of touched on a few, we could certainly enhance any of the policy that currently exists to illustrate if you will some key triggers to require a neighborhood meeting. The problem with setting them all in stone is you limits staff's ability to go look at things on a case by case basis because sometimes cases that theoretically we may require a meeting due to the complexity or some of the issues that may be germane to the proposal. Maybe those are items that the neighborhood really doesn't have any issue with and if you require it in any or all instances by singling out all the bullets that trigger a meeting, we may be forcing additional time and additional actions on a developer or applicant when really there's no issue going back to the slide where we talked about protests and the number of cases and that kind of thing so I think staff would propose that we keep it open and we give a flavor for what may trigger the need for a meeting, but we leave it open and at the discretion of both staff or any body, P&Z or otherwise, to require meetings when they are needed.

Councillor Silva: Mr. Banegas, I understand you're talking about putting it in stone and some of the triggers not being there. I think a great example would be traffic flow. A project is not required to give us a TIA, traffic impact assessment, until much further down the process. One of the major arguments last week that we heard was traffic, traffic, traffic. I'm totally aware of that and I totally believe that traffic should always be taken into account. I've had discussions with staff that you know should be brought up further into the process for discussion, but how it's evolved in this discussion, I understand what you're saying. Traffic, we can't say in stone that X amount of cars are going to come in because we don't know until the TIA is done much further down the road. Maybe in the process any suggestion would be if you have these triggers or whatever you want to call them, these indicators I think is a better term, if we were to have these indicators, staff would document them and say look, we identify these things. We suggest or recommend to you the developer go have a couple of meetings prior to coming to P&Z or the Council, and at least when we do the presentation, staff could easily stand up and say we made that recommendation. Unfortunately, it didn't happen because I think sometimes as a Councillor, we get the black eye because we're saying no, no, no. We're not going to pass this yet because you need to go back out and you know they say you guys are anti-development or anti-growth because you're slowing things down and I think a lot of that could be resolved or dealt with much sooner and in a much more proactive manner if we dealt with community participation, community input, community involvement much sooner and like I said I can understand where you really don't want to have your hands tied and because there are certain things. Traffic is a perfect example you can't say. I mean they don't even know what they're going to build there yet or they had a general idea, but there have been projects as you know that are

changing a commercial from C1 to C2. We don't know what's going to be built in, but we at least have a general idea because of the way the zoning is written. So, maybe again the suggestion was where staff recognizes these indicators, makes a recommendation to the developer in paper form. Maybe you already do and I just overlooked it. Easily you could stand up and say we did make that recommendation and we can take it from there. Thank you.

Vince Banegas: Mayor Pro-Tem, Councillor Silva. In the past, it has been a great number of years in fact where staff has been made aware of a proposal that is either going to be submitted or has been submitted in discussions with the developer, the applicant, the staff has made consistently when it seems like there's going to be trouble brewing, has made strong recommendations to the applicant to go host or hold a neighborhood meeting, and try to iron out, you know share the information and iron out any differences early exactly as you talk about so that it isn't as controversial and it isn't as problematic through the approval process. So that is something that we routinely do and continue to do.

Councillor Silva: Thank you.

Mayor Pro-Tem Thomas: Councillor Small?

Councillor Small: Thank you very much, Madam Chair and thank you, Vince and to the staff for bringing back I think a very comprehensive set of proposals and kind of props to really move the discussion forward. As I reflect on this, I'm actually reminded of something Robert said after going to the recent Municipal League meetings here describing the pipe and how it consistently kind of through years and years and years can get twisted back on itself and this is the pipe from which development kind of flows from idea to actuality and I think as we look at this our focus is on public input, as well as it should be. We also and it was voiced probably in the back of all of our minds, continuing to ensure a fair, efficient, and most of all mutually beneficial process for development applicants in the City and I think from my own perspective it is really worth continuing to ask ourselves if there are ways that we can look at simplifying, streamlining or changing, and I think this is a lot of what you're suggesting, to again make sure things flow in a smooth way but in a way that has ample opportunity not only for public comment, but for public input, which I think we all agree are really 2 different things and as Councillor Smith mentioned, charrettes really I think are the optimal kind of opportunity to gain that input because even if it's not acted upon I think we always feel better when we've had a chance to give our thoughts about an area instead of just commenting upon one proposal or another. So, as I reflect on that, it seems to me that adding too many additional triggers and boxes and things really that we have to I guess be clear and take time, we have to be careful of that, not necessarily opposed to it but very careful and that we should look for these kind of mutually beneficial ways that not only help the process flow forward, but add kind of value at it and I think we would agree that value added in this case certainly represents input from members of a given community, that they have the chance to talk about what they want to see for an area, what they want as a proposal. You know a whole wide range of things. Then it's positive even if all that input is enacted upon, it's there in the record. It's a good thing. So I'm just wondering and it wasn't

necessarily spelled out in here. I don't have a problem and probably endorsed a lot of the specific things folks are talking about, but is there a way to go to some sort of a, especially for zone change, request but possibly for other requests where you have where just everybody accepts a default community meetings. Perhaps it's a chance for folks, not only the development team presenting to a neighborhood, but you know take the scenario where no one shows up from the neighborhood. There's no public input, which as your figures suggest, it's more often than not the case, far more often than not the case, that there is less public interest in development than more. Exceptions certainly stand out with us and resonate as well as they should but it's not the norm, but if you're able to provide some sort of service or benefit for the proponents of that development, that is whether there are folks that review it or perhaps even an alternative pathway into kind of the sustainable building code that offers a smoother, cleaner route for those who choose to work more collaboratively and closer with the neighborhood. I just think exploring those, maybe it turns out that really isn't a viable option. I would certainly feel more comfortable if those are more fully explored and perhaps you all have explored them and you just haven't....that hasn't been the subject of today's presentation as much as some of the other concrete measures but again speaking from my own personal preference, seeing those charrettes and that input and that dialogue, and the chance for real interaction to happen or at least that opportunity to happen, I would love if perhaps that's brought back a little bit more and if there's ways again not adding a new twist in the pipe that makes it even longer and that does all these other things, looking at if we add a little balance this one way, then maybe let's add a little bit more weight to the other side of the balance that smooths out that process, perhaps remove something from that path, but I guess those would be my sentiments and I think they follow quite closely on what Councillor Silva and others, but especially Councillor Silva, has expressed. Thank you.

Mayor Pro-Tem Thomas: Councillor Small, are you suggesting that if an applicant included meetings and working with the community, then there would be some incentive to do that based on how the process went. Do you think it should be a little more feasible?

Councillor Small: I don't have the...yes, I don't think that's.....if we all agree that that's a positive outcome, if we agree that that can be materially beneficial to the neighborhood, the public, and to the developer, then it follows that we should find ways to perhaps incentivize that.

Mayor Pro-Tem Thomas: Did you want to say something, Brian Denmark?

Brian Denmark: Thank you, Madam Chair. Just a few points of clarity and clarification. Staff's recommendations if accepted by the Council would require an amendment to both the zoning code and the subdivision code at least in it's current form. So, the rules that are in place today, Vince went over those rules and one of the provisions we don't have in our current code is the ability to make an applicant conduct a neighborhood meeting and so staff is making that recommendation. However, as Mr. Banegas indicated, less than 10% of all the cases are controversial and so we don't want to burden smaller applicants that are not professionals. They come in. They have a simple zone change request. They don't understand the rules and the provisions, and we certainly don't

want to burden them with additional requirements that are not only costly but timely for no intended benefit or purpose. So, staff's recommendation is not only to give the staff the authority to require an applicant to go through that process but also the Planning and Zoning Commission as well as Council, and so these 10% or less cases, staff will have the ability to require that. The Commission would if they feel it's necessary and the same with the Council, and we feel that we really need discretion because most of the cases are not controversial. Most of the cases are on consent when it comes before City Council and you're not even aware of them and the reason is because you only remember those difficult ones, and staff is experienced and professional enough to know what most of those problematic cases are. In the case of Indian Hollow, they already have a history and in view of that would have been a problem, but if they had the authority, they would have made the applicant go through that process so that's one issue that we have to keep in mind. We think it's really important though that there's a lot of flexibility and discretion when we come to this and it's important that staff participate because as is in the last case, it was a challenging meeting between the Neighborhood Association and the applicant seeking his own change request and it's really important that staff is there as a neutral party to help monitor the meeting and control the information flow so that whatever information is gathered out of that meeting, it does come before City Council and you have a breadth of information to be able to make a decision on, so we at the staff level feels it's really important that we have that discretion and that flexibility as we address these projects because to add to that there's different ways of holding neighborhood meetings. There might be a case where a charrette for example is appropriate, but charrettes are really more of a design input process. It's not a process that would be typically beneficial for a zone change request where we're talking land uses and neighborhood impacts and compliance to policy and things of that nature. So again, I just want to reiterate that what we're recommending would require further consideration by the Council in the form of an ordinance or amendment to the zoning code and the subdivision code, and we strongly believe that we need that flexibility and that discretion to be able to address cases depending on the nature of that particular case. Thank you.

Mayor Pro-Tem Thomas: Did you want to respond to that, Councillor Small?

Councillor Small: Thank you, Mayor Pro-Tem and thank you, Mr. Denmark. Certainly looking at the numbers, that approach I think you can't argue that it makes sense when you have the small minority of cases that are bringing that. I do so that I would be comfortable proceeding forward with that. I'm not sure that ultimately because of course changes would be at least at minimum I guess 2 months off if additional information can surface. I guess there's 2 concerns perhaps in my mind that come to bear there. One is that perhaps a lot of it is really predicated on past issues and there could be future issues that don't have any precedent. Now the point, and I think we all have to trust a great deal day to day, rightly so as you pointed out is staff professionalism so you know do we make a bad bet doing that, we make a good bet and we're going to be right almost all the time and perhaps all of the time. So that one isn't as much of an issue as the neighborhood input and the dialogue. I think it still is very worthwhile if we see those as positive things moving forward to think about ways that we can be part of an effort to promote those and whether that's an alternative route or whether that is any other kinds of incentives, it still seems to me that that's a worthwhile

acknowledging based on the numbers we're seeing today it's like what's being proposed is pretty reasonable. Thank you.

Mayor Pro-Tem Thomas: Thank you, Councillor Small. Maybe as we move forward and do more of these blueprints, you know that could be more of a place where we actually have more of a charrette or input or working together on them. Our comprehensive plan does talk about sector planning and we might maybe someday get around to doing that where we actually would look at various parts of the City and bring people together to kind of do an overall plan for that particular part of the City so Councillor Sorg, you had something to add?

Councillor Sorg: Thank you, Madam Chair for that comment. I appreciate that too. I was listening and I appreciate all the comments that have been made and I'd like to comment on a couple of things I've heard. I would concur with Councillor Silva on the signage. It wasn't too long ago that I saw a notification sign. I noticed it was a notification sign, but I couldn't read it all because it was covered by, I think it was weeds. It just didn't show up, so a larger sign maybe is something we ought to look into and I was recalling as the conversation had been going on here my own neighborhood back in the early or middle part of last decade, there was a neighborhood meeting called at our neighborhood elementary school. Our neighborhood did not have an association back then, nor does it now, but still there was about half a dozen to 10 people from our neighborhood who came to this meeting. It was for a new development right next to our street that we lived on or we do live on and it worked quite well. The developer there came and explained what he wanted to do and it worked quite well. I had a question here that I wrote down very early in your presentation and I'd like to present that, and that is in some cases, can some cases be identified first before you proceed too far into this process and extra notification be done? In other words, due to the case history that you know about, you know how to handle some of these better than some pass through no problem, but then some lead controversial. Those are the ones you want to target with the neighborhood meetings and so forth, and I would like you to have that flexibility for sure. I have a problem with my neighborhoods. They aren't listed in the neighborhood associations in the City. I'm going to have to work on that. Thank you, Madam Chair.

Mayor Pro-Tem Thomas: Thank you, Councillor Sorg. Councillor Pedroza?

Councillor Pedroza: Thank you, Madam Chair. Just one last comment from me and that is that I think it is important to give discretion because as far as I can tell the numbers that you showed us I can't remember if it was 10% or less where the ones that were a lot of controversy and I'm sure that in dealing with a different applications and so on, you know where there's going to be controversy and where there is not, and I would trust that if you made a mistake, you would very quickly learn that so that it's not something that I would want to stay away from a very rigid ordinance that either requires neighborhood meetings all the time or never requires them because then there is no discretion and we have a bit of a problem, and I'm sure that you guys, staff, have broad shoulders enough to say well, we thought there was not any controversy and wow, look at this. The room is full but we can handle it now so I would go with that and I think that there are other values to having

neighborhood associations and organizations so that is the community engagement. So whenever possible, whenever it seems in your experience that either it's going to be controversial or this is an opportunity for the community to engage in community, then you would be free to do that and I would want to do that. I also because my view of my District at this point is that although some of the young people are very in tune with the social media and so on, maybe their parents are not and I don't know if their cell phones are recorded at the County or whether it's only the land lines, but I do like the idea of robocalls and they can be made as tailored to the community, as polite and not too long and so forth so that people can receive notification of things and if we can get their phone numbers from the County, well I think that that would be a very wise use of 3 cents per call. Okay, thank you.

Mayor Pro-Tem Thomas: Councillor Smith?

Councillor Smith: Thank you, Madam Chair. I would again also voice my support for the discretion and the flexibility. I think that's essential to what you all do. I also think that if we know there is recourse in case, despite our best judgement, something goes array, then people know there's an alternative so that we're not feeling like we got stuck in a situation. So yeah, that sounds good to me. Thank you very much, Madam Chair. Thank you, Mr. Banegas.

Mayor Pro-Tem Thomas: Thank you, Councillor Smith. Anyone else? Mr. Garza, do you have what you need you think?

Robert Garza: Madam Chair, I do believe we have sufficient feedback from you all so we can proceed with the amendments Mr. Denmark referenced and thank you, Mr. Banegas for a comprehensive review.

Vincent Banegas: You're welcome.

Mayor Pro-Tem Thomas: Yes, thank you for all your work. I learned a lot from reading all your research so that I think concludes our business. I entertain a motion to adjourn. Move by Councillor Sorg. Second by Councillor Smith. All those in favor? Meeting is adjourned at 2:35 p.m. and we have agenda setting next.

Meeting Adjourned at 2:35 p.m.

ATTACHMENT "E"

City of Las Cruces

Community Development
Memorandum

To: Robert Garza, City Manager

From: Vincent M. Banegas, Community Development Deputy Director

Subject: Public Notification/Participation Work Session Discussion

Date: March 19, 2012 File No.: M-12-068

As per the stated agenda item to be discussed at the March 26, 2012, City Council Work Session, staff has researched and developed a spreadsheet that illustrates public notification strategies required by the NM State Statutes, the City of Las Cruces and by seven communities in and around New Mexico. This is to facilitate the identification of alternative methods that could be implemented for informing the public about development taking place in Las Cruces. Often, research similar to this seeks to find "best practices" in order to gauge how our efforts should be adjusted for better handling of related matters. However, based on staff research conducted to date, staff has not found reference to any notification/participation "best practice", but feels that each community has implemented a practice of notifying the public regarding development matters that seemingly works best for that community.

In summarizing the research, there are some methods that seemingly could improve our current methods of providing notice to the general public. Some of these items talk to amending the variety of notification timeframes in our current development codes to just one timeframe regardless of case type, using the highest timeframe of 15 days as the single threshold or 21 days as the Planning and Zoning Commission recommended, and re-implementing in some fashion the department's use of the City website as a source of information for new case submittals and updating said information throughout the review/approval processes. If you recall, the latter item was used extensively in the previous website, but was temporarily discontinued due to formatting and other reasons related to the new website the City has launched. Other items up for discussion could include requiring neighborhood engagement via a neighborhood meeting and establishing minimum notice requirements for this effort prior to the first public hearing. Also, increasing notification distance thresholds from the current 200 foot distance can be considered. These and other options can be addressed at the work session.

As discussion takes place on this matter, it is very important to note the impacts that will result not only to the general public, but also to the developer/applicant and the City. Generally speaking, a typical zone change case today can take approximately 3 to 4 months from submittal through to approval by the City Council. This assumes that

comments are addressed promptly by the applicant and that no delays such as a postponement takes place to further off-set the timeframe identified. In essence, increasing notice timeframes will at minimum push back consideration of each case by the respective bodies or require pushing up the deadline for submittal to a time frame that allows set procedures to take place. Monetary impacts regarding the timing of case consideration will be realized by the applicant. Other impacts involving monetary implications may be realized if notification thresholds are increased beyond the 200 foot threshold. This will become an issue particularly for zoning related matters where certified notification is a requirement. At $5.75 per letter, the cost for mailed notices would certainly increase on a per case basis particularly when these cases take place in more densely developed parts of the City. Options exist on how to defray costs for the City, but ultimately, somebody bears these costs and as such this should be an issue considered as improvement in our notification procedures.

At the work session, staff will be prepared to walk the Council through our development types that require notice and public engagement and the research conducted regarding notification practices in New Mexico and in other states. A powerpoint presentation will be available to facilitate this discussion. In the interim, should you have any questions regarding this matter, please advise.

cc: David Weir, Community Development Director
Brian Denmark, Assistant City Manager/COO
Mark Winson, Assistant City Manager/CAO

		NM State Statutes	CLC
Subdivision			
	Agenda Posting Deadline	Reasonable notice defined by body	6 days
	Mail Deadline (before public hearing)	5 days	9 days
	Mail Notification Distance	None	200' excl ROW
	Mail Notification Parties	Applicant/Owners	Applicant/Owners
	Newspaper Publication Deadline	None	9 days
	Sign Posting Deadline	None	9 days
	Sign Size Requirements	None	None; use 18"X24"
	Sign Location Requirements	None	Conspicuous locations
	Other Notification Requirements; misc	Regular Mail	Regular Mail
Zoning			
	Agenda Posting Deadline	Reasonable notice defined by body	6 calendar days
	Mail Deadline	None	10 calendar days
	Mail Notification Distance	100' excl ROW	200' excl ROW
	Mail Notification Parties	Property Owners	Property Owners
	Newspaper Publication Deadline	15 days	15 calendar days
	Sign Posting Deadline	None	10 calendar days
	Sign Size Requirements	None	None; use 18"X24"
	Sign Location Requirements	None	Conspicuous locations
	Other Notification Requirements; misc	1 block or less, certified mail; if greater than 1 block, 1st class mail	Mail notification requires 15 min prop. Owners. Regular mail for P&Z and certified for CC.
Variance			
	Agenda Posting Deadline	Reasonable notice defined by body	6 calendar days
	Mail Deadline	None	10 calendar days
	Mail Notification Distance	None	200' excl ROW
	Mail Notification Parties	None	Property Owners
	Newspaper Publication Deadline	None	15 calendar days
	Sign Posting Deadline	None	10 calendar days
	Sign Size Requirements	None	None; use 18"X24"
	Sign Location Requirements	None	Conspicuous locations
	Other Notification Requirements; misc	None	mail notification requires 15 min prop. Owners. Regular mail for P&Z and certified for CC.

City of Albuquerque, NM	City of Santa Fe, NM	City of Colorada Springs, CO.
		Population - 418K
None specified	15 calendar days	None specified
15 days	15 calendar days	10 days
None specified	300'	150', 500', 1,000' determined by Manager
Neighborhood Assoc.	Property Owner and NA	Prop. Owners and NA
None specified	15 calendar days	NLT 10 days; NMT 30 days
None specified	15 calendar days	min. 10 days after preapp, formal submittal, and P&Z or CC
None specified	None specified	None specified
None specified	None specified	None specified
Certified mail to NA rep.	Tenant mailing if owner address different than physical address. Process same for all land dev. Cases.	Nhd. mtgs. may occur at pre-app, internal rev., or final stage. All public notice is case by case based on impact.
None specified		None specified
15 days		10 days
100'		150', 500', 1,000' determined by Manager
Property owners; NA		Prop. Owners and NA
15 days		NLT 10 days; NMT 30 days
15 days		min. 10 days after preapp, formal submittal, and P&Z or CC
None specified		None specified
Director specified		None specified
Notification lot size dependent. Some notice by City, some by Appl.		Nhd mtgs. may occur at pre-app, internal rev., or final stage. All public notice is case by case based on impact.
None specified		None specified
15 days		10 days
100'		150', 500', 1,000' determined by Manager
Property owners; NA		Prop. Owners and NA
15 days		NLT 10 days; NMT 30 days
15 days		min. 10 days after preapp, formal submittal, and P&Z or CC
None specified		None specified
Director specified		None specified
Notification lot size dependent. Some notice by City, some by Appl.		Nhd mtgs. may occur at pre-app, internal rev., or final stage. All public notice is case by case based on impact.

City of El Paso, TX	City of Tempe, AZ	City of Buckeye, AZ	Santa Cruz Co., CA
		Pop. - 51,000 +-	Pop. - 262,382 +-
None Specified	None Specified	None Specified	None Specified
10 calendar days	15 days	15 days	10 calendar days
200'	300'	300'	300'; increase by 50' for min. 10 parcels
Property Owners	Property Owners, Tenants and NA	Property Owners	Property Owners/NA
15 calendar days	15 days	15 days	10 calendar days
None Specified	15 days	15 days	10 calendar days
None Specified	16 sq. ft.; SFD cases 6 sq. ft.	3'LX 3'WX4'H	2'LX2'WX4'H
None Specified	None Specified	None Specified	Adjacent to ea. Roadway
	Same process for all public hearing cases	Same processfor all public hearing cases	7 levels of review with first 5 admin. and last 2 invol. P&Z and CC. Same process for all cases.
Regular mail			
None Specified			
Prior to Submittal			
None Specified			
Neighborhood Assoc.			
None Specified			
15 days			
3'LX2'WX5'H			
None Specified			
Sign Req. for 1ac. Or >; picture showing posting			
None Specified			
None Specified			
None Specified			
None Specified			
None Specified			
None Specified			
None Specified			
None Specified			
None Specified			

I. OTHER BUSINESS – NONE

Scholz: That concludes our regular business but we have another piece of business. Commissioner Shipley, you brought something to me at the beginning of the meeting, actually before we started the meeting. Would you please introduce that?

Shipley: Mr. Kyle gave us a notice in here regarding a question we had at the last meeting regarding the...actually it was basically two things; was that the notification period for notices and the mailing period for notices...in other words, currently it's either nine or ten days. And the second part of that was, was there a requirement of about 200-feet that people who lived within or businesses that were within 200-feet were considered sent notices or required to be noticed? And I felt like that since you got this feedback and a recommendation that the feedback was that the staff would like to hold off amending our current procedures until direction is obtained from this work session as it may result in additional changes in code amendments brought forth, which is the work session we are talking about is with the City Council. And I felt like that we ought to talk about this tonight, give our recommendations to the Council, so that when they are doing their work session they can see what basically we have come up with and, therefore, maybe some of the things that we think are important they might feel that same way. So I thought this would be a good topic for, I guess, under Other Business at this time.

Kyle: Very well. Mr. Chairman, Commission, as we got to the Staff Announcements I was going to ask for exactly that. If the Commission does want to make a formal statement as a Commission certainly we can do that tonight or you can provide a response to staff which we would forward to the City Council as staff makes their presentation at the March 26th work session. I was also going to advise the Commission that if the Commission membership wants to attend that session they would certainly be allowed to that. I just need to know if four or more of you were going to attend to please let me have notice so that we could do a potential quorum notice so we're covered that way. Otherwise, yes, I think it's completely appropriate for the Commission to discuss the issue and to have a recommendation or issue they would like to see forwarded or at least provided to City Council we will be happy to do that.

Scholz: All right. Commissioner Shipley?

Shipley: Well, again, I kind of went back and looked at the thing and there was a great disparity between that. One example was tonight that we had notice

for the child care center and the notice was published in the newspaper eleven days prior to today's meeting and the notices were mailed to the homeowners adjacent living within the 200-feet the same time. It would seem that everything that we do is done pretty much a month, month-and-a-half in advance. In other words, the agenda for the next meeting has been pretty much set up and you know what's coming next month and the next month after that. There may be some additions or something else that's minor that's added to that but it would seem that the 21-day notice period would be plenty of time for mail. In other words, it takes three to five days to put it out. If it goes locally it's generally three to five days before you get a piece of mail out here and then that gives the people that are getting that mail, you know, fifteen or sixteen days' time, and it's not all work days, that's just calendar days; it gives them time to be able to respond or to go investigate or call Community Development or whatever they need to do. And, in my opinion, their 21-day period for notification is more than adequate. I initially looked at fifteen days but if you're given five days, you know...let's say the worst case is five days for mail to get to somebody, especially if they don't live in this area and there are a lot of homeowners that have investment properties here that may be affected that may live someplace else and so they've got to make time to make arrangements and time to get information and then to write a letter or write a letter or do whatever they need to do. So, my thought was 21-days. If somebody else would like to discuss that and...that was it.

I also looked at the 200-feet and, again, it say's 200-feet but there was a clause in there that says there must be a minimum of...what? Fifteen people that have to be notified within...so if there are only five people that live within 200-feet then they have to go out to 300-feet to get ten more people, or 400-feet or 500-feet or whatever that is. So I don't think that is as big a problem as the mailing time.

Kyle: Mr. Chairman, if I may, I would also point out that that 200-feet excludes all public rights-of-way, channels, etc. so very often our mailing boundaries are beyond that 200-feet, especially when you get into compact neighborhood like the variance we were in, lots of streets involved and so you tend to move that. But you are correct: there needs to be fifteen property owners minimum. So, you know, certain cases, especially when you are on the periphery of town, etc. you can end up with quite a large notification boundary.

Scholz: So, Commissioner Shipley, are you suggesting that we make this recommendation to City Council or a...go ahead...

Shipley: What I was suggesting it's been...that's my thoughts. If anybody has any thoughts more or less, whatever, would be a good time to discuss it and then I...but I so think we need to tell them what we think works best and I know that one of goals of the City Council has always been, you know,

participation from the people, the residents of the city...

Scholz: Certainly.

Shipley: ...and, in my opinion, you must give them enough time so that they can participate and be informed. So I just thought it would be a good topic of discussion and then maybe we could decide tonight if everybody's in agreement or...because it's coming up pretty quick.

Scholz: All right. Other discussion? Yes, Commissioner Stowe.

Stowe: I se the need for more time for notification and I think 21-days is good. Thank you.

Scholz: Okay. I keep thinking that this problem will diminish simply because of the electronic notification. I don't know if that's true or not. I keep hoping that it will be true. I tell my students, for instance, that I've posted things on the web and so they can retrieve them; but they don't always do that, you know, and they're the younger, supposedly hipper group who are going to be more attuned to electronic things. Yes, Commissioner Crane.

Crane: Are you saying, Mr. Chairman, that the public should look on the City web site to see what's there that might be regarding their neighborhood?

Scholz: Well, that's certainly a possibility and I have had two City Councillors who have web distribution lists or I should say, email distribution lists, in which they distribute things like the minutes of the Council, the Manager's newsletter, you know, things like that; and so I get direct messages from these folks. Perhaps we could ask for email addresses...I don't know how we could do that, though, get email addresses of people in the surrounding areas to send them a message saying that...

Crane: I see that as quite a problem.

Scholz: Yeah, I think it would be.

Crane: I think the City has to be proactive in this. We cannot reasonable expect the people in a neighborhood to keep abreast of these developments on a routine basis.

Scholz: No, probably not and I know people don't see the signs either. We've had a number of people complain that, you know, "I never saw a sign," and I drive by and the sign's posted right there. They can't miss it.

Crane: I didn't see one at 1309 Arizona today.

Scholz: Oh, yeah. It was there.

Crane: Yellow sign?

Scholz: I'm pretty sure it was there.

Crane: I didn't see it.

Beard: I saw the Arizona one but I didn't see the other one.

Scholz: Oh, well, I saw both of them this morning, but any way. *C'est la vie.* Yes Commissioner Shipley.

Shipley: I would just say that the mail is the excepted form of communication on, especially, legal matters; and you can't assume that everybody has email access because the majority of the citizens of this community have, you know, the median income is less than $30,000. So they may have a computer but they're not watching the government channel. They're other things with that and I would think that, you know, when you get a letter as a property owner then they take notice and a lot of them just throw those away as well.

Scholz: Oh, I'm not suggesting that we discard the mail thing I'm just saying that I think eventually this problem may solve itself...but not today. All right, any other discussion on this? Well, gentlemen, do you want to recommend then to the City Council or to the Community Development Department that we make this 21 days? Is that going to be our recommendation? All those in favor say aye.

All: Aye.

Scholz: Okay, those opposed same sign. That'll be our recommendation. Thank you, Mr. Shipley, for bringing it up. Mr. Kyle?

Kyle: Mr. Chairman, Commission, just for clarification: that would be applicable to subdivisions as well as zone requests, etc. that require notice...

Shipley: I think 21-days is just...make it a blanket 21-days and then there's no question and everybody on the staff knows that they've got to mail and your papers' got to be out 21-days in advance with that so people can have time to respond. And that's the real goal is to say, you know, "We want you to have the opportunity to participate so we're going to make the effort to get it out that time."

Scholz: What?

DRAFT

Kyle: And again, just based on something you just said: you're saying 21-days notice for mailing or publishing as well?

Shipley: Do the same.

Kyle: Both?

Shipley: Publish as well. Yeah.

Scholz: Okay. Anything else?

Shipley: I think the fact that you asked effective when but I think that's what the City Council is going to decide and we're basically recommending to the City Council that that be the time frame that we're talking about as far as notification, both mail and newspaper, etc.

Scholz: Right.

DRAFT

City of Las Cruces

Identified Neighborhood Association Information and Notification Policy

BACKGROUND

Providing information and notification of proposed development to Las Cruces neighborhood associations promotes improved communications between neighborhood associations and city government.

Early identification and resolution of potential conflicts involving neighborhoods and the private sector can be of utmost value to all concerned.

Due to the potential impact of new development and redevelopment, it may be useful if developers coordinate major proposals and plans with neighborhood associations as early as practical in the application process.

The purpose of this policy is to meet the needs specified above, while not limiting the rights of any other person, including non-registered neighborhood groups, to input directly into the city's decision-making processes.

DEFINITIONS

Identified Neighborhood Association - any organized group of fifteen or more dwelling units, business entities, or combination thereof that own or occupy real property within a specified geographic area of the City. An identified neighborhood association shall have at least three officers, adopted by-laws, and membership open to all residents, land owners, and business owners within their boundaries. Being a Neighborhood Association does not in itself require that the group secure a business registration or license.

Geographic Area - the land area within association boundaries.

Development Application – a submittal package for a zone change, variance, special use permit, master plan, preliminary plat, or annexation.

CRITERIA FOR DESIGNATION AS AN IDENTIFIED NEIGHBORHOOD ASSOCIATION

In order to be designated as an Identified Neighborhood Association:

A. The Identified Neighborhood Association shall complete an application form. The City shall be furnished with names, addresses and available phone numbers of current neighborhood association officers and/or board members and with a description of the association's geographic boundaries. The boundaries of the neighborhood association shall be reasonable; boundaries are recommended to include an area of the city not more than one square mile and not less than 15 acres or 4 blocks. No new neighborhood association shall be designated which has within its boundaries a geographic area already defined within the boundaries of an existing, previously recognized Identified Neighborhood Association.

B. The association shall file with the City a current copy of their bylaws. Bylaws shall not discriminate on the basis of race, color, religion, sex, familial status, or national origin. Bylaws shall additionally and otherwise conform to the Constitution and laws of the United States and State of New Mexico. Any stated purpose or primary objective of the association shall be reasonably related to land use and development and/or community and neighborhood issues.

RESPONSIBILITIES OF IDENTIFIED NEIGHBORHOOD ASSOCIATIONS

Make full membership open to all persons residing within its boundaries and to all persons and legal entities owning property or having a place of business within its boundaries.

Hold at least one meeting per year for which it makes a reasonable attempt to give written notice to every land owner, household and place of business within the association's boundaries; mail, delivered handbills, or a number of prominent signs are examples of adequate notice. No election shall be held at a meeting of an association unless the meeting is so advertised.

By interaction with their members, residents, and the city, strive to uphold good planning, protect the environment, and promote the community welfare. Communication should be fostered between the Identified Neighborhood Association and city government on plans, proposals, and activities affecting their area.

Attempt to inform members and other eligible participants in their neighborhood of issues for discussion. Strive to provide actual or constructive notice to members and other eligible participants in their neighborhood of planning and land use issues that they receive notice of, and that will affect their area.

Establish an orderly and democratic means for making representative decisions.

Establish and follow a clear method for accurately reporting the neighborhood's position to the City. When a neighborhood association presents its official position on an issue to the city, it shall identify whether the decision was reached by the board, a poll of the general membership, or by a vote at a general membership meeting, and shall report the vote for and against the position.

Comply with its bylaw provisions.

Notify the City of general membership meetings at least two weeks in advance, when possible.

Officers of Identified Neighborhood Associations shall update the City regarding membership, contact information for all board members, association boundaries, and other information annually or as may be necessary.

RESPONSIBILITIES OF THE CITY

Mail notice of development applications which would cover areas within, contiguous to, or within 300 feet of an association's boundaries to Identified Neighborhood Associations; notification shall be made when the application is filed. Identified Neighborhood Associations shall be notified of new plans and plan amendments upon initiation of such a project by city departments and within five business days of application filed by others. The City shall mail such associations notice concerning all subsequent public hearings concerning such proposals, except hearings which have been deferred to a specific time announced at the prior hearing.

Supply all Identified Neighborhood Associations with a current list of all city government agencies, their department heads, and corresponding phone numbers and contacts.

Supply the public and city officials with the names and addresses of the two designated recipients of notices, as most recently specified by each Identified Neighborhood Association.

Designate a liaison between each Identified Neighborhood Association and the city.

Provide for the sharing of information with Identified Neighborhood Associations by furnishing, upon request, available pertinent information.

Response within seven days of receipt of any correspondence received from an Identified Neighborhood Association that requests an answer, definition, or status of any city project within their boundaries.

Encourage individuals to cooperate with their existing neighborhood association but shall not restrict individual communications.

RESPONSIBILITIES OF DEVELOPMENT AND REDEVELOPMENT APPLICANTS

Applicants for development approval, within 5 days of filing the application, shall make a reasonable attempt to give written or personal notification of their proposal to any Identified Neighborhood Association which covers, abuts, or is within 300 feet of the site of their plans. Such notice shall contain the following information:

1. A detailed description what is being applied for;
2. A method by which the applicant can be contacted;
3. A statement as to the application's projected impact on the land comprising the geographic boundary of the neighborhood.

Certified letters, return receipt requested, mailed to the two designated neighborhood association representatives on file with the City constitutes a reasonable attempt to notify an association. Failure by an applicant to show proof of either notification in person or a reasonable attempt to give written notification of its proposal to such designated association representatives shall be grounds for an Identified Neighborhood Association to request deferral of a hearing.

WORK SESSION
SUMMARY & DIRECTION SHEET

The Following is a brief summary of the Agenda items discussed at the Work Session, with appropriate direction given to the responsible staff person by the City Council. The required follow-up actions are to be taken by those responsible officials.

The City Council of the City of Las Cruces, New Mexico, held a Work Session on Monday, March 26, 2012 at 1:00 p.m., at the City Council Chambers, City Hall.

THOSE PRESENT:
Councillor Miguel Silva, District 1, arrived at 1:14 p.m.
Councillor Gregory Smith, District 2,
Councillor Olga Pedroza, District 3
Councillor Nathan Small, District 4
Councillor Gill Sorg, District 5
Councillor Sharon Thomas, District 6

OTHERS PRESENT:
Robert Garza, City Manager
Harry (Pete) Connelly, City Attorney
Esther Martinez, City Clerk

Mayor Pro-Tem Thomas called the meeting to order.

Mayor Pro-Tem Thomas presented the Pet of the Week.

1. <u>Public Participation Ordinance.</u>

Mayor Pro-Tem Thomas: Okay. We have two items for today's Work Session. The first one is on Public Participation at looking at Ordinances. And, the second one on the Future Use of City-Owned Facilities. So, I guess we have Vincent Banegas and David Weir for the first presentation

Vincent Banegas, Deputy Director of Community Development: Good Afternoon Councillors, Vincent Banegas, Deputy Director of the Community Development Department here to present information regarding the public notice processes in place within the City and also in an attempt to solicit some direction on how we may tweak those processes currently in place in order to potentially cast a broader net for issues involving development or planning and to, otherwise, improve on those procedures that we have.

The current practices within the City, particularly within the Community Development Department really focus on many of the development and up front planning issues that we partake in. The three

areas that really talk to the time frames and the methodology, etc., that are common to all are identified on that slide involving zoning or re-zoning of property. The subdivision of property and of course, any variances that take place whenever there are issues regarding development standards and the need to deviate from them. In terms of the types of notification that are part of those processes, we have some primary issues that we deal with on a monthly basis in preparation for those items moving forward to the Planning and Zoning Commission, etc., and those are the posting of the meeting agenda that identifies each and every case that is going forward. There's the newspaper notification that allows the general public throughout the city and beyond to know what is being presented at any particular meeting. And, also letters are mailed out that specifically target property owners in this instance, at least in the current writing of the ordinances, alert property owners to specific development proposals being proposed in the immediate vicinity. Another one that isn't listed and it certainly involves posting of signs on the individual property or the subject property where development is being proposed . And, that is, depending on how you view it, either a primary or secondary method for notices, but, nonetheless, one that is required presently.

We also had in the recent past with the current, with the old website, I should say, a method by which we would identify any and all projects or proposals that came in, be that, re-zoning, subdivision, variances, things of that nature. And, we had a web page where we would identify those and indicate when the target date for the Planning and Zoning Commission was and then we would update that when we would hit that meeting and then onward to City Council. We would keep the general public apprised through that web page on where that particular matter stood. With the current website, we're still looking at reimplementing that but due to the new parameters, we're having to kind of reorganize and think through a new methodology in which to do that.

But, there is also neighborhood notification, neighborhood association notification that is currently established as policy. It does identify the parameters for neighborhood associations, how they're to exist, they're to function and the requirements that they have to abide by in order to be considered a legitimate neighborhood association in the eyes of the City. But, it also identifies the efforts that the City must take in order to provide adequate notification to them on things involving development. Things of that nature and also, responsibilities of the developer or applicant and what they must do in order to abide by that policy. Now, as you know, policy isn't ordinance, it's not law, but it is something that we always push well in advance of taking these individual cases through the Planning and Zoning Commission and upward through any other body.

The City of Las Cruces.....in fact, I got a call last week regarding our notification requirements and where they stem from. And, to answer that New Mexico State Statutes establish to some extent minimum thresholds that municipalities such as us need to abide by. Now, when I say minimum, as you can see on the left side of the screen, they're very vague, they're very general and then we opted back, whenever they came to be in our zoning codes, as an example, opted to tighten those down and add a greater degree of notification through the various processes that we have. Just picking on a few as an example, subdivisions under the state statutes, basically, for agenda posting, they say whatever's deemed reasonable by the entity, such as the City. So, if we wanted to establish

a three-day period, they would allow that. In our case, we opted for six days prior to the public hearing to post that Agenda, so we exceed that, well exceed that threshold. Mail deadline for subdivision five days prior to the hearing, we opted to go with nine days. Distance notification, they don't even identify any specific distance. We utilize a 200 foot boundary and for ETZ cases, we do a 300 foot boundary. Again, opting to define exactly how we are to excel in the notification of individuals for cases.

The list goes on. Zoning and Variances, at least on the City side are very similar. In fact, the numbers are identical. But, if you look on the State Statutes very weak in terms of the variance thresholds. There simply aren't any identified in the statutes and there are limited zoning variables. The mail distance is identified as 100. We more, well, we double that distance in our zoning code. And, property owners, we include the neighborhood association the City does, as a matter of practice. The dates for newspaper publication are the same and sign posting, State Statutes are silent, but we opt for a 10-day period prior to the hearing, in which to meet standard.

A unique thing related to the State Statutes in terms of zoning, is the mail notification. The mail out. Statutes say if you're dealing with an area affected by a zoning case that's less than one block, you send it out certified mail but if it's larger than that first-class mail would suffice. With the City's processes, since we go to two bodies, one being the Planning and Zoning Commission and the other City Council. The first effort with P & Z is all by first-class mail and then second effort through this body, City Council, is all certified and we seek out minimum 15 unique property owners and we can extend well beyond the 200 foot boundary in which to accomplish that mission, if you will.

We took a look, which is included in a packet of information that was sent earlier at various other communities. I highlighted the ones that are identified on this slide just to give an example of what other communities in New Mexico do. Also, our neighbor to the south, El Paso, took a look at what they did and also in Tempe, Arizona, and a community a little smaller than ourselves in Buckeye, Arizona and, also, Colorado Springs, Colorado, the city of, and Santa Cruz County, California. And, suffice it to say that a lot of similarity exists in terms of numbers that are used in our methodology for notification. We did find some differences. For instance, there is a flat mail notification distance that was defined in a few of them and they were with or without an increase. In some instances, they were less than our threshold and in some instances they were more than our threshold. Three hundred feet for example. Some went into, what I call, notification bands, which, if you didn't find the minimum requisite number of property owners to notify, you increase that notification band from 150 feet, for instance, to 500, 500 to 1000, etc., until you hit that threshold.

Some communities notify not only property owners but tenants. Particularly, if the address for the owner was different than the subject property that was otherwise being notified. If the tenant/ownership didn't match, each party received notification for a development request. Some offered notification to both tenant and owners automatically. It didn't matter if the addresses differed. And, neighborhood association notification, in some instances, were mandatory. It wasn't a policy and they were definitely an issue or it was an issue that was codified into some of the

regulations that they followed. Neighborhood association notification prior to submittal and/or neighborhood meetings were sometimes required up front before submittal and some times before the public hearing, before the planning body, such as, the Planning and Zoning Commission. Those were some of the nuances that we found. But, again, a lot of similarity in what we currently do.

Timing of notice was another area. Sometimes there was a flat notice period that may have equaled ours or presented a 15-day period, in which to meet certain notification requirements that I've gone over previously. And, I want to note that our own Planning and Zoning Commission talked to some extent about notification in general for zoning cases and subdivision cases, and they felt comfortable with recommending a 21-day notice for signs for mail-out and for newspaper notification. So, definitely an increase from what we currently have. We had, I mentioned the neighborhood meeting prior to submittal, and there was some discussion in some of the ordinances that I read, indicating that the developer or applicant would have to prove that they notified the neighborhood association and the neighbors regarding their development proposal and often times that was through an affidavit that they would prepare or listing of certified addresses, mail-out notice that got created for them to distribute the certified letters. So, they not only said you had to do this but they outlined the parameters by which it was done.

Other discussion, within the ordinance that I saw, talked to emails that were provided by citizens. Kind of kept in a broadcast type system. Much like the City Manager's Newsletter as an example. The list can grow as more people are interested in hearing more about development in this case. And, then there was also some mention of List Serve, which is definitely a more formalized kind of email system to notify property owners, whether you live adjacent to a subject proposal or not. If you were interested in finding more about a development certainly the List Serve was an ideal form for some communities to use.

Some of the issues that certainly pertain to any changes in our notification processes, as it relates to mailings for one. We can increase the distance from what we currently have. Say to 300 even 400 feet or beyond. But, what we typically find is there is kind of a set limit if you will. There's individuals that are very interested in what is being proposed adjacent to their property and sometimes there's individuals that do not want to learn more about it. And, so, participation may not necessarily increase simply because the distance for notification, at least in the letters increases. The proof to that is in some cases where we send out certified letters as an example, some of those come back undelivered, unclaimed and that's primarily as I see it, or as I understand it, an instance where an attempt is made to deliver that certified mail or letter and, if no one is home to sign for then I think another attempt is made but in the case of someone who works in the day often times, that letter is housed at the post office and some notice is sent to the property saying you have certified letter to pick and please pick up between certain hours. And, in certain instances, it's just problematic for someone to go and pick that up. So, low and behold, we get some letters returned to us, unopened, unclaimed and those letters, obviously, if we do increase distances, etc., have cost associated with them. We have $5.75 per certified letter. That is the cost we incur per letter. And,

then, of course, the P & Z processing, getting cases to them, it's first class, and it's $.44. At least, the last time I checked with the fees associated with postal regulations.

Potential case delays also comes up as an issue. Depending on the notification options that we take to help us increase notification for our development proposals, we may be seeing a delay in the taking of the case to the Planning and Zoning Commission because there's a set number of activities that has to take place prior to the target date. So, if someone wants to go to a P & Z meeting in May, if we chose a 21-day notice as an example, that either means it's crunch time immediately upon submittal prior to newspaper notification, sign posting, etc., or we simply push back the case a month in order to accommodate the handling of those activities in an efficient manner without increasing the risk of error. Or, the developer or applicant really has to target the subject date, plan ahead and recognize that there's going to be certain thresholds or milestones that need to taken into consideration so they can hit a target date. So, there's potential delays, nonetheless, that could come as a result of modifying some of the existing parameters.

The applicant/developer costs are also part of that equation. If they are seeing a delay in the hearing of their case, that could mean dollars lost for them. In terms of a business, from the business perspective and the developer perspective, they know that better than most. They deal with that on a daily basis and they're always informing staff, for instance, whenever certain delays may be considered as part of their proposal that it is money out of their pocket and that is a concern for them. But, also, on the flip side, on the layperson, if you will, the common individual who owns property, who also wants to process a variance request. They may be, not be savvy to the processes and assume that their target date is fast approaching only to be told that it's a month off and/or the cost for doing business for that case to be prepared and presented is going to cost a little bit more. So, that all factors into this issue.

The fees and cost recovery, I want to note that there was an internal analysis of the case costs back in 2006. The last time we updated our development fees was in 2000. In 2006, we looked at all our processes, be that ETZ subdivisions, city subdivision, everything. Took a look at all of the reviewing entities. What they put into time wise. Some of the hard costs. The certified mail out and the newspaper costs, etc., and added all of that up and come in with some recommendations on what we could look at for an increase on those respective fees. We probably need to do that again, because with any adjustment to our processes, any changes to notification parameters that could all have a price tag that we don't currently account for. So, I would caution everyone that perhaps it's time to take another look at the fees that are charged and the processes that are currently taken for the review of these cases and see if we can adjust those one way or the other.

Some of the options that I think can be set on the table and some of the drawbacks to those, I 've tried to kind of identify in this fashion is to set some, the same notification threshold for all development activity. In other words, if we choose 15 days, so be it. Let's apply it to subdivisions, variances, and zoning and even our plans. Plan development ordinance amendment, that kind of thing. That would have little to no impact. 21-day increases, I talked about that already, would have

a little bit more significant impact and whatever we do, staff would recommend agenda posting thresholds that are identified remain the same because that allows us to react to instances where a certain case might have to be postponed or delayed due to lack of information coming back to staff to address a concern or comment. Increase the notification distance. We could certainly do that. It does not guarantee improved participation as I outlined. We could add tenants as notification parties within any of our development processes. That too increases case costs but, nonetheless, it does not guarantee increased participation.

We can investigate the use of List Serve or social media or it was brought to our attention that even RoboCalls could be utilized to cast a broader net and be a little more efficient in how we get the word out regarding a case. I didn't come across anything in the research that I conducted regarding RoboCalls but in looking at some of the information that is online regarding that it is certainly an option. And, it appears as if that any municipality such as us, a political division, would be exempt to an extent anyway to the FCC Do Not Call List criteria. So, definitely an option to consider. Social media, Facebook or something like that, could be examined as a means to provide information regarding our cases. I don't know exactly how that would work but it's something that could be considered. The drawback to that is obviously a lot of this would be new for us and we would need to investigate more fully the potential use and the liabilities therein. We can increase fees or examine steps to have the applicant take on more of the notification role. If we do require meetings with the neighborhood up front as an example, that would be entirely on the applicant and/or developer. They would have to prove that they carried out certain items during that process but that would be on their dime, not the City's. The City could provide certain bits of information, property ownership, for instance, that type of thing to help facilitate that but we could apply much of that burden on the applicant themselves.

Obviously, this type of approach certainly with the increase of fees might be unpopular with the development community and/or the applicants. Even back in 2006, when we looked at some of the costs, fees and potential increases, there was always a desire to try and help the typical property owner with some of the cost increases that were being considered and maybe, reduce those to a reasonable level. Increase them but reduce them so that it's not total cost recovery but on the business side leave them for cost recovery or close to. So, those are some of the options and drawbacks that I have. And, that concludes my presentation Councillors and I would be happy to answer any questions you might have.

Mayor Pro-Tem Thomas: Thank you for that presentation. Before we go on, I just have one thing to add, I got an email from someone asking if we couldn't, in term of notification look at what he called the Traffic Shed. So, if it's the, the development is over here and however, we expect most of the traffic, the areas that are going to be impacted the most by traffic going to and from that and if that couldn't be a consideration, as well, when you look at who to notify. Councillors. Yes, Councillor Smith.

Councillor Smith: Thank Madam Mayor Pro-Tem. I did have a couple of questions and thank you Mr. Banegas. One, I'm sure we would hear a lot and probably with good reason, if we started talking about increasing the fees. But, I have a question regarding if we were asking the applicants to take on the burden of notifying the people in the area, how would we guarantee that, that was done up to the standards that we're saying would need to be done. What kind of monitoring would we have in that instance.

Vincent Banegas: Mayor Pro-Tem, Councillor Smith, one of the methods that I think I found most referenced is the use of the certified ledger, if you will. The certificate of certification for the mail out. It identifies all of the property owners that we could provide them, as an example, and it shows the number for the receipt that is actually attached to the letter and we could have them show us up front before, within 10 days after submittal, or even before a public hearing that, that was indeed handled.

Councillor Smith: Thank you Mr. Banegas. A couple of other questions. Then, with some of the different programs that you described in some of the other cities, the band, the notification band, I didn't notice in there but, perhaps, it was sort of built in, the possibility that you might have a minimum notification band and from there, you might use your discretion. These people look at this neighborhood or these people actively are...somehow...you would have some sense of what goes on in the community. Because, we often times hear from people saying, you're notification went out to people 300 feet away from the house, or whatever was going on, I don't live much farther beyond that and I would like to be included. So, I think that would be something that I would like to say. If we could build in some flexibility that allows us to use that kind of discretion.

Another question I had is on the certified letters and that sort of thing that we're sending out, do we have a total, I realize one year to the next, it could be radically different but do we have a sense of what that tends to average for us?

Vincent Banegas: Mayor Pro-Tem, Councillor Smith, I do not on a yearly basis. But, on a case by case basis, obviously, it varies whether you're in the urban core, for instance, smaller lots. But, in taking a look at some of the cases that I pulled for this very purpose, it ranges between 30 downwards to about 16. Obviously, with a minimum of 15 pursuant to our code. So, it varies greatly depending on the location of the property of the subject proposal.

Councillor Smith: Thank you Mr. Banegas and Thank you Mayor Pro-Tem. One last question then. One thing I think we might want to look at is how expensive it might be to actually have our people go out, knock on doors, compared to the price of doing all the registered letters. It might actually be cost effective to actually have some feet on the ground. And, that way, we would also be more likely to be able to guarantee we actually have had somebody see face to face, that somebody got the message. Nothing is going to be 100% but I think a cost comparison there might be helpful. Thank you very much.

Mayor Pro-Tem Thomas: I have a question. Did you find in most cases that the same requirements applied whether it was a single residence, or a big building, or a whole subdivision or were there diff.....

Vincent Banegas: Mayor Pro-Tem, my research showed that the standards that were established by each community, with one exception, I think it was the City of Colorado Springs, Colorado, they put and very much like Councillor Smith was talking about the oness on the project manager, the planning manager, if you will, to determine the extent of impact. And, it didn't matter whether subdivision, zoning, annexation, it did not matter, they could define the notification band. But, other than that, it was a set list of parameters. So many feet. So many days, etc.

Mayor Pro-Tem Thomas: And, can you say a little more about these notification bands. How those get set up and determined.

Vincent Banegas: Yes. In the community of the City of Colorado Springs what their code talked about was establishing some specific bands. I think it starts at 150 feet and there is a 500 foot band and a 1000 foot, if I'm not mistaken. And, those bands are determined at the time of application submittal depending on the issue, depending on the size of the development and likelihood for impacts to adjoining properties. At that time, the planning manager makes a determination, right out of the gate, what the requirements shall be. If they feel it's going to have a significant impact, they would choose the largest band. There was no specific, in this instance, it will be this but it was case by case, determination by the City for that notification.

Mayor Pro-Tem Thomas: Thank you. Councillor Pedroza and then Councillor Sorg.

Councillor Pedroza: Thank you Madam Chair. What you just finished saying right now does seem to me to make a lot of sense. In other words, not trying to fit everybody into exactly the same band, notification band but rather giving Planning and Zoning some amount of discretion. And, saying if it's for this, which will impact greatly, we'll have a larger notification band and if it's just something that's only going to impact a small number of people, using a little bit of common sense. I was very struck with you're response. My question, I read the minutes from the Planning and Zoning Committee and they seem to really, really be interested in increasing the notification to 21 days. Do you have any information as to why? It just seemed like a very, very strong recommendation. Why did they want to go to 21 days?

Vincent Banegas: Mayor Pro-Tem, Councillor Pedroza, the Planning and Zoning Commission for a number of years has always juggled the issue because they hear very similar complaints from the constituents as you do on various development activity that gets brought to them. Many times, the public is a little upset that their neighbor received one and they live across the street, they did not. And, they are there anyway to protest or support. So, they have always talked about how best to approach notification, what would work and what would not work. In this case with the 21 day threshold that they recommended, they were merely interested in increasing the time period above

and beyond. For instance, the 15 day, if we look at the current maximum, increasing the duration by which someone could possibly hear about the case, that would not otherwise be notified and then examine the issues behind it and then provide some form of input one way or the other. So, 21 was a number that they felt was appropriate.

Councillor Pedroza: Do you personally have an opinion about increasing it to 21 days? What would you tell us about that?

Vincent Banegas: Mayor Pro-Tem, Councillor Pedroza, 21 days to me, I can certainly understand where they are coming from in terms of increasing the duration before public hearing actually hits. It does have an impact in some of the operations. So, I would be a little cautious about increasing it to a flat 21 days. But, it is something that could be consider by this body. And, whether it's 21, 20 or leave it at 15 whatever that is certainly acceptable to me.

Councillor Pedroza: Thank you. You also seem to leave without a....if there were to be a fee increase, do you have any idea what that increase would be or what you would recommend?

Vincent Banegas: Mayor Pro-Tem, Councillor Pedroza, based on my recollection of the fee information that was presented. Again, this is a little dated. It was 2006, I believe. Re-zoning, cases involving re-zoning, after we looked at all of the parties that reviewed it, their time, allocation for it and all the other hard costs, actually our current fee of $600 was just a little bit shy. I think the number came in at $700 for re-zoning. Variances increased. I cannot recall what that magic number was but they did increase and the attempt was for the typical property owner, you or myself or anyone else who wishes to pursue that, the idea was to increase that a little bit but not full cost recovery. Businesses and those who simply didn't even inquire, didn't pull a permit, they would bear the full cost of the cost recovery fee that was identified. So, those things went up. Subdivisions went up, particularly, on the larger planning functions, such as the Master Plan Process, which involves a lot of give and take with the developer and analysis of information and also planned unit development concept plans, which is very similar to a Master Plan. Those fees went up significantly.

Councillor Pedroza: Thank you. In terms of comments, I think it would probably be very useful to include tenants, as well as owners in notification because, although the owners certainly have a monetary, financial interest in it, the tenants are the one who live near there and will be impacted by other kinds of changes, traffic or whatever. I think that the RoboCalls should certainly be looked at. And, finally, I think if by traffic shed, we're talking about some sort of analysis of who in the area, not just by physical, straight physical distance but by the configuration of the streets, etc., is going to be most impacted that, that also would be a very good thing to look at in terms of who should be notified. Thank you.

Mayor Pro-Tem Thomas: Thank you Councillor Pedroza. Councillor Sorg.

Councillor Sorg: Thank you Mayor Pro-Tem. Although, it hasn't been very much, I have had some residents that said, why didn't I get a notice for this zone change or whatever. So, that's my interest right now. You mentioned the website use to have these notices on it. How soon are we going to get it back on the website?

Vincent Banegas: Mayor Pro-Tem, Councillor Sorg, we had a member of our Community Development Staff, he is, unfortunately, re-cooperating but he was one of the ones who was trained in the design of the existing website and was one of the ones that could change a lot of the content and was working on getting us back on track with the information that I discussed in terms of presentation of cases and so forth on that web page. So, we're looking at either re-allocating the work to someone else who was trained on that or hopefully, upon his return getting him back in the saddle and getting that back online within a couple of months of his return. I have no specific date for you because of the personnel.

Councillor Sorg: Okay. I'm interested in increase notification effectiveness but without increasing our costs. This is just an idea. You tell me why it won't work. I think that's the best approach we should have for this. Given our postal system the way it is, how about replacing that certified letter with two first class letters. First and second notice. It is my nature and I think I'm fairly typical. We can miss a letter once in a while but it's harder to miss two letters.

Vincent Banegas: Yes. Mayor Pro-Tem, Councillor Sorg. Presently, we do go through four re-zoning (inaudible). Basically, anything that would require not only Planning and Zoning Commission recommendation or decision but even on a decision that gets appealed to this body or a zone change that comes forward to this body, we have to notify for P & Z that's through first-class mail and we have to notify through certified as written currently for City Council. We cannot require only first-class mail because of the State Statute that all be it has some limitation. It says that if it's less than a block you have to send it certified. If it's greater than a block notification, you can send it first-class. So, you have to take a look at that. We're going to be stuck notifying certain individuals with certified mail no matter what on re-zoning matter. So, there's limitations to how far we can just apply first-class mail out threshold or criteria.

Councillor Sorg: So, that's State Statute.

Vincent Banegas: That's State Statute. Correct.

Councillor Sorg: Okay, that's a good reason. I do like targeting residents or even businesses that will likely be affected by a zone change or a variance that might be outside the 200 ft. area. And, that takes a little bit more study of the area but I think it can be determined pretty easily who would be affected there. I'm just kind of curious, I noticed on the chart here, we have a little bit more time for notifying for zoning and variance changes but subdivision, not as much. What is the rational for that?

Vincent Banegas: If memory serves, the provisions that we currently follow were certainly implemented in the '81 zoning code and also the corresponding subdivision code so it's been in use for the extent of my employment here with the City. But, subdivision processes are kind of here's the checklist of items that need to be adhered to with the proposed subdivision. You checked them off. Your zoning is in place already. Everything else is in place. It's just a matter of meeting the criteria and you're good to go and I think that was the rational of not necessarily requiring a larger, up front period of time in which to be notified for subdivisions. Zoning on the other hand, has a little bit more issues to deal with, certainly, Special Use Permits.

Councillor Sorg: Okay, I can see that.

Vincent Banegas: So, that was kind of the rational to the best of my knowledge.

Councillor Sorg: Okay. Thank you very much and thank you Mayor Pro-Tem. I'm done.

Mayor Pro-Tem Thomas: Thank you Councillor Sorg. Councillor Small.

Councillor Small: Thank you Madam Chair. Thank you Mr. Banegas. One thing, just kind of an observation, in terms of our outreach and especially, in terms of meetings, I think it's important, a while back at a public meeting, I was approached by a woman who had children. And, her input, which has kind of really stayed with me, is the lack of child care really discourages participation at a lot of different City functions. I think as far as a point at this stage where we're just putting a lot of things into the mixer and then moving forward to a policy, that would be a very important point that I would communicate. You know, when you talk about impacts and folks who are in the community, building the community, going to be in the community, these families with children are a huge part of it but it makes it very difficult often to participate whether it's in a neighborhood meeting or especially coming down to City Hall for one of the public meetings.

Second, you mentioned kind of beginning to look at Facebook, and Twitter and some of the social media. I make no claim to being an expert but I do think, you know, if we observe society right now, there's a trend away from reliance upon the traditional mail and increasing reliance upon multi-media, and web-based notification and news and just interaction. And, I think it is very important for us to start leaning more heavily in that direction and to not keep both feet planted too firmly in traditional mail because it's just not the way people increasingly communicate, do business, interact with the world. The....excuse me...(phone rings), perhaps, that is case in point. On the 14 day versus the 21 day, I think your comments are well taken as far as some of the concerns that the 21day notification process brings into bearing. And, I would add just another which is, again, in a very information saturated world, 21 days, there's a huge space to kind of lose touch with the meaning. If there is only that 21 day notification without follow-up, then you end up, I think, perhaps, losing more folks because it's not nearly as timely. And, it seems to me that the two week threshold kind of balances both worlds where it gives folks enough time to plan but isn't too long to where it just completely slips off of the radar. I appreciate a lot of the different comments that have been made.

Looking at what the cost would be for personal notification, whether that's going around putting a notice on doorways, or knocking on doors and having brief conversations or a leaflet to pass out. It might end up being more cost effective especially in denser neighborhoods. So, I think it's something to really look into. Because, regardless of all the social media, there's nothing that cuts through like that face to face conversation. In terms of the, just also the emphases on the somewhat negative interaction that people want to be notified simply to complain. I'd also provide an alternative perspective. In a lot of areas, in-fill development can bring it's share of concerns and headaches perhaps. But, it also, and many times, and I've seen this in a number of areas in District 4, it can really be positive and exciting for folks who look upon the building of a new store or the re-doing of a road or anything development wise there in a positive fashion. And, so I think, just on the front end, we need to acknowledge and plan that people can be very positive. They can help, perhaps, make projects better but notifying them and their participation won't just lead to more negative input on development projects. In fact, it can often times be very positive.

And, I guess, finally, I guess, I would suggest some of the issues like a traffic shed and others are very important and good to consider. As you move forward in the development of this, it would be good to kind of categorize things because if there ends up being an issue that is much longer term or can be interpreted as subjective in nature, as if an impact, if a business, or a residence or a community is impacted more by one project than another and there is room for interpretation within that, I would hate for that to bog down this whole process. So, by not separating things out but just keeping them on separate tracks or areas I think is good because, you know, we have a lot of development that, as thing potentially pick up, that will be coming and it's in our interest to move forward where we can whether it's RoboCalls or social media or things as quickly as we can.

And, then the last thing, on child care, there is a continuum and a spectrum there. You know, on one end, there is nothing for children to do. They're brought and you're kicked out if your baby cries. On the other end is a full service day care. I would suggest that what we're going to end up finding that works is going to be somewhere between those two poles. So, whether that's people on-site who do the child care or whether that's just coloring books, crayons and materials that can help take that child's attention and make it easier to be in a meeting for 30 minutes or an hour and a half. I think there is a lot of opportunity there. And, those are my comments. Thank you Madam Mayor.

Mayor Pro-Tem Thomas: Thank you Councillor Small. Councillor Silva.

Councillor Silva: Thank you Madam Chair. Just a really quick question for Robert. Robert part of our packet here, Identified Neighborhood Association Policy, is this in place now.

Robert Garza: Mr. Chairman, Councillor Silva. Yes, I believe it is.

Councillor Silva: Okay. Yeah, cause for some reason, I guess, I thought the majority, I mean today's Agenda is titled Public Participation Ordinance and I thought we were going to focus more on this and how we were developing an ordinance and most of this discussion is focused on development and so forth. If I'm looking at this policy, again, I thought it was going to be on how

do we improve this policy and when we start talking about 21-Day Ordinance and feet on the ground and all this other stuff, to me it seems like we're micro-managing. And, to me, the purpose of this Council is to set policy and how do we create policy. I was more interested in how do we improve participation and how do we improve, as you say here, in the policy it says, "Promotes improved communications between neighborhood associations and city government." And, I think I would add to that, "and, the private business sector." And, I think that is something that we really need to focus on more overall. These other items that have been discussed earlier, I really think those need to be addressed by the development community, residents, public businesses and other stakeholders. Let them come to us and tell us what's reasonable and what's not reasonable. For us to come up here and determine 20 days, 21 days, 100 days, I think we would be....well, at least, I would be speaking out of context because I really don't think I have a good feel of that. I think Councillor Small hit it on the head, 21 days may be just a little too long. I know in Las Cruces, RSVP means nothing in this community. I think everybody would agree with that or most people. But, when we start getting into details like that, you know again, I think we're starting to micro-manage rather than set policy. I do like your comments and so forth in regards to using Web-Based initiatives. I think we're moving that way and we should move that way.

And, my only other suggestion was, if we're trying to really communicate with the public, the traditional mail, I think maybe we should be much more specialized and focused and maybe use some of these mail service businesses that are in town and most of us have used them during our campaign. They know how to target households, which households to target and if there's other items that need to be added, such as Councillor Small was referring to, child care and stuff like that, I think those are good things that we should be looking at. The bigger picture in regards to how do we increase public participation. And, that's what I was really hoping that we would hit today more so than hitting on details in regards to what might be proper and what might not be proper in regards to, you know, today, we have only focused on the development. I think there are other things that should be addressed, as well. I will give you a good example, I know that Las Esperanzas for the longest time, they wanted to be notified in regard to any possible demolition or anything in the area. It took them a long time for us to finally get over that hump and notify them on a regular basis. Or, when somebody comes in and builds in the historic area that there is a Historic Ordinance Overlay. Lot of times, our staff does not even inform the person that something...that there is an overlay in that area and, so, they proceed to build without regard to the overly. So, I think those are the things I'd rather like to see you all address in regards to how do we increase the public participation between...or increase...or improve communication between neighborhoods, associations, city government and the private business sector. Thank you Mr. Mayor. Thank you Madam Chair.

Mayor Pro-Tem Thomas: Thank you Councillor Silva and thank you for your comments. You know, that's one of my projects is to have better communication and really look at how we can set up neighborhood associations so that we have an in-place system that works both ways, that we can use it to get information to people in the community and they can use it when they want to make sure we get information. So, I very much support that. Maybe, Robert can say a couple of words of whether or not it looks like there is going to be a possibility anytime soon that....cause it seems to

me, if we had somebody who was doing this kind of communication thing, it would help numerous departments and all kinds of projects, if we could just get a better communication system set up.

Robert Garza: Madam Chair, the idea of having somebody in this role full-time, you all have talked about a Community Relations Office, Community Relations function, a full-time function. We have, currently, what we would consider a part-time Community Relations Operation that Rob Caldwell is doing for us. Really to get to this next level, we need a full-time person do these sorts of things and that is something we plan to bring forward to you as part of our budget recommendation this year. It may mean reducing a staff person or a function in another area to offset that but we have some ideas on how that could happen. The main jest of what we wanted to find from you today, I think we've achieved that. We've heard your ideas, your thoughts. Councillor Small brought up child care and that's something Brian Denmark and I have talked about a lot regarding public meetings when we invite people. We have a recreation staff who often work with children and youth and can plan those sorts of events to let the parents know bring your kids, we will have some event for them to engage in, etc. So, I think there are a lot of things we can do. We just wanted to make sure that we were heading down the right path and covering all the appropriate topics.

Mayor Pro-Tem Thomas: Thank you Mr. Garza. So, to kind of sum up. There was a lot of emphasis up here about increasing communication effectiveness in different ways. You know, whether it's getting more neighborhood associations or whether it's using social media, but we all seem to be concerned about that. There's this thing about the 15 days and the 21 days. It seems like people are sort of okay with 15. I'm not so happy with this distance being 200 ft. or 300 ft. I really think other people are saying too that it needs to more tailored to the particular project, so it includes traffic sheds and those kinds of things. Bands. I don't know about the bands. I would like to see a little bit more about how that works. The RoboCalls. And, somebody mentioned, you know, all of us when we run for office, we have walk lists and phone calls, we do RoboCalls and we've talked about this before. It costs about 1/10 as much to do a RoboCall than it does to send a regular letter, so it's very inexpensive. And, if RoboCalls then notify people that they can get information on the Website, or it's available at the library, or at City Hall, then that would be a way to increase the communication and then point people to where they can find the documents, so I would like to see more of that. I really think our website has to....it should have all the pending cases. Anybody should be able to go anytime to the website and kind of find out what's going on. I think we might take a bit of a look at sectors. We do have, in the Comp Plan, the City is divided into sectors. Now, new sectors have emerged since that Comp Plan was written but it's kind of hard to say 100 ft., 200 ft., 500 ft. We have all these geographical things that...these people are only 100 ft. apart but this one is in this subdivision and that one is in that subdivision. So, that doesn't really make any sense. So, maybe a Project Manager who makes those determinations with some guidelines that we can all talk about. So, I think that was it. I think those were the kind of things, I heard. Is there anyone from the audience who would like to make a comment? No. Well, thank you very much.

2. <u>Future Use of City Owned Facilities (Municipal Court, Museums, Old City Hall).</u>

City of Las Cruces®
PEOPLE HELPING PEOPLE

Council Action and Executive Summary

Item # 12 **Ordinance/Resolution#** 2686

For Meeting of July 15, 2013 (Ordinance First Reading Date) **For Meeting of** August 5, 2013 (Adoption Date)

Please check box that applies to this item:

☐ QUASI JUDICIAL ☒ LEGISLATIVE ☐ ADMINISTRATIVE

TITLE: AN ORDINANCE REPEALING AND REPLACING THE 2006 LAS CRUCES SUBDIVISION CODE, AS AMENDED FOR INCORPORATION OF NEW AND REVISED PROVISIONS RELATED TO PUBLIC NOTIFICATION. SUBMITTED BY THE CITY OF LAS CRUCES (CASE SA-13-01).

PURPOSE(S) OF ACTION:

Increase public notification requirements in the 2006 Las Cruces Subdivision Code.

COUNCIL DISTRICT: All		
Drafter/Staff Contact: Vincent M. Banegas	**Department/Section:** Community Development/ Administration	**Phone:** 528-3064
City Manager Signature:		

BACKGROUND / KEY ISSUES / CONTRIBUTING FACTORS:

During the first quarter of 2012, the Planning and Zoning Commission, along with the City Council, requested examination of and potential amendment to increase public notification requirements for planning and development related cases. In response to this request, two City Council work sessions were held on March 26 and September 24, 2012. After much discussion, consensus was reached on proposed amendments that will:

1. Make agenda posting, newspaper advertisement, property sign posting, neighborhood group notification and mail-out letter notification all a minimum 15 calendar day notification period.
2. Reduce certified mail for mail-out notice while increasing the use of standard first class mail; consistent with State Statues.
3. Increase the mail-out notification boundary from a 200 foot requirement to a new 500 foot standard.
4. Increase the notification boundary identified in the City's Neighborhood Association Information and Notification Policy from 200 feet to 500 feet, to also include other types of neighborhood groups.
5. Require development pre-application meetings for determination of need for earlier public notification.

6. Establish content for early notification letter and specifically require the extension of an opportunity to discuss the proposal to noticed group(s)/area residents.

As a follow-up to the consensus reached at City Council on these issues and the unanimous recommendation for approval by the Planning and Zoning Commission at their April 23, 2013 Regular Meeting, this CAES packet specifically identifies all related amendments and supporting material to the 2006 Las Cruces Subdivision Code, as amended. Key documents contained herein include the proposed amendments for Council action identified as Exhibit "A." The same information in legislative format or "text change" format is part of the staff packet for the Planning and Zoning Commission meeting of April 23, 2013, listed as Attachment "A" for this CAES.

SUPPORT INFORMATION:

1. Ordinance.
2. Exhibit "A", Proposed 2013 Las Cruces Subdivision Code.
3. Exhibit "B", Findings.
4. Attachment "A", April 23, 2013, Planning and Zoning Commission Staff Report for Case SA-13-01 (Zoning and Subdivision Codes in legislative format).
5. Attachment "B", Approved Minutes, April 23, 2013, Planning and Zoning Commission Regular Public Hearing.
6. Attachment "C", Approved Minutes, March 19, 2013 Planning and Zoning Commission Work Session.
7. Attachment "D", Packet and Minutes from September 24, 2012 City Council Work Session.
8. Attachment "E", Packet and Minutes from March 26, 2012 City Council Work Session.

SOURCE OF FUNDING:

Is this action already budgeted?			
	Yes	☐	See fund summary below
	No	☐	If No, then check one below:
N/A	*Budget Adjustment Attached*	☐	Expense reallocated from: _____
		☐	Proposed funding is from a new revenue source (i.e. grant; see details below)
		☐	Proposed funding is from fund balance in the _____ Fund.
Does this action create any revenue?			
	Yes	☐	Funds will be deposited into this fund: _____ in the amount of $____ for FY___.
N/A	No	☐	There is no new revenue generated by this action.

BUDGET NARRATIVE

N/A

FUND EXPENDITURE SUMMARY:

Fund Name(s)	Account Number(s)	Expenditure Proposed	Available Budgeted Funds in Current FY	Remaining Funds	Purpose for Remaining Funds
N/A	N/A	N/A	N/A	N/A	N/A

OPTIONS / ALTERNATIVES:

1. Vote "Yes"; this will approve the proposed repeal and replacement of the 2006 Las Cruces Subdivision Code, as amended implementing a more robust public notification process in the new 2013 Las Cruces Subdivision Code.
2. Vote "No"; this will not approve the proposed repeal and replacement of the 2006 Las Cruces Subdivision Code, as amended, and will keep the existing provisions in place.
3. Vote to "Amend"; this could allow Council to modify the Ordinance as deemed appropriate. The Council could alter specific provisions for inclusion in an approval action.
4. Vote to "Table"; this could allow Council to table/postpone the Ordinance and direct staff accordingly.

REFERENCE INFORMATION:

The resolution(s) and/or ordinance(s) listed below are only for reference and are not included as attachments or exhibits.

1. N/A

2686

City of Las Cruces®
PEOPLE HELPING PEOPLE

COUNCIL ACTION AND EXECUTIVE SUMMARY PACKET ROUTING SLIP

For Meeting of July 15, 2013 (Ordinance First Reading Date)

For Meeting of August 5, 2013 (Adoption Date)

TITLE: **AN ORDINANCE REPEALING AND REPLACING THE 2006 LAS CRUCES SUBDIVISION CODE, AS AMENDED FOR INCORPORATION OF NEW AND REVISED PROVISIONS RELATED TO PUBLIC NOTIFICATION. SUBMITTED BY THE CITY OF LAS CRUCES (CASE SA-13-01).**

Purchasing Manager's Request to Contract (PMRC) {Required?} **Yes** ☐ **No** ☒

DEPARTMENT	SIGNATURE	PHONE NO.	DATE
Community Development Staff Contact	Vincent M. Banegas	528-3064	6/28/13
Department Director	DAVID WEITZ	528-3067	6-28-13
Other			
Assistant City Manager /CAO Management & Budget Manager		541-2028 541-2107	7/1/13 6-25-13
Assistant City Manager/COO		-2271	7/2/13
City Attorney		2128	07/09/13
City Clerk		2115	7/9/13

Rev. 8/2011

Legal Advertising Affidavit

Rebecca Juarez, who, being duly sworn as the Advertising Assistant of the Las Cruces BULLETIN, a weekly newspaper of general distribution published in the City of Las Cruces, County of Doña Ana, State of New Mexico, disposes and states that the legal advertising for

Notice of Intent to Adopt

Intent to Adopt the following Ordinances.
Council Bill No. 14-001; Ordinance No. 2686
Council Bill No. 14-002; Ordinance No. 2687

In accordance with the laws of the State of New Mexico, the attached was published in its entirety One Time in the Las Cruces BULLETIN, the first and only publication date being 7/19/13.

Rebecca Juarez

Sworn to and subscribed
before me this 19 day
of July 2013
in the
CITY OF LAS CRUCES
COUNTY OF DOÑA ANA
STATE OF NEW MEXICO

Pam Rossi

Pam Rossi - Notary Public

OFFICIAL SEAL
PAM ROSSI
NOTARY PUBLIC - STATE OF NEW MEXICO
My commission expires: 5/6/17

$59.05
Advertising Costs

NOTICE OF INTENT TO ADOPT

The City Council of The City of Las Cruces, New Mexico, Hereby Gives Notice of Its Intent to Adopt The Following Ordinances at a Regular City Council Meeting to be Held on August 5, 2013:

Council Bill No.14-001; Ordinance No. 2686: An Ordinance Repealing and Replacing the 2006 Las Cruces Subdivision Code, As Amended for Incorporation of New and Revised Provisions Related to Public Notification. Submitted by the City of Las Cruces (Case SA-13-01).

Council Bill No. 14-002; Ordinance No. 2687: An Ordinance Repealing and Replacing Article II, Section 38-49, and Section 38-54, of the 2001 Las Cruces Zoning Code, As Amended for Incorporation of New and Revised Provisions Related to Public Notification. Submitted by the City of Las Cruces (Case ZCA-13-01).

Copies Are Available for Inspection During Working Hours at the Office of the City Clerk.

Witness My Hand and Seal of the City of Las Cruces on this the 15th day of July 2013.

Esther Martinez-Carrillo, CMC, City Clerk

Date: 7/19, 2013

www.lcsun-news.com

LAS CRUCES SUN-NEWS

PROOF OF PUBLICATION

I, being duly sworn, Frank Leto deposes and says that he is the Publisher of the Las Cruces Sun -News, a newspaper published daily in the county of Dona Ana, State of New Mexico; that the notice 52460 is an exact duplicate of the notice that was published once a week/day in regular and entire issue of said newspaper and not in any supplement thereof for 1 consecutive week(s)/day(s), the first publication was in the issue dated July 21, 2013 and the last publication was July 21, 2013

Despondent further states this newspaper is duly qualified to publish legal notice or advertisements within the meaning of Sec. Chapter 167, Laws of 1937.

Signed

Publisher
Official Position

STATE OF NEW MEXICO
ss.
County of Dona Ana
Subscribed and sworn before me this
23rd **day of** July

Angel Ann Solis
Notary Public in and for
Dona Ana County, New Mexico

April 9, 2017
My Term Expires

OFFICIAL SEAL
ANGEL ANN SOLIS
Notary Public
State of New Mexico
My Comm. Expires 4/9/17

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2. Council Bill No. 14-002; Ordinance No. 2687: An Ordinance Repealing and Replacing Article II, Section 38-49, and Section 38-54, of the 2001 Las Cruces Zoning Code, As Amended for Incorporation of New and Revised Provisions Related to Public Notification. Submitted by the City of Las Cruces (Case ZCA-13-01).

Copies Are Available for Inspection During Working Hours at the Office of the City Clerk. Witness My Hand and Seal of the City of Las Cruces on this the 15th day of July 2013.

Esther Martinez-Carrillo, CMC
City Clerk

Publication# 52460
Run Date: Jul 21, 2013

Legal Advertising Affidavit

Shellie McNabb, who, being duly sworn as the Advertising Manager of the Las Cruces BULLETIN, a weekly newspaper of general distribution published in the City of Las Cruces, County of Doña Ana, State of New Mexico, disposes and states that the legal advertising for

CITY OF LAS CRUCES - LEGAL ACCOUNT

In the matter of:

NOTICE OF ADOPTION
Council Bill No. 14-001; Ordinance No. 2686;
Council Bill No. 14-002; Ordinance No. 2687

In accordance with the laws of the State of New Mexico, the attached was published in its entirety One time(s) in the Las Cruces BULLETIN, the only publication date being 8/09/13.

Shellie McNabb

Sworn to and subscribed
before me this 9th day
of August 2013
in the
CITY OF LAS CRUCES
COUNTY OF DOÑA ANA
STATE OF NEW MEXICO

Pam Rossi - Notary Public

OFFICIAL SEAL
PAM ROSSI
NOTARY PUBLIC - STATE OF NEW MEXICO
My commission expires: 5/6/17

$54.99
Advertising Costs

NOTICE OF ADOPTION

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Copies Are Available for Inspection During Working Hours at the Office of the City Clerk. **Witness My Hand and Seal** of the City of Las Cruces on this the **6th day of August 2013.**

Esther Martinez-Carrillo,
CMC, City Clerk

Date: 8/9, 2013

www.lcsun-news.com

LAS CRUCES SUN-NEWS

PROOF OF PUBLICATION

I, being duly sworn, Frank Leto deposes and says that he is the Publisher of the Las Cruces Sun-News, a newspaper published daily in the county of Dona Ana, State of New Mexico; that the notice 53432 is an exact duplicate of the notice that was published once a week/day in regular and entire issue of said newspaper and not in any supplement thereof for 1 consecutive week(s)/day(s), the first publication was in the issue dated August 11, 2013 and the last publication was August 11, 2013

Despondent further states this newspaper is duly qualified to publish legal notice or advertisements within the meaning of Sec. Chapter 167, Laws of 1937.

Signed

Publisher
Official Position

STATE OF NEW MEXICO
ss.
County of Dona Ana
Subscribed and sworn before me this

14th **day of** August 2013

Maria Isabel Del Villar

Notary Public in and for
Dona Ana County, New Mexico

August 6, 2016

My Term Expires

OFFICIAL SEAL
MARIA ISABEL DEL VILLAR
Notary Public
State of New Mexico
My Comm. Expires 8/6/16

NOTICE OF ADOPTION

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Copies Are Available for Inspection During Working Hours at the Office of the City Clerk. Witness My Hand and Seal of the City of Las Cruces on this the 6th day of August 2013.

/s/
Esther Martinez-Carrillo, CMC
City Clerk

Publication#53432
Run Date: Aug 11,2013