

**COUNCIL BILL NO. 16-016**  
**ORDINANCE NO. 2775**

**AN ORDINANCE REPEALING CHAPTER 38, ARTICLE IV, SECTION 38-33; ARTICLE V, SECTION 38-44 G 2; ARTICLE V, SECTION 38.49.3 J 1; AND ARTICLE VI, SECTION 38-58 E 3 & 6 OF THE CITY OF LAS CRUCES MUNICIPAL CODE AND REPLACING IT IN ITS ENTIRETY IN ORDER TO ELIMINATE MAXIMUM PARKING REQUIREMENTS AND REFERENCES TO PARKING RANGES. SUBMITTED BY THE CITY OF LAS CRUCES. (CASE ZCA-15-03)**

**WHEREAS**, the Las Cruces Municipal Code (LCMC) utilizes parking ranges when determining the requisite number of parking spaces for specific land uses; and

**WHEREAS**, based upon recurring parking increase requests on specific land uses by applicants, staff has identified several land uses that require more than the allotted parking outlined in the LCMC; and

**WHEREAS**, several local business owners have requested the maximums be eliminated in order to serve customers within City of Las Cruces more effectively; and

**WHEREAS**, the Planning and Zoning Commission voted 5-2-0 in favor of the amendments with a condition during a public hearing on October 27, 2015.

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

**(I)**

**THAT** LCMC Chapter 38, Article IV, Section 38-33; Article V, Section 38-44 G 2; Article V, Section 38.49.3 J 1; and Article VI, Section 38-58 E 3 & 6 are hereby repealed and replaced as shown in Exhibit "A", attached hereto and made part of this Ordinance with the following condition:

The City of Las Cruces will draft LCMC amendments to add pedestrian access requirements within parking lots and to add more stringent landscaping requirements within or around parking lots.

(II)

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

DONE AND APPROVED this 16 day of February 2016.

APPROVED:

  
\_\_\_\_\_  
Mayor

ATTEST:

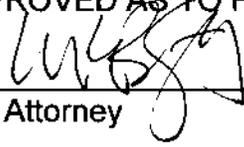
  
\_\_\_\_\_  
City Clerk



Moved by: Sorg

Seconded by: Levatino

APPROVED AS TO FORM:

  
\_\_\_\_\_  
City Attorney

VOTE:

Mayor Miyagishima:	<u>Aye</u>
Councillor Gandara:	<u>Aye</u>
Councillor Smith:	<u>Aye</u>
Councillor Pedroza:	<u>Aye</u>
Councillor Eakman:	<u>Absent</u>
Councillor Sorg:	<u>Aye</u>
Councillor Levatino:	<u>Aye</u>

LAND USES	GENERAL ZONING DISTRICTS																AUTO PARKING	BICYCLE PARKING	LAND USE NOTES	
	E	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R				R
A = Allowed Use C = Conditional Use S = Special Use Permit (Sec. 38-54) Uses are prohibited if not A, C or S.	E	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	Number of Auto Parking Stalls (APS) Required. Also see Section 38-58 for other parking regulations.	Number of Bicycle Parking Spaces (BPS) Required is the greater of 2 or the number below, unless noted as "Not Applicable".	Additional regulations for each land use are listed below, in the Conditional Uses Section 38-53, in the Special Use Permits Section 38-54, and/or in other sections of this Code.
<b>Sec. 38-33A RESIDENTIAL LAND USES</b>																				
Accessory Dwelling Unit	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	1 APS/Unit	Not Applicable	See Section 38-53
Apartments (including Condos)																		1.5 APS/Unit	1 BPS/4 Dwelling Units	See Section 38-31D, Development Standards-All Residential Zoning Districts, footnote f. Residential uses in commercial zones must conform to residential development standards of Section 38-31D (Minimum 10 and maximum 40 DU/acre maximum)
Assisted Living or Retirement Facility																		0.5 APS/Unit	1 BPS/20 Employees on maximum shift	C: Use shall be located on a collector or higher designated roadway.
Bed and Breakfast	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	0.5 APS/Bedroom	Not Applicable	See Section 38-53
Boarding House																		0.5 APS/Bedroom	1 BPS/4 Bedrooms	
Campground																		1 APS/Site	Not Applicable	See Sec. 38-54 and Recreational Vehicle Park Sec. 38-57
Detached, Site-Built, Single Family Dwelling Unit	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	2 APS/Unit	Not Applicable	C: See Dwelling Use C: Residential uses in commercial zones must conform to residential development standards of Section 38-31D (Minimum 10 and maximum 40 DU/acre maximum)

LAND USES	GENERAL ZONING DISTRICTS												AUTO PARKING	BICYCLE PARKING	LAND USE NOTES			
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A = Allowed Use C = Conditional Use S = Special Use Permit (Sec. 38-54) Uses are prohibited if not A, C or S.	E	R	R	R	R	R	R	R	R	O	C	C	M	M	M	Number of Auto Parking Stalls (APS) Required. Also see Section 38-58 for other parking regulations.	Number of Bicycle Parking Spaces (BPS) Required is the greater of 2 or the number below, unless noted as "Not Applicable".	Additional regulations for each land use are listed below, in the Conditional Uses Section 38-53, in the Special Use Permits Section 38-54, and/or in other sections of this Code.
<b>Sec. 38-33A RESIDENTIAL LAND USES</b>																		
Duplex (including Condominiums)																1 APS/Unit	Not Applicable	C: See Dwelling Use C: Total number of units shall meet minimum density requirements as identified in Section 38-31D. Development Standards All Residential Zoning Districts. Residential uses in commercial zones must conform to residential development standards of Section 38-31D (Minimum 10 and maximum 40 DU/acre maximum)
Fraternity House/Sorority House																0.5 APS/Bedroom	1 BPS/2 Bedrooms	
Guest Dwelling Unit																1 APS/Unit	Not Applicable	See Section 38-51 and Section 38-53.
Halfway House																0.5 APS/Bed	1 BPS/4 Beds	See Sections 38-21 and 38-54.
Home for Disabled																0.5 APS/Bed	1 BPS/20 Employees on maximum shift	C: See Section 38-21 Ten or fewer persons served. allowed in all residential zoning districts. More than ten persons served, allowed in R-2, R-3, and R-4 zoning districts only.
Manufactured Dwelling Unit																2 APS/Unit	Not Applicable	C: (O-1, O-2, C-2, C-3, MT, MI/M2 & M3) See Dwelling Use Residential uses in commercial zones must conform to residential development standards of Section 38-31D (Minimum 10 and maximum 40 DU/acre maximum)

LAND USES	GENERAL ZONING DISTRICTS												AUTO PARKING	BICYCLE PARKING	LAND USE NOTES					
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A = Allowed Use C = Conditional Use S = Special Use Permit (Sec. 38-54) Uses are prohibited if not A, C or S.																		Number of Auto Parking Stalls (APS) Required. Also see Section 38-58 for other parking regulations.	Number of Bicycle Parking Spaces (BPS) Required is the greater of 2 or the number below, unless noted as "Not Applicable".	Additional regulations for each land use are listed below, in the Conditional Uses Section 38-53, in the Special Use Permits Section 38-54, and/or in other sections of this Code.
<b>Sec. 38-33A RESIDENTIAL LAND USES</b>																				
Mobile Home																		2 APS/Unit	Not Applicable	See Sections 38-54 and 38-57 C: Allowed in Mobile Home Parks Only. C: (R-4) Total number of units shall meet minimum density requirements as identified in Section 38-31D, Development Standards All Residential Zoning Districts.
Mobile Home Park																		2 APS/Unit plus 1 APS/Employee	Not Applicable	See Section 38-57.
Mobile Home Subdivision																		2 APS/Unit	Not Applicable	
Nursing Home																		1 APS/4 Beds + 1 APS/2 Employees + 1 APS/2 Doctors	1 BPS/80 Beds	C: Use shall be located on a collector or higher designated roadway.
Patio Home																		2 APS/Dwelling Unit	Not Applicable	C: See Sections 38-31D and 38-62.
Quadplex (including Condominiums)																		1.5 APS/Unit	1 BPS/4 Dwelling Units	C: (R-4) Total number of units shall meet minimum density requirements as identified in Section 38-31D, Development Standards-All Residential Zoning Districts. Residential uses in commercial zones must conform to residential development standards of Section 38-31D (Minimum 10 and maximum 40 DU/acre maximum)

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A = Allowed Use C = Conditional Use S = Special Use Permit (Sec. 38-54) Uses are prohibited if not A, C or S.																	Number of Auto Parking Stalls (APS) Required. Also see Section 38-58 for other parking regulations.	Number of Bicycle Parking Spaces (BPS) Required is the greater of 2 or the number below, unless noted as "Not Applicable".	Additional regulations for each land use are listed below, in the Conditional Uses Section 38-53, in the Special Use Permits Section 38-54, and/or in other sections of this Code.
<b>Sec. 38-33A RESIDENTIAL LAND USES</b>																			
Recreational Vehicle Park																	1 APS/RV space plus 1 APS/2 Employees	Not Applicable	See Section 38-57
Temporary/Homeless Shelter																	1 APS/4 Beds	1 BPS/4 Beds	
Townhouse (Attached Single Family Dwelling Unit)																	2 APS/Dwelling Unit	Not Applicable	C: (R-4) Total number of units shall meet minimum density requirements as identified in Section 38-31D, Development Standards All Residential Zoning Districts. Residential uses in commercial zones must conform to residential development standards of Section 38-31D (Minimum 10 and maximum 40 DU/acre maximum)

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A = Allowed Use C = Conditional Use S = Special Use Permit (Sec. 38-54) Uses are prohibited if not A, C or S.	E	R	R	R	R	R	R	R	R	O	C	C	C	M	M	M	Number of Auto Parking Stalls (APS) Required. Also see Section 38-58 for other parking regulations.	Number of Bicycle Parking Spaces (BPS) Required is the greater of 2 or the number below, unless noted as "Not Applicable".	Additional regulations for each land use are listed below, in the Conditional Uses Section 38-53, in the Special Use Permits Section 38-54, and/or in other sections of this Code.
<b>Sec. 38-33A RESIDENTIAL LAND USES</b>																			
Triplex (including Condominiums)																	1 APS/Unit	1 BPS/4 Dwelling Units	C: (R-4) Total number of units shall meet minimum density requirements as identified in Section 38-31D, Development Standards-All Residential Zoning Districts. Residential uses in commercial zones must conform to residential development standards of Section 38-31D (Minimum 10 and maximum 40 DU/acre maximum)
Youth Hostel																	1 APS/5 Beds	1 BPS/10 Beds	

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A = Allowed Use C = Conditional Use S = Special Use Permit (Sec. 38-54) Uses are prohibited if not A, C or S.	E	R	R	R	R	R	R	R	R	R	R	R	R	M	M	M	Number of Parking Stalls (APS) Required. Also see Section 38-58 for other parking regulations.	Number of Parking Spaces (BPS) Required is the greater of 2 or the number below, unless noted as "Not Applicable".	Additional regulations for each land use are listed below, in the Conditional Uses Section 38-53, in the Special Use Permits Section 38-54, and/or in other sections of this Code.
<b>Sec. 38-33B RESIDENTIAL-RELATED LAND USES</b>																			
Accessory Uses and Structures	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	Not Applicable	Not Applicable	See Section 38-51
Greenhouse (Non-Commercial), Garden Shed or Tool Shed	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	Not Applicable	Not Applicable	See Section 38-51
Home Occupation	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	See Section 38-52	Not Applicable	See Section 38-52
Kennel/Cattery (Private Residential)	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	Not Applicable	Not Applicable	In accordance with Chapter 7 of the Municipal Code.
Real Estate Office (Temporary)	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	1 APS/600 sq. ft of gross floor area (GFA)	Not Applicable	Permitted only when used in conjunction with the residential development for which the real estate office serves, provided such use shall be discontinued within three (3) years from the date of final plat approval or final site plan approval. A business registration or license is required.
Recreational Court, Tennis, etc., Private	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	Not Applicable	Not Applicable	
Storage of recreational vehicles and motor vehicle appurtenances	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	Not Applicable	Not Applicable	See Section 38-58D.6 and Section 38-57.C
Swimming Pool, Private	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	Not Applicable	Not Applicable	A swimming pool shall be at least five (5) feet from property lines. Approval from the electric utility is required to insure safety. See Section 38-60, Walls and Fences, for other regulations. Required stormwater retention shall be maintained on-site.
Temporary Uses	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	See Section 38-50	Not Applicable	See Section 38-50

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A = Allowed Use C = Conditional Use S = Special Use Permit (Sec. 38-54) Uses are prohibited if not A, C or S.																Number of Parking Stalls (APS) Required. Also see Section 38-58 for other parking regulations.	Number of Parking Spaces (BPS) Required is the greater of 2 or the number below, unless noted as "Not Applicable".	Additional regulations for each land use are listed below, in the Conditional Uses Section 38-53, in the Special Use Permits Section 38-54, and/or in other sections of this Code.	
<b>Sec. 38-33C AGRICULTURE &amp; EQUESTRIAN LAND USES</b>																			
Animal Raising	A	A															Not Applicable	Not Applicable	In accordance with Chapter 7 of the Municipal Code.
Brewery/Winery	S																1 APS/1200 sq. ft. of GFA	1 BPS/20,000 sq. ft. of GFA	S: See Section 38-54 C: Limited in use to research and development activities for new products or secondary to another allowed use.
Christmas Tree Farm	A																5 APS/Farm	Not Applicable	
Facilities for Horses: Boarding, Breeding, Training, Riding School, Guest Ranch, Time-rental Riding and Facilities for other animals not including Kennels	C																Commercial Number of stalls required shall be determined on a case by case basis. All parking for the disabled and the accessible route shall be paved. All other parking and driveways may be unpaved or graveled. Non-Public Not Applicable	Not Applicable	Minimum of five (5) acres required for this land use. See Sections 38-50 & 38-51 Compliance with Article IV of Chapter 16 and Chapter 7 of the Municipal Code is required.
Horticulture, all types	A																Not Applicable	Not Applicable	
Produce Stand	A	A															1 APS/300 sq. ft. of GFA	1 BPS/2000 sq. ft. of GFA	Allowed pursuant to State law.
Race-track, Animal Rodeo Arena	S																1 APS/5 Seats	1 BPS/80 Seats	See Section 38-54
Veterinary Facility	A																1 APS/450 sq. ft. of GFA	1 BPS/20 Employees on maximum shift	

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<b>Sec. 38-33D INSTITUTIONAL LAND USES</b>																			
Cemetery/Columbarium	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S	1 APS/5 seats in assembly area	1 BPS/2000 sq. ft. of GFA	C: See Section 38-53 S: See Section 38-54
Family Child Care Home (FH) (5-6 children)	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	FH/GH: See section 38-52D CCC: 1 APS/400 sq. ft. of GFA	1 BPS/7000 sq. ft. of GFA	See section 38-52D C: See section 38-53 S: See section 38-54
Group Child Care Home (CH) (7-12 children)	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S			
Child Care Center or Preschool (CCC) (13 or more children)																			
Community Buildings-Uses	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	1 APS/1200 sq. ft. of GFA	1 BPS/5000 sq. ft. of GFA	See Section 38-53
Convention Center/Exhibition Hall																	1 APS/5 maximum occupancy	1 BPS/75 maximum occupancy	
Detention Facility																	2 APS/Employee on maximum shift	0.4 BPS/Employee on maximum shift	
Hospital																	1 APS/2.5 Beds + 1 APS/Employee on maximum shift + 1 APS/Doctor	1 BPS/40 Beds + 1 BPS/20 Employees on maximum shift + 1 BPS/20 Doctors	
Library/Museum																	1 APS/600 sq. ft. of GFA	1 BPS/1000 sq. ft. of GFA	C: Use shall be located on a collector or higher designated roadway.
Religious Institution/Columbarium	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	1 APS/5 seats in primary assembly room	1 BPS/40 Seats in primary assembly room	See Section 38-53

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<b>Sec. 38-33D INSTITUTIONAL LAND USES</b>																	
School (K-8) Public, Private, Parochial	C	C	C	C	C	C	C	C	C	C	C	C	C	C	2 APS/Classroom	6 BPS/Classroom	See Section 38-53
School (9-12) Public, Private, Parochial	C	C	C	C	C	C	C	C	C	C	C	C	C	C	1 APS/Employee + 1 APS/5 seats in primary assembly hall	4 BPS/Classroom	See Section 38-53
School, College or University															1 APS/2 Employees + 1 APS/5 Students	1 BPS/20 Employees + 1 BPS/4 Students	See Section 38-53
School, Commercial, Trade or Technical															1 APS/2 Employees + 1 APS/4 Students	1 BPS/20 Employees + 1 BPS/10 Students	See Section 38-53



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	E	R	R	R	R	R	R	R	R	O	C	C	C				M	M	M
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<b>Sec. 38-33E RECREATIONAL LAND USES</b>																			
Golf Course	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S	30 APS/ 9 Holes 1 APS/100 sq. ft. of GFA	1 BPS/6 holes 1 BPS/6 tees + 1 BPS/1500 sq. ft.	See Section 38-54
Golf Course, Miniature																	Same as Mini. Golf Course	Same as Mini. Golf Course	See Section 38-54
Golf Driving Range	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S	1 APS/200 sq. ft. of GFA	1 BPS/1500 sq. ft. of GFA	
Health/Exercise Club/Gymnasium/Sports Instruction																	Based on facilities provided	Based on facilities provided	See Section 38-53
Park	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	Based on facilities provided	Based on facilities provided	See Section 38-53
Racetrack, Auto/Truck																	1 APS/5 Seats 1 APS/5 Seats	1 BPS/80 Seats 1 BPS/80 Seats	See Section 38-54
Racetrack, Mini, e.g., go-carts																	1.5 APS/Court	1 BPS/5 Courts	
Recreational Courts, e.g., Tennis (Public)	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	1 APS/250 sq. ft. of GFA	1 BPS/4000 sq. ft. of GFA	
Skating Rink																	1 APS/5 Seats	1 BPS/40 Seats	Must be in accordance with the Las Cruces Municipal Code. The boundary of the use must be a minimum of 500 feet from any residential zone.
Sports Arena/Field/Course, Commercial																	1 APS/5 Seats	1 BPS/40 Seats	See Section 38-54.
Sports Complex: Stadium, Baseball, Football, Soccer, Softball, Track, Other Sports	S																1 APS/5 Seats	1 BPS/40 Seats	See Section 38-54.

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	E	R	R	R	R	R	R	R	R	R	R	R	O	C				C	C	C	C	C	M	M	M
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<b>Sec. 38-33E RECREATIONAL LAND USES</b>																									
Swimming Pool, Commercial or Public	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	1 APS/150 sq. ft. of pool surface area	1 BPS/1250 sq. ft. of pool surface area	See Section 38-53 and Section 38-60. C: Allowed pursuant to C-3 development requirements as they relate to building size (individual or center use) and lot size.
Zoo/Botanical Park	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	20 APS/Acre	2 BPS/Acre	Use shall be located on a minor arterial or higher designated roadway.



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<b>Sec. 38-33F SERVICE LAND USES</b>																							
Business Offices; Consulting; Credit Reporting & Collection; Desktop Publishing & Graphic Design Institutional Office; Public; Private; Educational; Religious; & Philanthropic Mailing & Stenographic Services																							
Motion Picture Production Noncommercial Research Organization																							
Photography Studio Lessons (Art, Dance, Music, etc.).																							
Counseling Services, Funeral Home, Laboratory																							

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Sec. 38-33F SERVICE LAND USES																	
Hotel/Motel																	
Pharmacy																	

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	E	R	R	R	R	R	R	R	R	R	R	R	R				M	M
A = Allowed Use C = Conditional Use S = Special Use Permit (Sec. 38-54) Uses are prohibited if not A, C or S.																Number of Parking Stalls (APS) Required. Also see Section 38-58 for other parking regulations.	Number of Parking Spaces (BPS) Required is the greater of 2 or the number below, unless noted as "Not Applicable".	Additional regulations for each land use are listed below, in the Conditional Uses Section 38-53, in the Special Use Permits Section 38-54, and/or in other sections of this Code.
<b>Sec. 38-33G RETAIL LAND USES</b>																		
Auto/Truck Parts Store																1 APS/500 sq. ft. of GFA	1 BPS/7000 sq. ft. of GFA	
Auto/Truck/Trailer Rental																1 APS/350 sq. ft. of GFA plus enough APS for each available rental	1 BPS/6000 sq. ft. of GFA	
Bar, Pub, Tavern (No Dancing)																1 APS/200 sq. ft. of GFA	1 BPS/3000 sq. ft. of GFA	
Building Material																1 APS/350 sq. ft. of GFA	1 BPS/20 Employees on maximum shift	
Business Center (see Shopping Center)																		See Shopping Center/Business Center for parking requirements, for more specific standards, see Section 38-58
Carpet/Window Treatments																1 APS/500 sq. ft. of GFA	1 BPS/20 Employees on maximum shift	
Convenience Store																1 APS/250 sq. ft. of GFA	1 BPS/2000 sq. ft. of GFA	
Department Store																1 APS/350 sq. ft. of GFA	1 BPS/6000 sq. ft. of GFA	
Equipment Rental																1 APS/400 sq. ft. of GFA	1 BPS/20 Employees	
Furniture Store																1 APS/600 sq. ft. of GFA	1 BPS/12,000 sq. ft. of GFA	
Garden Supply																1 APS/400 sq. ft. of GFA	1 BPS/10,000 sq. ft. of GFA	

LAND USES	GENERAL ZONING DISTRICTS													AUTO PARKING	BICYCLE PARKING	LAND USE NOTES			
	E	R	R	R	R	R	R	R	R	R	R	R	R				M	M	M
A = Allowed Use C = Conditional Use S = Special Use Permit (Sec. 38-54) Uses are prohibited if not A, C or S.																	Number of Parking Stalls (APS) Required. Also see Section 38-58 for other parking regulations.	Number of Parking Spaces (BPS) Required is the greater of 2 or the number below, unless noted as "Not Applicable".	Additional regulations for each land use are listed below, in the Conditional Uses Section 38-53, in the Special Use Permits Section 38-54, and/or in other sections of this Code.
<b>Sec. 38-33G RETAIL LAND USES</b>																			
Health Care Clinic (Non-Hospital)																	1 APS/400 sq. ft. of GFA	1 BPS/10,000 sq. ft. of GFA	
Newspaper Distribution																	1 APS/500 sq. ft. of GFA	1 BPS/12,000 sq. ft. of GFA	
Pawn Shop																	1 APS/400 sq. ft. of GFA	1 BPS/800 sq. ft. of GFA	
Plant Nursery																	1 APS/400 sq. ft. of GFA	1 BPS/10,000 sq. ft. of GFA	
Shopping Center/Business-Service Center (See specific land use to determine whether allowed)																	Less than 15,000 square feet of gross floor area (GFA) - 1 parking stall per 300 square feet of GFA is allowed. 15,000 square feet or more of gross floor area (GFA) - 1 parking stall per 350 square feet of GFA is allowed.	See Specific land use to determine BPS required.	See Section 38-58 for specific parking standards.
Radio/TV Studio/Station																	1 APS/600 sq. ft. of GFA	1 BPS/8000 sq. ft. of GFA	
Telephone & Communication Ctr																	1 APS/450 sq. ft. of GFA	1 BPS/8000 sq. ft. of GFA	
Theater																	1 APS/5 Seats	1 BPS/80 Seats	

LAND USES	GENERAL ZONING DISTRICTS													AUTO PARKING	BICYCLE PARKING	LAND USE NOTES			
	E	R	R	R	R	R	R	R	R	O	C	C	C				M	M	M
A = Allowed Use C = Conditional Use S = Special Use Permit (Sec. 38-54) Uses are prohibited if not A, C or S.	E	R	R	R	R	R	R	R	R	O	C	C	C	M	M	M	Number of Parking Stalls (APS) Required. Also see Section 38-58 for other parking regulations.	Number of Parking Spaces (BPS) Required is the greater of 2 or the number below, unless noted as "Not Applicable".	Additional regulations for each land use are listed below, in the Conditional Uses Section 38-53, in the Special Use Permits Section 38-54, and/or in other sections of this Code.
<b>Sec. 38-33G RETAIL LAND USES</b>																			
Tire Sales/Repair																	1 APS/500 sq. ft. of GFA	1 BPS/7000 sq. ft. of GFA	
Video Tape/DVD Rental/Sales																	1 APS/250 sq. ft. of GFA	1 BPS/4000 sq. ft. of GFA	
Cleaning & Maid Services																	1 APS/450 sq. ft. of GFA	1 BPS/8000 sq. ft. of GFA	
Clothing Store																	1 APS/350 sq. ft. of GFA	1 BPS/5000 sq. ft. of GFA	
Delicatessen, Produce/Meat Market, no eating facilities																	1 APS/350 sq. ft. of GFA	1 BPS/6000 sq. ft. of GFA	
Delicatessen, Produce/Meat Market, with eating facilities																	1 APS/350 sq. ft. of GFA plus 1 APS/4 seats	1 BPS/3000 sq. ft. of GFA	
Grocery Store																	1 APS/350 sq. ft. of GFA	1 BPS/6000 sq. ft. of GFA	
Home Furnishings																	1 APS/400 sq. ft. of GFA	1 BPS/10,000 sq. ft. of GFA	
Laundry/Dry Cleaning Services																	1 APS/400 sq. ft. of GFA	1 BPS/6000 sq. ft. of GFA	
Specialty Foods (Bakeries, Confectioneries, etc.)																	1 APS/400 sq. ft. of GFA	1 BPS/6000 sq. ft. of GFA	
Specialty Store (Books, Music, Toys, Sports Equip., Stationery, etc.)																	1 APS/350 sq. ft. of GFA	1 BPS/6000 sq. ft. of GFA	
Variety Store																	1 APS/350 sq. ft. of GFA	1 BPS/6000 sq. ft. of GFA	
Auto/Truck/Motorcycle Dealers																	1 APS/500 sq. ft. of GFA	1 BPS/6000 sq. ft. of GFA	

LAND USES	GENERAL ZONING DISTRICTS												AUTO PARKING	BICYCLE PARKING	LAND USE NOTES				
	E	R	R	R	R	R	R	R	R	O	C	C				C	M	M	M
A = Allowed Use C = Conditional Use S = Special Use Permit (Sec. 38-54) Uses are prohibited if not A, C or S.																	Number of Parking Stalls (APS) Required. Also see Section 38-58 for other parking regulations.	Number of Parking Spaces (BPS) Required is the greater of 2 or the number below, unless noted as "Not Applicable".	Additional regulations for each land use are listed below, in the Conditional Uses Section 38-53, in the Special Use Permits Section 38-54, and/or in other sections of this Code.
<b>Sec. 38-33G RETAIL LAND USES</b>																			
Bar/Night Club (Dancing)																	1 APS/125 sq. ft. of GFA	1 BPS/2000 sq. ft. of GFA	
Manufactured Housing/Buildings Dealers																	1 APS/450 sq. ft. of GFA	1 BPS/8000 sq. ft. of GFA	
Adult Book/Video Store & Entertainment Establishment																	1 APS/350 sq. ft. of GFA	1 BPS/6000 sq. ft. of GFA	See Section 38-54.
Auto/Truck Repair & Service																	1 APS/500 sq ft GFA	1 BPS/10,000 sq. ft. of GFA	No salvage yard or related activities shall be permitted. No outside storage of parts materials, or equipment is permitted.
Auto/Truck Self-Service/Automated or Full Service Wash/Wax/Detailing																	See stacking lane requirements in Section 38-58, 2 APS/Service lane	1 BPS/20 Employees on maximum shift	
Cafe, Cafeteria, Coffee Shop, Restaurant, etc.																	1 APS/5 seats; Outdoor seating only 1 APS/100 sq. ft. of GFA	1 BPS/1000 sq. ft. of GFA; Outdoor seating only 1 BPS/2000 sq. ft. of GFA	C: C-1, Drive-up, Pick-up & Delivery, and Outdoor services are prohibited in the C-1 zoning district.
Firewood Sales																	Parking area equal to 28% of area used for sales/display/storage/bldgs.	Not Applicable	If display/storage outside a building, a semi-opaque screen around the perimeter of the use shall be provided. Twenty (20) cord maximum stored on site. Also see C: condition in top cell.

LAND USES	GENERAL ZONING DISTRICTS													AUTO PARKING	BICYCLE PARKING	LAND USE NOTES		
	E	R	R	R	R	R	R	R	R	O	C	C	C				M	M
<p><b>LAND USES</b></p> <p>A = Allowed Use  C = Conditional Use  S = Special Use Permit (Sec. 38-54)  Uses are prohibited if not A, C or S.</p>	E	R	R	R	R	R	R	R	R	O	C	C	C	M	M	Number of Parking Stalls (APS) Required. Also see Section 38-58 for other parking regulations.	Number of Parking Spaces (BPS) Required is the greater of 2 or the number below, unless noted as "Not Applicable".	Additional regulations for each land use are listed below, in the Conditional Uses Section 38-53, in the Special Use Permits Section 38-54, and/or in other sections of this Code.
<b>Sec. 38-33G RETAIL LAND USES</b>																		
Flea Market																Parking area equal to 28% of area used for flea market.	1 BPS/20 auto spaces	All related activities shall be located within an enclosed building or structure. A semi-opaque screen around the perimeter of the market shall be provided. No RV parking or storage allowed except during the operating hours of the event. 1" stands/display structures are temporary, they shall be removed following each event. If permanent structures are elected, structures shall not contain reflective exterior surfaces. The use shall comply with Chapter to, Article V of the Municipal Code Also see C: condition in top cell.
Gas Station 1. With Convenience Store 2. With Repair Facilities 3. With Cafe/Restaurant 4. Gas Sales only																See Parking Note #5 > 1) 1 APS/300 sq. ft. of GFA; 2) 1 APS/400 sq. ft. of GFA; 3) 1 APS/450 sq. ft. of GFA plus 1 APS/5 seats; 4) 1 APS/450 sq. ft. of GFA	1) 1 BPS/2000 sq ft GFA; 2) 1 BPS/6000 sq ft GFA; 3) 1 BPS/2000 sq ft GFA; 4) Not applicable	
Hardware Store																1 APS/400 sq. ft. of GFA	1 BPS/5000 sq. ft. of GFA	No outside storage of supplies or materials. Also see C: condition in top cell
Kennel/Cattery, Commercial	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	1 APS/550 sq. ft. of GFA	1 BPS/20 Employees on maximum shift	Use allowed in accordance with Chapter 7 of the Municipal Code. Also see C: condition in top cell.

LAND USES	GENERAL ZONING DISTRICTS													AUTO PARKING	BICYCLE PARKING	LAND USE NOTES			
	E	R	R	R	R	R	R	R	R	R	R	R	R				M	M	M
A = Allowed Use C = Conditional Use S = Special Use Permit (Sec. 38-54) Uses are prohibited if not A, C or S.	E	R	R	R	R	R	R	R	R	R	R	R	R	M	M	M	Number of Parking Stalls (APS) Required. Also see Section 38-58 for other parking regulations.	Number of Parking Spaces (BPS) Required is the greater of 2 or the number below, unless noted as "Not Applicable".	Additional regulations for each land use are listed below, in the Conditional Uses Section 38-53, in the Special Use Permits Section 38-54, and/or in other sections of this Code.
<b>Sec. 38-33G RETAIL LAND USES</b>																			
Large Equipment Repair & Service (Non-Vehicular)																	1 APS/500 sq. ft. of GFA	1 BPS/20 Employees on maximum shift	No outside storage of supplies or materials. Also see C: condition in top cell.
Large Equipment Repair & Service (Vehicular)																	1 APS/500 sq. ft. of GFA	1 BPS/20 Employees on maximum shift	No salvage yard or related activities shall be permitted. No outside storage of parts, materials, or equipment including outside parking of vehicles overnight is permitted. Also see C: condition in top cell.
Petroleum/Propane Sales																	1 APS/400 sq. ft. of GFA	1 BPS/20 Employees on maximum shift	Use shall be screened with an opaque buffer or screen meeting current Fire Code standards. Also see C: condition in top cell.
Private Club or Lodge	C	C	C	C	C	C	C	C	C	C	C	C	C				1 APS/200 sq. ft. of GFA	1 BPS/2000 sq. ft. of GFA	See Section 38-53. Also see C: condition in top cell.
Seasonal Sales Non Temporary (Fireworks, Agriculture Products, Snowcone Stand etc.)																	1 APS/200 sq. ft. of GFA	1 BPS/2000 sq. ft. of GFA	All structure locations shall meet all applicable setback requirements. If sited on property where other uses exist, there shall be no obstruction of the driving aisles or parking stalls unless it can be proven that there is an excess of parking area. If the use does not follow temporary use provisions, the property shall be subject to all applicable development requirements C: Also see C: condition in top cell.
Small Item Repair Shop																	1 APS/550 sq. ft. of GFA	1 BPS/10,000 sq. ft. of GFA	No outside storage of supplies or material. Also see C: condition in top cell.

LAND USES	GENERAL ZONING DISTRICTS													AUTO PARKING	BICYCLE PARKING	LAND USE NOTES					
	E	R	R	R	R	R	R	R	R	O	O	C	C				C	M	M	M	
A = Allowed Use C = Conditional Use S = Special Use Permit (Sec. 38-54) Uses are prohibited if not A, C or S.																		Number of Parking Stalls (APS) Required. Also see Section 38-58 for other parking regulations.	Number of Parking Spaces (BPS) Required is the greater of 2 or the number below, unless noted as "Not Applicable".	Additional regulations for each land use are listed below, in the Conditional Uses Section 38-53, in the Special Use Permits Section 38-54, and/or in other sections of this Code.	
<b>Sec. 38-33G RETAIL LAND USES</b>																					
Specialty Retailer Primary business is the sale of tourism products that may include the sale of fireworks																			1 APS/400 sq. ft. of GFA	1 BPS/6,000 sq. ft. of GFA	CHI & CR: At least 50% of the value of the products must be other than fireworks C: Regional Commercial District Uses allowed pursuant to Regional Commercial development requirements as they relate to building size (individual or center use) and lot size. This condition applies to all Retail land uses.
Temporary Use. (Non-Seasonal)																			1 APS/200 sq. ft. of GFA	1 BPS/2000 sq. ft. of GFA	See Section 38-50. Also see C: condition in top cell.
Theater. Drive in																			See requirements for stacking lanes in Section 38-58 plus 10% over vehicle capacity	Not Applicable	
Upholstery Shop																			1 APS/500 sq. ft. of GFA	1 BPS/10,000 sq. ft. of GFA	C: C-1 All activities shall be within an enclosed building or structure Upholstery of vehicle interiors which require outside storage or parking of use vehicles is prohibited. C: See condition in top cell.

LAND USES	GENERAL ZONING DISTRICTS													AUTO PARKING	BICYCLE PARKING	LAND USE NOTES					
	E	R	R	R	R	R	R	R	R	O	C	C	C				C	C	M	M	M
A = Allowed Use C = Conditional Use S = Special Use Permit (Sec. 38-54) Uses are prohibited if not A, C or S.	E	R	R	R	R	R	R	R	R	O	C	C	C	C	C	M	M	M	Number of Parking Stalls (APS) Required. Also see Section 38-58 for other parking regulations.	Number of Parking Spaces (BPS) Required is the greater of 2 or the number below, unless noted as "Not Applicable".	Additional regulations for each land use are listed below, in the Conditional Uses Section 38-53, in the Special Use Permits Section 38-54, and/or in other sections of this Code.
<b>Sec. 38-33H TRANSPORTATION, WHOLESALE TRADE, WAREHOUSING &amp; BULK STORAGE LAND USES</b>																					
Above Ground Storage Tanks for Flammable and Combustible Liquids and Liquid Petroleum (LP) Gas	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	1 APS/Installation	Not Applicable	Use in Commercial zoning districts shall be screened with an opaque screen meeting current Fire Code standards. Use in Residential and Office zoning districts shall be Accessory only. See Section 38-53.
Airport, Privately or Publicly Owned																			S: See Section 38-54	Not Applicable	S: See Section 38-54
Bus Terminal																			1 APS/300 sq. ft. of GFA	1 BPS/500 sq. ft. of GFA	
Cab Stand																			1 APS/350 sq. ft. of GFA plus enough APS for each vehicle used in the business	1 BPS/4000 sq. ft. of GFA	
Distribution Centers																			1 APS/1000 sq. ft. of GFA	1 BPS/20 Employees on maximum shift	
Freight/Truck Terminal																			1 APS/1000 sq. ft. of GFA	1 BPS/20 Employees on maximum shift	
Heliport/Helipad	S									S									No APS necessary to primary use, e.g., hospital. 2 APS when the primary use.	Not Applicable	See Section 38-54
Interstate Warehouse/Bulk Storage Facilities																			1 APS/1000 sq. ft. of GFA	1 BPS/20 Employees on maximum shift	



LAND USES	GENERAL ZONING DISTRICTS												AUTO PARKING	BICYCLE PARKING	LAND USE NOTES											
	E	R	R	R	R	R	R	R	R	O	C	C				C	C	C	C	C	C	C	C	C	C	C
A = Allowed Use C = Conditional Use S = Special Use Permit (Sec. 38-54) Uses are prohibited if not A, C or S.	E	R	R	R	R	R	R	R	R	O	C	C	C	C	C	C	C	C	C	C	C	C	Number of Parking Stalls (APS) Required. Also see Section 38-58 for other parking regulations.	Number of Parking Spaces (BPS) Required is the greater of 2 or the number below, unless noted as "Not Applicable".	Additional regulations for each land use are listed below, in the Conditional Uses Section 38-53, in the Special Use Permits Section 38-54, and/or in other sections of this Code.	
<b>Sec. 38-33H TRANSPORTATION, WHOLESALE TRADE, WAREHOUSING &amp; BULK STORAGE LAND USES</b>																										
Storage, warehousing accessory to Office, Retail Trade, Retail Service or Industry										C														See Storage/Display requirement If no Display Not Applicable	Not Applicable	R-4, O-1, O-2 & C-1: Maximum of 90% of total square footage may be used for storage. C-2, C-3, & MT: Maximum of 95% of total square footage may be used for storage. M1/M2: 100% of total square footage may be used for storage.
Trucking Companies																					A			1 APS/500 sq. ft. of GFA of office area plus 1 APS/10,000 sq ft of storage area	1 BPS/20 Employees on maximum shift	
Wholesale Trade, any product																					C	A		1 APS/500 sq ft of office area plus 1 APS required for the first 20,000 sq ft of storage area + 1 APS/10,000 sq ft over 20,000 sq ft	1 BPS/20 Employees on maximum shift	C: Limited in use related to research and development activities for new products or secondary to another allowed use.



LAND USES	GENERAL ZONING DISTRICTS													AUTO PARKING	BICYCLE PARKING	LAND USE NOTES			
	E	R	R	R	R	R	R	R	R	R	R	R	R				M	M	M
A = Allowed Use C = Conditional Use S = Special Use Permit (Sec. 38-54) Uses are prohibited if not A, C or S.																	Number of Parking Stalls (APS) Required. Also see Section 38-58 for other parking regulations.	Number of Parking Spaces (BPS) Required is the greater of 2 or the number below, unless noted as "Not Applicable".	Additional regulations for each land use are listed below, in the Conditional Uses Section 38-53, in the Special Use Permits Section 38-54, and/or in other sections of this Code.
<b>Sec. 38-331 MANUFACTURING &amp; RELATED LAND USES, including associated assembly, processing, packaging, and compounding</b>																			
Paper & Products, Primary Metal Industries, Rubber & Plastic Products, Stone, Glass & Clay Products, Storage Boxes, Textile Mill Products (Carpets, Rugs, Hosiery, Threads), Tobacco Manufacturing, Toys, & Sporting Goods, Dolls, Games, Transportation Equipment, Writing Utensils (pens/pencils/inked ribbons).																			Permitted only when such use occurs within a totally enclosed building and related to research and development activities.
Frozen Food Lockers Tire Manufactures & Recyclers Upholstery Shop (Vehicle & Furniture)																	1 APS/1000 sq ft of GFA	1 BPS/20 Employees on maximum shift	
Acid & Battery Manufacturing, Slaughterhouse																	1 APS/1000 sq ft of GFA for Tire M&R; 1 APS/600 sq ft of GFA for others	1 BPS/20 Employees on maximum shift	
Body Shops & Vehicle Painting Establishments																	1 APS/1000 sq ft of GFA	1 BPS/20 Employees on maximum shift	C: All outside storage shall be enclosed with a Type A screen. Use must be a minimum of 100 feet from a residential use and must obtain Fire Department approval. See Section 38-53
Construction Yard or Building(s), Temporary																	Not Applicable	Not Applicable	



LAND USES	GENERAL ZONING DISTRICTS													AUTO PARKING	BICYCLE PARKING	LAND USE NOTES			
	E	R	R	R	R	R	R	R	R	O	C	C	C				M	M	M
A = Allowed Use C = Conditional Use S = Special Use Permit (Sec. 38-54) Uses are prohibited if not A, C or S.																	Number of Parking Spaces (BPS) Required is the greater of 2 or the number below, unless noted as "Not Applicable".	Additional regulations for each land use are listed below, in the Conditional Uses Section 38-53, in the Special Use Permits Section 38-54, and/or in other sections of this Code.	
<b>Sec. 38-331 MANUFACTURING &amp; RELATED LAND USES, including associated assembly, processing, packaging, and compounding</b>																			
Extraction of Raw Materials	S	S	S															1 BPS/20 Employees on maximum shift	S: Use is not to include manufacture, processing or treatment. See Section 38-54
Petroleum & Coal Products																		1 BPS/20 Employees on maximum shift	
Retail Trade, Business Service Establishment or Offices, any type																		See specific use	Retail or office uses, associated with any manufacturing or service industry, shall be limited to 5,000 square feet or 49% of the total building square footage, whichever is less. Separate businesses shall be allowed within industrial parts to serve those businesses within the park and shall have a maximum floor to property area ratio of .50.

**Article V, Section 38-44 G. 2. (University District Overlay)**

*University Avenue Zone (UD-UAZ), Transition Zone (UD-TZ) and Convention Zone (UD-CZ).* Please refer to Table 1 for uses that are allowed (A), conditional (C) and not permitted (NP). Please refer to section 38-33 in the 2001 Las Cruces Zoning Code, as amended, for the number of auto parking stalls required per land use.

**Article V, Section 38.49.3 J. 1. (Alameda Depot Overlay)**

*Parking requirements.*

Community development department staff shall review plans for adherence to parking requirements. Parking requirements shall follow section 38-58 of the LCMC, with the exceptions stated below:

1.	Parking Ranges	Parking requirements for automobiles and bicycles are set for land uses in each zone, as noted in section 38-33. Requests to reduce parking requirements shall be evaluated on a case-by-case basis by the Community Development Director or designee.
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**Article VI, Section 38-58 E 3 & 6 (Off-street Parking)**

*E. Minimum number of on-site automobile and bicycle parking stalls allowed.*

1. The formula for calculating the number of parking stalls allowed for a specific land use is found in section 38-33, land uses in general zoning districts and number of parking stalls allowed. The minimum number of parking stalls shall be two: one van accessible stall and one stall for the non-disabled, except in the case of a utility substation. The number of stalls allowed shall be rounded up to the nearest whole number, e.g., if the calculation results in 25.1 allowed parking stalls, this number (25.1) is rounded up to 26 parking stalls. Gross floor area is calculated by using the exterior dimensions of all buildings, including multiple stories, on a site. Enclosed garages are included in gross floor area. However, for example, carports are not included in the calculation.

2. Proposed land uses not specified shall follow the parking requirements for a specified use within the category most appropriate to the proposed use as determined by the Community Development Director or designee.

3. The number of spaces provided shall not be reduced below the minimums allowed in section 38-33. Any request for a deviation to the allowed parking spaces shall follow the city's variance and/or flexible standards process.

4. Loading space shall be provided for each nonresidential use as approved by the Community Development Director or designee.

5. Up to 40 percent of the allowed parking stalls may be provided on property separate from the property served provided parking is a permitted use and all of the separate parking is within 500 feet from the property served. A parking agreement assuring that the allowed off-street parking is required for the life of the land use shall be properly executed by all the separate property owners, approved as to content and form by the city attorney and the Community Development Director, and recorded with the County Clerk's Office.

6. Shopping center/business-service center: When two or more separate land uses/businesses, as defined in article III, are to be located on the same property, the following formulas shall be used to calculate the total number of parking stalls allowed:

A. Less than 15,000 square feet of gross floor area (GFA): One parking stall per 300 square feet of GFA is allowed.

B. 15,000 square feet or more of gross floor area (GFA): One parking stall per 350 square feet of GFA is allowed.

This provision shall be used in calculating the total number of parking stalls required rather than the formula for each separate land use found in section 38-33. However, sections 38-48, 38-54, and 38-58.G. offer options for the reduction in the total number of parking stalls allowed.

LAND USES	GENERAL ZONING DISTRICTS																AUTO PARKING	BICYCLE PARKING	LAND USE NOTES		
	E	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R				R	
A = Allowed Use C = Conditional Use S = Special Use Permit (Sec. 38-54) Uses are prohibited if not A, C or S.	E	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	Number of Auto Parking Stalls (APS) Required. Also see Section 38-58 for other parking regulations.	Number of Bicycle Parking Spaces (BPS) Required is the greater of 2 or the number below, unless noted as "Not Applicable".	Additional regulations for each land use are listed below, in the Conditional Uses Section 38-53, in the Special Use Permits Section 38-54, and/or in other sections of this Code.	
<b>Sec. 38-33A RESIDENTIAL LAND USES</b>																					
Accessory Dwelling Unit	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	1-2 APS/Unit	Not Applicable	See Section 38-53	
Apartments (including Condos)																		1.5-2 APS/Unit	1 BPS/4 Dwelling Units	See Section 38-31D, Development Standards-All Residential Zoning Districts, footnote f. Residential uses in commercial zones must conform to residential development standards of Section 38-31D (Minimum 10 and maximum 40 DU/acre maximum)	
Assisted Living or Retirement Facility																		0.5-1.25 APS/Unit	1 BPS/20 Employees on maximum shift	C: Use shall be located on a collector or higher designated roadway.	
Bed and Breakfast	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	0.5-1.25 APS/Bedroom	Not Applicable	See Section 38-53	
Boarding House																		0.5+ APS/Bedroom	1 BPS/4 Bedrooms		
Campground																		1-1.25 APS/Site	Not Applicable	See Sec. 38-54 and Recreational Vehicle Park Sec. 38-57	
Detached, Site-Built, Single Family Dwelling Unit	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	2 APS/Unit	Not Applicable	C: See Dwelling Use C: Residential uses in commercial zones must conform to residential development standards of Section 38-31D (Minimum 10 and maximum 40 DU/acre maximum)	

LAND USES	GENERAL ZONING DISTRICTS												AUTO PARKING	BICYCLE PARKING	LAND USE NOTES				
	E	R	R	R	R	R	R	R	R	O	C	C				C	M	M	M
A = Allowed Use C = Conditional Use S = Special Use Permit (Sec. 38-54) Uses are prohibited if not A, C or S.																	Number of Auto Parking Stalls (APS) Required. Also sec Section 38-58 for other parking regulations.	Number of Bicycle Parking Spaces (BPS) Required is the greater of 2 or the number below, unless noted as "Not Applicable".	Additional regulations for each land use are listed below, in the Conditional Uses Section 38-53, in the Special Use Permits Section 38-54, and/or in other sections of this Code.
<b>Sec. 38-33A RESIDENTIAL LAND USES</b>																			
Duplex (including Condominiums)																	1-2 APS/Unit	Not Applicable	C: See Dwelling Use C: Total number of units shall meet minimum density requirements as identified in Section 38-31D, Development Standards All Residential Zoning Districts. Residential uses in commercial zones must conform to residential development standards of Section 38-31D (Minimum 10 and maximum 40 DU/acre maximum)
Fraternity House/Sorority House																	0.5+ APS/Bedroom	1 BPS/2 Bedrooms	
Guest Dwelling Unit																	1 APS/Unit	Not Applicable	See Section 38-51 and Section 38-53.
Halfway House																	0.5 APS/Bed	1 BPS/4 Beds	See Sections 38-21 and 38-54.
Home for Disabled																	0.5+ APS/Bed	1 BPS/20 Employees on maximum shift	C: See Section 38-21 Ten or fewer persons served, allowed in all residential zoning districts. More than ten persons served, allowed in R-2, R-3, and R-4 zoning districts only.
Manufactured Dwelling Unit																	2 APS/Unit	Not Applicable	C: (O-1, O-2, C-2, C-3, MT, MI/M2 & M3) See Dwelling Use Residential uses in commercial zones must conform to residential development standards of Section 38-31D (Minimum 10 and maximum 40 DU/acre maximum)

LAND USES	GENERAL ZONING DISTRICTS													AUTO PARKING	BICYCLE PARKING	LAND USE NOTES				
	E	R	R	R	R	R	R	R	R	O	C	C	C				M	M	M	
<b>A = Allowed Use</b> <b>C = Conditional Use</b> <b>S = Special Use Permit (Sec. 38-54)</b> <b>Uses are prohibited if not A, C or S.</b>	E	R	R	R	R	R	R	R	R	O	C	C	C	M	M	M	Number of Auto Parking Stalls (APS) Required. Also see Section 38-58 for other parking regulations.	Number of Bicycle Parking Spaces (BPS) Required is the greater of 2 or the number below, unless noted as "Not Applicable".	Additional regulations for each land use are listed below, in the Conditional Uses Section 38-53, in the Special Use Permits Section 38-54, and/or in other sections of this Code.	
<b>Sec. 38-33A RESIDENTIAL LAND USES</b>																				
Mobile Home																		2 APS/Unit	Not Applicable	See Sections 38-54 and 38-57 C: Allowed in Mobile Home Parks Only. C: (R-4) Total number of units shall meet minimum density requirements as identified in Section 38-31D, Development Standards All Residential Zoning Districts.
Mobile Home Park																		2 APS/Unit plus 1 APS/Employee	Not Applicable	See Section 38-57.
Mobile Home Subdivision																		2 APS/Unit	Not Applicable	
Nursing Home																		1 APS/3-4 Beds + 1 APS/2 Employees + 1 APS/2 Doctors	1 BPS/80 Beds	C: Use shall be located on a collector or higher designated roadway.
Patio Home																		2 APS/Dwelling Unit	Not Applicable	C: See Sections 38-31D and 38-62.
Quadplex (including Condominiums)																		1.5-2 APS/Unit	1 BPS/4 Dwelling Units	C: (R-4) Total number of units shall meet minimum density requirements as identified in Section 38-31D, Development Standards-All Residential Zoning Districts. Residential uses in commercial zones must conform to residential development standards of Section 38-31D (Minimum 10 and maximum 40 DU/acre maximum)



LAND USES	GENERAL ZONING DISTRICTS												AUTO PARKING	BICYCLE PARKING	LAND USE NOTES					
	E	R	R	R	R	R	R	R	R	R	O	C				C	C	M	M	M
A = Allowed Use C = Conditional Use S = Special Use Permit (Sec. 38-54) Uses are prohibited if not A, C or S.																		Number of Auto Parking Stalls (APS) Required. Also see Section 38-58 for other parking regulations.	Number of Bicycle Parking Spaces (BPS) Required is the greater of 2 or the number below, unless noted as "Not Applicable".	Additional regulations for each land use are listed below, in the Conditional Uses Section 38-53, in the Special Use Permits Section 38-54, and/or in other sections of this Code.
<b>Sec. 38-33A RESIDENTIAL LAND USES</b>																				
Triplex (including Condominiums)																		1-2 APS/Unit	1 BPS/4 Dwelling Units	C: (R-4) Total number of units shall meet minimum density requirements as identified in Section 38-31D; Development Standards-All Residential Zoning Districts. Residential uses in commercial zones must conform to residential development standards of Section 38-31D (Minimum 10 and maximum 40 DU/acre maximum)
Youth Hostel																		1 APS/4-5 Beds	1 BPS/10 Beds	

LAND USES	GENERAL ZONING DISTRICTS																AUTO PARKING	BICYCLE PARKING	LAND USE NOTES			
	E	R	E	R	E	R	E	R	E	R	E	R	E	R	E	R				M	M	M
A = Allowed Use C = Conditional Use S = Special Use Permit (Sec. 38-54) Uses are prohibited if not A, C or S.	E	R	E	R	E	R	E	R	E	R	E	R	E	R	E	R	M	M	M	Number of Parking Stalls (APS) Required. Also see Section 38-58 for other parking regulations.	Number of Parking Spaces (BPS) Required is the greater of 2 or the number below, unless noted as "Not Applicable".	Additional regulations for each land use are listed below, in the Conditional Uses Section 38-53, in the Special Use Permits Section 38-54, and/or in other sections of this Code.
<b>Sec. 38-33B RESIDENTIAL-RELATED LAND USES</b>																						
Accessory Uses and Structures	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	Not Applicable	Not Applicable	See Section 38-51
Greenhouse (Non-Commercial), Garden Shed or Tool Shed	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	Not Applicable	Not Applicable	See Section 38-51
Home Occupation	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	See Section 38-52	Not Applicable	See Section 38-52
Kennel/Cattery (Private Residential)	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	Not Applicable	Not Applicable	In accordance with Chapter 7 of the Municipal Code.
Real Estate Office (Temporary)	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	1 APS/600 sq. ft of gross floor area (GFA)	Not Applicable	Permitted only when used in conjunction with the residential development for which the real estate office serves, provided such use shall be discontinued within three (3) years from the date of final plat approval or final site plan approval. A business registration or license is required.
Recreational Court, Tennis, etc., Private	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	Not Applicable	Not Applicable	See Section 38-58D.6 and Section 38-57.C
Storage of recreational vehicles and motor vehicle appurtenances	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	Not Applicable	Not Applicable	A swimming pool shall be at least five (5) feet from property lines. Approval from the electric utility is required to insure safety. See Section 38-60, Walls and Fences, for other regulations. Required stormwater retention shall be maintained on-site.
Swimming Pool, Private	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	Not Applicable	Not Applicable	
Temporary Uses	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	See Section 38-50	Not Applicable	See Section 38-50

LAND USES	GENERAL ZONING DISTRICTS														AUTO PARKING	BICYCLE PARKING	LAND USE NOTES			
	E	R	R	R	R	R	R	R	R	O	O	C	C	C				M	M	M
A = Allowed Use C = Conditional Use S = Special Use Permit (Sec. 38-54) Uses are prohibited if not A, C or S.																		Number of Parking Stalls (APS) Required. Also see Section 38-58 for other parking regulations.	Number of Parking Spaces (BPS) Required is the greater of 2 or the number below, unless noted as "Not Applicable".	Additional regulations for each land use are listed below, in the Conditional Uses Section 38-53, in the Special Use Permits Section 38-54, and/or in other sections of this Code.
<b>Sec. 38-33C AGRICULTURE &amp; EQUESTRIAN LAND USES</b>																				
Animal Raising	A	A																Not Applicable	Not Applicable	In accordance with Chapter 7 of the Municipal Code.
Brewery/Winery	S	S																1 APS/400-1200 sq. ft. of GFA	1 BPS/20,000 sq. ft. of GFA	S: See Section 38-54 C: Limited in use to research and development activities for new products or secondary to another allowed use.
Christmas Tree Farm	A	A																5 APS/Farm	Not Applicable	Minimum of five (5) acres required for this land use. See Sections 38-50 & 38-51 Compliance with Article IV of Chapter 16 and Chapter 7 of the Municipal Code is required.
Facilities for Horses: Boarding, Breeding, Training, Riding School, Guest Ranch, Time-rental Riding and Facilities for other animals not including Kennels	C	C																Commercial Number of stalls required shall be determined on a case by case basis. All parking for the disabled and the accessible route shall be paved. All other parking and driveways may be unpaved or graveled. Non-Public Not Applicable	Not Applicable	
Horticulture, all types	A	A																Not Applicable	Not Applicable	
Produce Stand	A	A																1 APS/200-300 sq. ft. of GFA	1 BPS/2000 sq. ft. of GFA	Allowed pursuant to State law.
Racetrack, Animal Rodeo Arena	S	S																1 APS/3-5 Seats	1 BPS/80 Seats	See Section 38-54
Veterinary Facility	A	A																1 APS/350-450 sq. ft. of GFA	1 BPS/20 Employees on maximum shift	



LAND USES	GENERAL ZONING DISTRICTS													AUTO PARKING	BICYCLE PARKING	LAND USE NOTES		
	E	R	R	R	R	R	R	R	R	R	R	R	R				M	M
A = Allowed Use C = Conditional Use S = Special Use Permit (Sec. 38-54) Uses are prohibited if not A, C or S.	E	R	R	R	R	R	R	R	R	R	R	R	R	M	M	Number of Parking Spaces (BPS) Required is the greater of 2 or the number below, unless noted as "Not Applicable".	Additional regulations for each land use are listed below, in the Conditional Uses Section 38-53, in the Special Use Permits Section 38-54, and/or in other sections of this Code.	
<b>Sec. 38-33D INSTITUTIONAL LAND USES</b>																		
School (K-8) Public, Private, Parochial	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	2-3 APS/Classroom	6 BPS/Classroom	See Section 38-53
School (9-12) Public, Private, Parochial	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	1 APS/Employee + 1 APS/3-5 seats in primary assembly hall	4 BPS/Classroom	See Section 38-53
School, College or University	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	1 APS/4-2 Employees + 1 APS/3-5 Students	1 BPS/20 Employees + 1 BPS/4 Students	See Section 38-53
School, Commercial, Trade or Technical	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	1 APS/4-2 Employees + 1 APS/2-4 Students	1 BPS/20 Employees + 1 BPS/10 Students	See Section 38-53

LAND USES	GENERAL ZONING DISTRICTS														AUTO PARKING	BICYCLE PARKING	LAND USE NOTES		
	E	R	R	R	R	R	R	R	R	R	R	R	R	R				M	M
A = Allowed Use C = Conditional Use S = Special Use Permit (Sec. 38-54) Uses are prohibited if not A, C or S.	E	R	R	R	R	R	R	R	R	R	R	R	R	R	M	M	Number of Parking Stalls (APS) Required. Also see Section 38-58 for other parking regulations.	Number of Parking Spaces (BPS) Required is the greater of 2 or the number below, unless noted as "Not Applicable".	Additional regulations for each land use are listed below, in the Conditional Uses Section 38-53, in the Special Use Permits Section 38-54, and/or in other sections of this Code.
<b>Sec. 38-33E RECREATIONAL LAND USES</b>																			
Amusement Park Permanent	S	S	S														Parking area equal to 30% of area used by amusement park	1 BPS/20 auto spaces	S: See Section 38-54. Must be in accordance with the Las Cruces Municipal Code. The boundary of the use must be a minimum of 500 feet from any residential zone.
Amusement Park Temporary	C	C	C														Parking area equal to 30% of area used by amusement park	Not Applicable	See Section 38-50. Must be in accordance with the Las Cruces Municipal Code. The boundary of the use must be a minimum of 300 feet from any residential zone.
Arcade/Game Room																	1 APS/450-250 sq. ft. of GFA	1 BPS/1000 sq. ft. of GFA	
Archery Range: Indoor Outdoor																	1 APS/0.5-1 Lane	1 BPS/20 firing lanes + 1 BPS/20 Employees on maximum shift	See Section 38-54 and Section 19-164 of the Municipal Code
Batting Cages																	1 APS/0.5-1 Cage	1 BPS/20 Employees + 1 BPS/20 Batting Cages	
Billiard/Pool Hall																	1 APS/200-300 sq. ft. of GFA	1 BPS/4000 sq. ft. of GFA	
Bowling Alley																	2-4 APS/Lane	1 BPS/7 Lanes	
Country Club	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S	1 APS/400-200 sq. ft. of GFA	1 BPS/3000 sq. ft. of GFA	See Section 38-54
Firing Range: Indoor Outdoor																	1 APS/4.5-1 Lane	1 BPS/20 firing lanes + 1 BPS/20 Employees on maximum shift	See Section 38-54 and Section 19-164 of the Municipal Code
Golf Course	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S	30-35 APS/9 Holes	1 BPS/6 holes	See Section 38-54

LAND USES	GENERAL ZONING DISTRICTS														AUTO PARKING	BICYCLE PARKING	LAND USE NOTES		
	E	R	R	R	R	R	R	R	R	R	R	R	R	R				M	M
A = Allowed Use C = Conditional Use S = Special Use Permit (Sec. 38-54) Uses are prohibited if not A, C or S.	E	R	R	R	R	R	R	R	R	R	R	R	R	R	M	M	Number of Parking Stalls (APS) Required. Also see Section 38-58 for other parking regulations.	Number of Parking Spaces (BPS) Required is the greater of 2 or the number below, unless noted as "Not Applicable".	Additional regulations for each land use are listed below, in the Conditional Uses Section 38-53, in the Special Use Permits Section 38-54, and/or in other sections of this Code.

Sec. 38-33E RECREATIONAL LAND USES																			
Golf Course, Miniature																	1 APS/75-100 sq. ft. of GFA	1 BPS/6 tees + 1 BPS/1500 sq. ft.	
Golf Driving Range	S	S	S	S	S	S	S	S	S	S	S	S	S	S	A	A	Same as Mini. Golf Course	Same as Mini. Golf Course	See Section 38-54
Health/Exercise Club/Gymnasium/Sports Instruction																	1 APS/100-200 sq. ft. of GFA	1 BPS/1500 sq. ft. of GFA	
Park	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	Based on facilities provided	Based on facilities provided	See Section 38-53
Racetrack, Auto/Truck																	1 APS/3-5 Seats	1 BPS/80 Seats	See Section 38-54
Racetrack, Mini, e.g., go-carts																	1 APS/3-5 Seats	1 BPS/80 Seats	
Recreational Courts, e.g., Tennis (Public)	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	1.5-2.5 APS/Court	1 BPS/5 Courts	
Skating Rink																	1 APS/150-250 sq. ft. of GFA	1 BPS/4000 sq. ft. of GFA	
Sports Arena/Field/Course, Commercial																	1 APS/3-5 Seats	1 BPS/40 Seats	Must be in accordance with the Las Cruces Municipal Code. The boundary of the use must be a minimum of 500 feet from any residential zone.
Sports Complex: Stadium, Baseball, Football, Soccer, Softball, Track, Other Sports	S																1 APS/3-5 Seats	1 BPS/40 Seats	See Section 38-54.
Swimming Pool, Commercial or Public	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	1 APS/100-150 sq. ft. of pool surface area	1 BPS/1250 sq. ft. of pool surface area	See Section 38-53 and Section 38-60. C: Allowed pursuant to C-3 development requirements as they relate to building size (individual or center use) and lot size.

LAND USES	GENERAL ZONING DISTRICTS													AUTO PARKING	BICYCLE PARKING	LAND USE NOTES		
	E	R	R	R	R	R	R	R	R	R	R	O	C				C	M
A = Allowed Use C = Conditional Use S = Special Use Permit (Sec. 38-54) Uses are prohibited if not A, C or S.																	Number of Parking Spaces (BPS) Required is the greater of 2 or the number below, unless noted as "Not Applicable".	Additional regulations for each land use are listed below, in the Conditional Uses Section 38-53, in the Special Use Permits Section 38-54, and/or in other sections of this Code.
<b>Sec. 38-33E RECREATIONAL LAND USES</b>																		
Zoo/Botanical Park	C	C	C	C	C	C	C	C	C	C	C	C	A	A			2 BPS/Acre	Use shall be located on a minor arterial or higher designated roadway.

LAND USES	GENERAL ZONING DISTRICTS													AUTO PARKING	BICYCLE PARKING	LAND USE NOTES						
	E	R	R	R	R	R	R	R	R	R	R	R	R				O	C	C	C	M	M
<p>A = Allowed Use  C = Conditional Use  S = Special Use Permit (Sec. 38-54)  Uses are prohibited if not A, C or S.</p>																					Number of Parking Spaces (BPS) Required is the greater of 2 or the number below, unless noted as "Not Applicable".	Additional regulations for each land use are listed below, in the Conditional Uses Section 38-53, in the Special Use Permits Section 38-54, and/or in other sections of this Code.
<b>Sec. 38-33F SERVICE LAND USES</b>																						
Accounting, Auditing & Bookkeeping; Architectural Engineering; Planning & Surveying Services; Insurance; Legal Services; Real Estate; Tax Preparation																					1 APS/350-450 sq. ft. of GFA	C: R-4--Commercial, service, and professional uses in the R-4 District are permitted on the ground floor only. Only 35% of the gross floor area of the buildings on the property is permitted to be used for commercial, service, or professional uses. Each business in the R-4 District shall not exceed 1500 square feet.
Art Studio																					1 APS/450-450 sq. ft. of GFA	C: O-1/O-2--Retail activity is limited to 25% of the gross floor area in the Neighborhood Office District and 50% in the Professional Office District.
Bank, Bonding & Financial Institution/Facility (No Drive Thru); Barber/Beauty/Hair Salon & Related Personal Care; Medical/Dental Office																					1 APS/350-450 sq. ft. of GFA; 1.5-2.5 APS/Workstation; 8-12 APS/Doctor	C: R-4--Commercial, service, and professional uses in the R-4 District are permitted on the ground floor only. Only 35% of the gross floor area of the buildings on the property is permitted to be used for commercial, service, or professional uses. Each business in the R-4 District shall not exceed 1500 square feet.
Bank, Bonding & Financial Institution/Facility (Drive Thru including ATM & other electronic banking drive thru)																					1 APS/350-450 sq. ft. of GFA-- See requirements for stacking lanes in Section 38-58.	C: See Section 38-53 ((Also see Staff Interpretation 07-002, at the end of Section 38-53 Conditional Uses.)

LAND USES	GENERAL ZONING DISTRICTS													AUTO PARKING	BICYCLE PARKING	LAND USE NOTES				
	E	R	R	R	R	R	R	R	R	R	R	O	C				C	M	M	M
<b>A = Allowed Use</b> <b>C = Conditional Use</b> <b>S = Special Use Permit (Sec. 38-54)</b> Uses are prohibited if not A, C or S.																		Number of Parking Stalls (APS) Required. Also see Section 38-58 for other parking regulations.	Number of Parking Spaces (BPS) Required is the greater of 2 or the number below, unless noted as "Not Applicable".	Additional regulations for each land use are listed below, in the Conditional Uses Section 38-53, in the Special Use Permits Section 38-54, and/or in other sections of this Code.
<b>Sec. 38-33F SERVICE LAND USES</b>																				
Business Offices: Consulting; Credit Reporting & Collection; Desktop Publishing & Graphic Design																		1 APS/350-450 sq. ft. of GFA	1 BPS/8000 sq. ft. of GFA	
Institutional Office: Public; Private; Educational; Religious; & Philanthropic																				
Mailing & Stenographic Services																				
Motion Picture Production																				
Noncommercial Research Organization																				
Photography Studio																				
Lessons (Art, Dance, Music, etc.).																				
Counseling Services, Funeral Home, Laboratory																		1 APS/350-450 sq. ft. of GFA for Counseling & Labs; 1 APS/3-5 seats for Funeral Home	1 BPS/8000 sq. ft. of GFA for Counseling & Labs 1 BPS/2000 sq. ft. of GFA for Funeral Home	

LAND USES	GENERAL ZONING DISTRICTS													AUTO PARKING	BICYCLE PARKING	LAND USE NOTES			
	E	R	R	R	R	R	R	R	R	R	O	C	C				M	M	M
A = Allowed Use C = Conditional Use S = Special Use Permit (Sec. 38-54) Uses are prohibited if not A, C or S.																	Number of Parking Spaces (BPS) Required is the greater of 2 or the number below, unless noted as "Not Applicable".	Additional regulations for each land use are listed below, in the Conditional Uses Section 38-53, in the Special Use Permits Section 38-54, and/or in other sections of this Code.	
<b>Sec. 38-33F SERVICE LAND USES</b>																			
Hotel/Motel																	0.75-1.25-APS/room plus 1 APS/400-800 sq. ft. of GFA of other uses	1 BPS/20 employees on maximum shift. For additional onsite uses (e.g., office, meeting rooms, storage, retail), see requirements found elsewhere in this table.	
Pharmacy																	1 APS/200-300 sq. ft. of GFA See requirements for stacking lanes in Section 6.9.	1 BPS/4000 sq. ft. of GFA	C: Only when serving the occupants of a medical, dental, or similar office and strictly for the purpose of serving the occupants of the office use(s).







LAND USES	GENERAL ZONING DISTRICTS													AUTO PARKING	BICYCLE PARKING	LAND USE NOTES								
	E	R	R	R	R	R	R	R	R	R	R	O	O				C	C	C	M	M	M		
<b>A = Allowed Use</b> <b>C = Conditional Use</b> <b>S = Special Use Permit (Sec. 38-54)</b> Uses are prohibited if not A, C or S.	E	R	R	R	R	R	R	R	R	R	R	O	O	C	C	C	M	M	M	Number of Parking Stalls (APS) Required. Also see Section 38-58 for other parking regulations.	Number of Parking Spaces (BPS) Required is the greater of 2 or the number below, unless noted as "Not Applicable".	Additional regulations for each land use are listed below, in the Conditional Uses Section 38-53, in the Special Use Permits Section 38-54, and/or in other sections of this Code.		
<b>Sec. 38-33G RETAIL LAND USES</b>																								
Auto/Truck/Motorcycle Dealers																					1 APS/300-500 sq. ft. of GFA	1 BPS/6000 sq. ft. of GFA		
Bar/Night Club (Dancing)																						1 APS/75-125 sq. ft. of GFA	1 BPS/2000 sq. ft. of GFA	
Manufactured Housing/Buildings Dealers																						1 APS/350-450 sq. ft. of GFA	1 BPS/8000 sq. ft. of GFA	
Adult Book/Video Store & Entertainment Establishment																						1 APS/300-350 sq. ft. of GFA	1 BPS/6000 sq. ft. of GFA	See Section 38-54.
Auto/Truck Repair & Service																						1 APS/300-500 sq. ft. of GFA	1 BPS/10,000 sq. ft. of GFA	No salvage yard or related activities shall be permitted. No outside storage of parts materials, or equipment is permitted.
Auto/Truck Self-Service/Automated or Full Service Wash/Wax/Detailing																						See stacking lane requirements in Section 38-58, 2 APS/Service lane	1 BPS/20 Employees on maximum shift	
Cafe, Cafeteria, Coffee Shop, Restaurant, etc.																						1 APS/2-5 seats; Outdoor seating only 1 APS/75-100 sq. ft. of GFA	1 BPS/1000 sq. ft. of GFA; Outdoor seating only 1 BPS/2000 sq. ft. of GFA	C: C-1, Drive-up, Pick-up & Delivery, and Outdoor services are prohibited in the C-1 zoning district.
Firewood Sales																						Parking area equal to 28-32% of area used for sales/display/storage/bldgs.	Not Applicable	If display/storage outside a building, a semi-opaque screen around the perimeter of the use shall be provided. Twenty (20) cord maximum stored on site. Also see C: condition in top cell.

LAND USES	GENERAL ZONING DISTRICTS													AUTO PARKING	BICYCLE PARKING	LAND USE NOTES		
	E	R	R	R	R	R	R	R	R	R	R	R	R				M	M
A = Allowed Use C = Conditional Use S = Special Use Permit (Sec. 38-54) Uses are prohibited if not A, C or S.	E	R	R	R	R	R	R	R	R	R	R	R	R	M	M	Number of Parking Stalls (APS) Required. Also see Section 38-58 for other parking regulations.	Number of Parking Spaces (BPS) Required is the greater of 2 or the number below, unless noted as "Not Applicable".	Additional regulations for each land use are listed below, in the Conditional Uses Section 38-53, in the Special Use Permits Section 38-54, and/or in other sections of this Code.
<b>Sec. 38-33G RETAIL LAND USES</b>																		
Flea Market																	1 BPS/20 auto spaces	All related activities shall be located within an enclosed building or structure. A semi-opaque screen around the perimeter of the market shall be provided. No RV parking or storage allowed except during the operating hours of the event. 1" stands/display structures are temporary, they shall be removed following each event. If permanent structures are elected, structures shall not contain reflective exterior surfaces. The use shall comply with Chapter to, Article V of the Municipal Code Also see C: condition in top cell.
Gas Station 1. With Convenience Store 2. With Repair Facilities 3. With Cafe/Restaurant 4. Gas Sales only																	1) 1 BPS/2000 sq ft GFA; 2) 1 BPS/6000 sq ft GFA; 3) 1 BPS/2000 sq ft GFA; 4) Not applicable	
Hardware Store																	1 BPS/5000 sq. ft. of GFA	No outside storage of supplies or materials. Also see C: condition in top cell
Kennel/Cattery, Commercial	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C		1 BPS/20 Employees on maximum shift	Use allowed in accordance with Chapter 7 of the Municipal Code. Also see C: condition in top cell.

LAND USES	GENERAL ZONING DISTRICTS													AUTO PARKING	BICYCLE PARKING	LAND USE NOTES			
	E	R	R	R	R	R	R	R	R	R	R	R	R				M	M	M
<b>A = Allowed Use</b> <b>C = Conditional Use</b> <b>S = Special Use Permit (Sec. 38-54)</b> <b>Uses are prohibited if not A, C or S.</b>																	Number of Parking Stalls (APS) Required. Also see Section 38-58 for other parking regulations.	Number of Parking Spaces (BPS) Required is the greater of 2 or the number below, unless noted as "Not Applicable".	Additional regulations for each land use are listed below, in the Conditional Uses Section 38-53, in the Special Use Permits Section 38-54, and/or in other sections of this Code.
<b>Sec. 38-33G RETAIL LAND USES</b>																			
Large Equipment Repair & Service (Non-Vehicular)																	1 APS/400-500 sq. ft. of GFA	1 BPS/20 Employees on maximum shift	No outside storage of supplies or materials. Also see C: condition in top cell.
Large Equipment Repair & Service (Vehicular)																	1 APS/400-500 sq. ft. of GFA	1 BPS/20 Employees on maximum shift	No salvage yard or related activities shall be permitted. No outside storage of parts, materials, or equipment including outside parking of vehicles overnight is permitted. Also see C: condition in top cell.
Petroleum/Propane Sales																	1 APS/300-400 sq. ft. of GFA	1 BPS/20 Employees on maximum shift	Use shall be screened with an opaque buffer or screen meeting current Fire Code standards. Also see C: condition in top cell.
Private Club or Lodge																	1 APS/400-200 sq. ft. of GFA	1 BPS/2000 sq. ft. of GFA	See Section 38-53. Also see C: condition in top cell.
Seasonal Sales Non Temporary (Fireworks, Agriculture Products, Snowcone Stand etc.)																	1 APS/400-200 sq. ft. of GFA	1 BPS/2000 sq. ft. of GFA	All structure locations shall meet all applicable setback requirements. If sited on property where other uses exist, there shall be no obstruction of the driving aisles or parking stalls unless it can be proven that there is an excess of parking area. If the use does not follow temporary use provisions, the property shall be subject to all applicable development requirements C: Also see C: condition in top cell.
Small Item Repair Shop																	1 APS/450-550 sq. ft. of GFA	1 BPS/10,000 sq. ft. of GFA	No outside storage of supplies or material. Also see C: condition in top cell.

LAND USES	GENERAL ZONING DISTRICTS													LAND USE NOTES							
	E	R	R	R	R	R	R	R	R	R	R	O	C		C	C	C	C	C	AUTO PARKING	BICYCLE PARKING
A = Allowed Use C = Conditional Use S = Special Use Permit (Sec. 38-54) Uses are prohibited if not A, C or S.																			Number of Parking Stalls (APS) Required. Also see Section 38-58 for other parking regulations.	Number of Parking Spaces (BPS) Required is the greater of 2 or the number below, unless noted as "Not Applicable".	Additional regulations for each land use are listed below, in the Conditional Uses Section 38-53, in the Special Use Permits Section 38-54, and/or in other sections of this Code.
<b>Sec. 38-33G RETAIL LAND USES</b>																					
Specialty Retailer Primary business is the sale of tourism products that may include the sale of fireworks																					CHI & CR: At least 50% of the value of the products must be other than fireworks C: Regional Commercial District Uses allowed pursuant to Regional Commercial development requirements as they relate to building size (individual or center use) and lot size. This condition applies to all Retail land uses.
Temporary Use, (Non-Seasonal)																					See Section 38-50. Also see C: condition in top cell.
Theater, Drive in																					Not Applicable
Upholstery Shop																					C: C-1 All activities shall be within an enclosed building or structure Upholstery of vehicle interiors which require outside storage or parking of use vehicles is prohibited. C: See condition in top cell.



LAND USES	GENERAL ZONING DISTRICTS													AUTO PARKING	BICYCLE PARKING	LAND USE NOTES			
	E	R	R	R	R	R	R	R	R	R	R	R	R				M	M	
A = Allowed Use C = Conditional Use S = Special Use Permit (Sec. 38-54) Uses are prohibited if not A, C or S.	E	R	R	R	R	R	R	R	R	R	R	R	R	M	M	Number of Parking Stalls (APS) Required. Also see Section 38-58 for other parking regulations.	Number of Parking Spaces (BPS) Required is the greater of 2 or the number below, unless noted as "Not Applicable".	Additional regulations for each land use are listed below, in the Conditional Uses Section 38-53, in the Special Use Permits Section 38-54, and/or in other sections of this Code.	
<b>Sec. 38-33H TRANSPORTATION, WHOLESALE TRADE, WAREHOUSING &amp; BULK STORAGE LAND USES</b>																			
Interstate Warehouse/Bulk Storage Facilities																	1 APS/500-1000 sq. ft. of GFA	1 BPS/20 Employees on maximum shift	
Mini-storage Units																	No APS if units have direct vehicular access if not, 1 APS/4000 square feet.	Not Applicable	
Parking Facilities, Commercial (Garages & Private Parking Lots)																	Not Applicable See Section 38-58	1 BPS/20 auto spaces	C: See Section 38-53
Railroad Terminal/Depot																	1 APS/200-300	Not Applicable	
Storage of dismantled or wrecked vehicles & products																	1 APS/500+ storage area + 1 APS/300-500 sq ft of office area	Not Applicable	All outside storage shall be enclosed with a Type A screen.
Storage/Display of merchandise for sale (except manufactured buildings, mobile homes & operable cars, trucks, motorcycles and RVs)																	R-4, O-1, O-2 & C-1: Same as specific use requirement. C-2, C-3, MT, M1/M2; 50% of specific use requirement.	Not Applicable	R-4, O-1, O-2 & C-1: No display or storage outside of buildings is permitted. C-2, C-3: Outside display is permitted. MT, M1/M2: Outside display is permitted and is required to be enclosed behind a solid wall or solid fence no less than six feet in height.



LAND USES	GENERAL ZONING DISTRICTS													AUTO PARKING	BICYCLE PARKING	LAND USE NOTES			
	E	R	R	R	R	R	R	R	R	R	O	C	C				M	M	M
A = Allowed Use C = Conditional Use S = Special Use Permit (Sec. 38-54) Uses are prohibited if not A, C or S.																	Number of Parking Stalls (APS) Required. Also see Section 38-58 for other parking regulations.	Number of Parking Spaces (BPS) Required is the greater of 2 or the number below, unless noted as "Not Applicable".	Additional regulations for each land use are listed below, in the Conditional Uses Section 38-53, in the Special Use Permits Section 38-54, and/or in other sections of this Code.
<b>Sec. 38-331 MANUFACTURING &amp; RELATED LAND USES, including associated assembly, processing, packaging, and compounding</b>																			
Jewelry, Silverware, & Plated Ware; Laboratories (Medical/Dental/R & D); Motion Picture Production; Theater/Studio; Musical Instruments; Printing & Publishing; Signs & Advertising																			
Apparel & Other Textile Products-Clothing, Brooms, Brushes & Vacuums, Chemical & Products, Dyeing & Engraving Establishments, Electrical & Electronic Equip. (Computers), Fabricated Metal Products, Food & Kindred Products, Furniture & Fixtures, Glass Cutting & Finishing, Leather Products, Lumber & Wood Products (Sawmill/Planting), Machinery, except electrical, Manufactured Buildings, Metal Work & Machine Shop, Needles, Pins & Fasteners.																			

LAND USES	GENERAL ZONING DISTRICTS														AUTO PARKING	BICYCLE PARKING	LAND USE NOTES				
	E	R	R	R	R	R	R	R	R	R	R	R	R	R				R	M	M	M
<p><b>A = Allowed Use</b>  <b>C = Conditional Use</b>  <b>S = Special Use Permit (Sec. 38-54)</b>  <b>Uses are prohibited if not A, C or S.</b></p>																			Number of Parking Stalls (APS) Required. Also see Section 38-58 for other parking regulations.	Number of Parking Spaces (BPS) Required is the greater of 2 or the number below, unless noted as "Not Applicable".	Additional regulations for each land use are listed below, in the Conditional Uses Section 38-53, in the Special Use Permits Section 38-54, and/or in other sections of this Code.
<b>Sec. 38-331 MANUFACTURING &amp; RELATED LAND USES, including associated assembly, processing, packaging, and compounding</b>																			1 APS/600-1000 sq. ft. of GFA	1 BPS/20 Employees on maximum shift	Permitted only when such use occurs within a totally enclosed building and related to research and development activities.
Paper & Products, Primary Metal Industries, Rubber & Plastic Products, Stone, Glass & Clay Products, Storage Boxes, Textile Mill Products (Carpets, Rugs, Hosiery, Threads), Tobacco Manufacturing, Toys, & Sporting Goods, Dolls, Games, Transportation Equipment, Writing Utensils (pens/pencils/inked ribbons).																					
Frozen Food Lockers Tire Manufactures & Recyclers Upholstery Shop (Vehicle & Furniture)																			1 APS/600-1000 sq ft of GFA for Tire M&R; 1 APS/400-600 sq ft of GFA for others	1 BPS/20 Employees on maximum shift	
Acid & Battery Manufacturing, Slaughterhouse																			1 APS/600-1000 sq. ft. of GFA	1 BPS/20 Employees on maximum shift	
Body Shops & Vehicle Painting Establishments																			1 APS/600-1000 sq. ft. of GFA	1 BPS/20 Employees on maximum shift	C: All outside storage shall be enclosed with a Type A screen. Use must be a minimum of 100 feet from a residential use and must obtain Fire Department approval. See Section 38-53
Construction Yard or Building(s), Temporary																			Not Applicable	Not Applicable	

LAND USES	GENERAL ZONING DISTRICTS													AUTO PARKING	BICYCLE PARKING	LAND USE NOTES		
	E	R	R	R	R	R	R	R	R	O	C	C	C				M	M
<b>A = Allowed Use</b> <b>C = Conditional Use</b> <b>S = Special Use Permit (Sec. 38-54)</b> Uses are prohibited if not A, C or S.	E	R	R	R	R	R	R	R	R	O	C	C	C	M	M	Number of Parking Stalls (APS) Required. Also see Section 38-58 for other parking regulations.	Number of Parking Spaces (BPS) Required is the greater of 2 or the number below, unless noted as "Not Applicable".	Additional regulations for each land use are listed below, in the Conditional Uses Section 38-53, in the Special Use Permits Section 38-54, and/or in other sections of this Code.
<b>Sec. 38-331 MANUFACTURING &amp; RELATED LAND USES, including associated assembly, processing, packaging, and compounding</b>																Not Applicable	All storage outside of buildings shall be enclosed with an Opaque screen.	
Contractor's Yard (Building/Electrical/Mechanical/Roads/Utilities) Vehicle Repair (Auto/Truck/Heavy Equipment/Motorcycle/Boat/Recreational/Vehicle) Wrecker Services																		Cottage industries shall be limited to 5,000 square feet of retail sales space or retail sales space limited to 49% of the total building square footage, whichever is less.
Cottage Industry																		Allowed only when such use occurs within a totally enclosed building where the primary use (retail/service) is conducted. The processing of goods shall be clearly secondary to the primary use, shall be sold on site only, and shall not pose any significant adverse impact to adjacent properties due to noise, odor, dust, or vibration. A maximum of 49% of the total business floor area, not to exceed 3,000 square feet, may be used in the conduct of the cottage industry.
Cottage Industry Retail or Service (Manufacture or processing of goods such as beer, food products, for sale on the premises)																		Allowed only when such use occurs within a totally enclosed building where the primary use (retail/service) is conducted. The processing of goods shall be clearly secondary to the primary use, shall be sold on site only, and shall not pose any significant adverse impact to adjacent properties due to noise, odor, dust, or vibration. A maximum of 49% of the total business floor area, not to exceed 3,000 square feet, may be used in the conduct of the cottage industry.
Crematorium																		
Extraction of Raw Materials	S	S	S															S: Use is not to include manufacture, processing or treatment. See Section 38-54

LAND USES	GENERAL ZONING DISTRICTS													AUTO PARKING	BICYCLE PARKING	LAND USE NOTES				
	E	R	R	R	R	R	R	R	R	R	O	O	C				C	C	M	M
A = Allowed Use C = Conditional Use S = Special Use Permit (Sec. 38-54) Uses are prohibited if not A, C or S.																		Number of Parking Stalls (APS) Required. Also see Section 38-58 for other parking regulations.	Number of Parking Spaces (BPS) Required is the greater of 2 or the number below, unless noted as "Not Applicable".	Additional regulations for each land use are listed below, in the Conditional Uses Section 38-53, in the Special Use Permits Section 38-54, and/or in other sections of this Code.
<b>Sec. 38-331 MANUFACTURING &amp; RELATED LAND USES, including associated assembly, processing, packaging, and compounding</b>																		1 APS/600-1000 sq. ft. of GFA	1 BPS/20 Employees on maximum shift	
Petroleum & Coal Products																		A	A	
Retail Trade, Business Service Establishment or Offices, any type																		C	C	Retail or office uses, associated with any manufacturing or service industry, shall be limited to 5,000 square feet or 49% of the total building square footage, whichever is less. Separate businesses shall be allowed within industrial parts to serve those businesses within the park and shall have a maximum floor to property area ratio of .50.

LAND USES	GENERAL ZONING DISTRICTS													AUTO PARKING	BICYCLE PARKING	LAND USE NOTES		
	E	R	R	R	R	R	R	R	R	O	C	C	C				M	M
A = Allowed Use C = Conditional Use S = Special Use Permit (Sec. 38-54) Uses are prohibited if not A, C or S.	E	R	R	R	R	R	R	R	R	O	C	C	C	M	M	Number of Parking Stalls (PS) Required. Also see Section 38-58 for other parking regulations.	Number of Parking Spaces (PS) Required is the greater of 2 or the number below, unless noted as "Not Applicable".	Additional regulations for each land use are listed below, in the Conditional Uses Section 38-53, in the Special Use Permits Section 38-54, and/or in other sections of this Code.
<b>Sec. 38-33J UTILITY &amp; RELATED LAND USES</b> Antennas, Towers, Communication Structures, and Other Vertical Structures	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	No parking stalls are required, however, a driving aisle shall be provided at a minimum width of eleven (11) feet and shall meet the City's paving standards for construction. A turn-around or loading area shall be provided having a minimum radius of 50 feet. A "T" or "Y" cul-de-sac meeting the City's Design Standards is acceptable.	Not Applicable	See Section 38-59 and Section 38-54.
Face Mount (Attached to Primary Use)	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	Not Applicable	Not Applicable	Face mounts must be placed or erected to the primary use/structure in a manner which conceals, to the extent possible, the antenna or face mount. No more than ten (10) additional feet in height to the maximum building height shall be allowed as a result of application or erection of the antenna or face mount. See Section 38-59.



**Article V, Section 38-44 G. 2. (University District Overlay)**

*University Avenue Zone (UD-UAZ), Transition Zone (UD-TZ) and Convention Zone (UD-CZ).* Please refer to Table 1 for uses that are allowed (A), conditional (C) and not permitted (NP). Please refer to section 38-33 in the 2001 Las Cruces Zoning Code, as amended, for the range of number of auto parking stalls required per land use.

**Article V, Section 38.49.3 J. 1. (Alameda Depot Overlay)**

*Parking requirements.*

Community development department staff shall review plans for adherence to parking requirements. Parking requirements shall follow section 38-58 of the LCMC, with the exceptions stated below:	
1. Parking Ranges	Parking <del>ranges</del> <u>requirements</u> for automobiles and bicycles are set for land uses in each zone, as noted in section 38-33. Requests to reduce parking requirements shall be evaluated on a case-by-case basis by the Community Development Director or designee.

**Article VI, Section 38-58 E 3 & 6 (Off-street Parking)**

*E. Minimum number of on-site automobile and bicycle parking stalls allowed.*

1. The formula for calculating the number of parking stalls allowed for a specific land use is found in section 38-33, land uses in general zoning districts and number of parking stalls allowed. The minimum number of parking stalls shall be two: one van accessible stall and one stall for the non-disabled, except in the case of a utility substation. The number of stalls allowed shall be rounded up to the nearest whole number, e.g., if the calculation results in 25.1 allowed parking stalls, this number (25.1) is rounded up to 26 parking stalls. Gross floor area is calculated by using the exterior dimensions of all buildings, including multiple stories, on a site. Enclosed garages are included in gross floor area. However, for example, carports are not included in the calculation.

2. Proposed land uses not specified shall follow the parking requirements for a specified use within the category most appropriate to the proposed use as determined by the Community Development Director or designee.

3. The number of spaces provided shall not be reduced below the minimums allowed in section 38-33, ~~nor shall spaces be provided in excess of prescribed maximums.~~ Any request for a deviation to the allowed parking spaces shall follow the city's variance and/or flexible standards process.

4. Loading space shall be provided for each nonresidential use as approved by the Community Development Director or designee.

5. Up to 40 percent of the allowed parking stalls may be provided on property separate from the property served provided parking is a permitted use and all of the separate parking is within 500 feet from the property served. A parking agreement assuring that the allowed off-street parking is required for the life of the land use shall be properly executed by all the separate property owners, approved as to content and form by the city attorney and the Community Development Director, and recorded with the County Clerk's Office.

6. Shopping center/business-service center: When two or more separate land uses/businesses, as defined in article III, are to be located on the same property, the following formulas shall be used to calculate the total number of parking stalls allowed:

A. Less than 15,000 square feet of gross floor area (GFA): One parking stall per 200—300 square feet of GFA is allowed.

B. 15,000 square feet or more of gross floor area (GFA): One parking stall per 250—350 square feet of GFA is allowed.

This provision shall be used in calculating the total number of parking stalls required rather than the formula for each separate land use found in section 38-33. However, sections 38-48, 38-54, and 38-58.G. offer options for the reduction in the total number of parking stalls allowed.




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**INTER-DEPARTMENTAL MEMORANDUM**

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**TO:** Planning and Zoning Commission

**FROM:** Katherine Harrison-Rogers, Senior Planner *KHR*

**DATE:** September 8, 2015                      **FILE NO.** M-15-191

**SUBJECT:** Elimination of Parking Maximums (ZCA-15-03)

The purpose of this memo is to outline a proposal to eliminate the maximum automobile parking requirement from Municipal Code Chapter 38, Article IV, Section 38-33, Land Uses. On March 27, 2006, City Council approved Ordinance 2285 which, among other amendments, established a parking range with minimums and maximums for designated land uses. Previously, the City of Las Cruces only utilized minimum parking requirements. The purpose of the addition of the maximum parking requirements was to address several issues: reduce impervious areas to alleviate heat island effect, drainage issues, and the leaching of various chemical compounds from the asphalt, improve the aesthetics of new development, and prevent "over parked" sites with little to no consideration for pedestrian movement, for example the old K-mart site on El Paseo.

After using these standards for almost a decade, it is apparent that some of the maximums are too conservative for certain types of uses including, but not limited to, government offices, cellular retail stores (i.e. Verizon), banks, restaurants, doctor's offices, and medical clinics (non-hospital). Furthermore, various companies establishing themselves in Las Cruces base their projected parking requirements on their statistical use. As such, the development community has requested these maximums be eliminated from the Municipal Code. It should be noted that there are currently several methods by which to increase the number of parking stalls including Infill Development proposals for those properties that are eligible, Variances, or administrative Flexible Development Standards, which are limited to no more than a 50% deviation from the maximum.

Attached you will find the proposed Article IV, Section 38-33; Article VI, Section 38-58 E 3 & 6; Article V, Section 38-44 G 2; and Section 38.49.3 J 1 of the Municipal Code which eliminate the maximum number of parking spaces and any reference to parking ranges.

The elimination of the maximum requirement for parking spaces will reduce staff time and resources dedicated to processing Infill Development proposals, Flexible Development requests, and Variances specific to increasing the allowed number of parking stalls. Additionally, the removal of the maximums will allow greater flexibility for developers.

However, the removal of these maximums still pose risks as stated above. One of the primary techniques used to counteract these is to require more stringent requirements for landscaping and pedestrian access within and around parking areas. Landscaping improves aesthetic appeal, reduces heat island effect, provides shade, improves water and air quality, can increase commercial activity, and has been shown to improve mental

wellbeing. Although Chapter 32, Article IV, Section 32-266 to 280, Development Standards for Landscaping, requires 15%, less the building footprint, of commercial, multi-family, and industrial sites be landscaped, there are very few requirements regarding a specified amount of landscaping within the parking area. The only condition for landscaping within the parking area is that for parking lots with 100 spaces or more, some of the landscaping material must be placed within the parking lot for shade and visual relief. If the maximums are to be eliminated, staff recommends additional Municipal Code amendments including, but not limited to, requiring pedestrian access ways within or around parking lots and requiring sufficiently sized landscaped islands with trees in and around parking lots. The Lohman District Overlay and the University District Overlay both have examples of broader landscaping standards within parking lots.

The Planning and Zoning Commission is a recommending body for Municipal Code amendments associated with land uses. The Planning and Zoning Commission's options regarding the proposal are:

- Recommend approval of the modifications (elimination of maximum parking requirements and references to parking ranges) as attached to this memo.
- Recommend approval of the modifications with conditions. An example of a condition is: direct staff to draft Municipal Code amendments to add pedestrian access requirements within parking lots and to add more stringent landscaping requirements within or around parking lots.
- Recommend denial of the modifications with no direction to staff.
- Recommend denial of the modifications and direct staff to draft alternate Municipal Code amendments to alleviate issues associated with maximum parking space requirements, such as: increasing the maximum parking spaces for specific uses or increasing staff's authority with the administration of Flexible Development Standards to allow unlimited parking deviations with legitimate evidence (i.e. a parking study).
- Table the amendments to direct staff to provide additional information as may be required.

Attachments:

1. Article IV, Section 38-33 Proposed Amendments;
2. Article V, Section 38-44 G 2 and Section 38.49.3 J 1; and Article VI, Section 38-58 E 3 & 6 Proposed Amendments

C: David Weir, Community Development Director *DW*  
Vincent Banegas, Deputy Community Development Director *VB*  
Robert Kyle, Building & Development Services Administrator *RK*

LAND USES	GENERAL ZONING DISTRICTS												AUTO PARKING	BICYCLE PARKING	LAND USE NOTES				
	E	R	R	R	R	R	R	R	R	O	C	C				C	M	M	M
A = Allowed Use C = Conditional Use S = Special Use Permit (Sec. 38-54) Uses are prohibited if not A, C or S.																	Number of Auto Parking Stalls (APS) Required. Also see Section 38-58 for other parking regulations.	Number of Bicycle Parking Spaces (BPS) Required is the greater of 2 or the number below, unless noted as "Not Applicable".	Additional regulations for each land use are listed below, in the Conditional Uses Section 38-53, in the Special Use Permits Section 38-54, and/or in other sections of this Code.
<b>Sec. 38-33A RESIDENTIAL LAND USES</b>																			
Accessory Dwelling Unit	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	1 APS/Unit	Not Applicable	See Section 38-53
Apartments (including Condos)																	1.5 APS/Unit	1 BPS/4 Dwelling Units	See Section 38-31D, Development Standards-All Residential Zoning Districts, footnote f. Residential uses in commercial zones must conform to residential development standards of Section 38-31D (Minimum 10 and maximum 40 DU/acre maximum)
Assisted Living or Retirement Facility																	0.5 APS/Unit	1 BPS/20 Employees on maximum shift	C: Use shall be located on a collector or higher designated roadway.
Bed and Breakfast	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	0.5 APS/Bedroom	Not Applicable	See Section 38-53
Boarding House																	0.5 APS/Bedroom	1 BPS/4 Bedrooms	
Campground																	1 APS/Site	Not Applicable	See Sec. 38-54 and Recreational Vehicle Park Sec. 38-57
Detached, Site-Built, Single Family Dwelling Unit	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	2 APS/Unit	Not Applicable	C: See Dwelling Use C: Residential uses in commercial zones must conform to residential development standards of Section 38-31D (Minimum 10 and maximum 40 DU/acre maximum)

LAND USES	GENERAL ZONING DISTRICTS													AUTO PARKING	BICYCLE PARKING	LAND USE NOTES			
	E	R	R	R	R	R	R	R	R	O	O	C	C				M	M	M
A = Allowed Use C = Conditional Use S = Special Use Permit (Sec. 38-54) Uses are prohibited if not A, C or S.	E	R	R	R	R	R	R	R	R	O	O	C	C	M	M	M	Number of Auto Parking Stalls (APS) Required. Also see Section 38-58 for other parking regulations.	Number of Bicycle Parking Spaces (BPS) Required is the greater of 2 or the number below, unless noted as "Not Applicable".	Additional regulations for each land use are listed below, in the Conditional Uses Section 38-53, in the Special Use Permits Section 38-54, and/or in other sections of this Code.
<b>Sec. 38-33A RESIDENTIAL LAND USES</b>																			
Duplex (including Condominiums)																	1 APS/Unit	Not Applicable	C: See Dwelling Use C: Total number of units shall meet minimum density requirements as identified in Section 38-31D, Development Standards All Residential Zoning Districts. Residential uses in commercial zones must conform to residential development standards of Section 38-31D (Minimum 10 and maximum 40 DU/acre maximum)
Fraternity House/Sorority House																	0.5 APS/Bedroom	1 BPS/2 Bedrooms	
Guest Dwelling Unit	C	C	C	C	C	C	C	C	C								1 APS/Unit	Not Applicable	See Section 38-51 and Section 38-53.
Halfway House	S	S	S	S	S	S	S	S	S								0.5 APS/Bed	1 BPS/4 Beds	See Sections 38-21 and 38-54.
Home for Disabled	C	C	C	C	C	C	C	C	C								0.5 APS/Bed	1 BPS/20 Employees on maximum shift	C: See Section 38-21 Ten or fewer persons served, allowed in all residential zoning districts. More than ten persons served, allowed in R-2, R-3, and R-4 zoning districts only.
Manufactured Dwelling Unit	A	A	A	A	A	A	A	A	A	C	C	C	C	C	C	C	2 APS/Unit	Not Applicable	C: (O-1, O-2, C-2, C-3, MT, M1/M2 & M3) See Dwelling Use Residential uses in commercial zones must conform to residential development standards of Section 38-31D (Minimum 10 and maximum 40 DU/acre maximum)

LAND USES	GENERAL ZONING DISTRICTS													BICYCLE PARKING	LAND USE NOTES				
	E	R	R	R	R	R	R	R	R	O	O	C	C			M	M	M	AUTO PARKING
A = Allowed Use C = Conditional Use S = Special Use Permit (Sec. 38-54) Uses are prohibited if not A, C or S.	E	R	R	R	R	R	R	R	R	O	O	C	C	M	M	M	Number of Auto Parking Stalls (APS) Required. Also see Section 38-58 for other parking regulations.	Number of Bicycle Parking Spaces (BPS) Required is the greater of 2 or the number below, unless noted as "Not Applicable".	Additional regulations for each land use are listed below, in the Conditional Uses Section 38-53, in the Special Use Permits Section 38-54, and/or in other sections of this Code.
<b>Sec. 38-33A RESIDENTIAL LAND USES</b>																			
Mobile Home	A																2 APS/Unit	Not Applicable	See Sections 38-54 and 38-57 C: Allowed in Mobile Home Parks Only. C: (R-4) Total number of units shall meet minimum density requirements as identified in Section 38-31D, Development Standards All Residential Zoning Districts.
Mobile Home Park																	2 APS/Unit plus 1 APS/Employee	Not Applicable	See Section 38-57.
Mobile Home Subdivision	A																2 APS/Unit	Not Applicable	
Nursing Home																	1 APS/3-4 Beds + 1 APS/2 Employees + 1 APS/2 Doctors	1 BPS/80 Beds	C: Use shall be located on a collector or higher designated roadway.
Patio Home																	2 APS/Dwelling Unit	Not Applicable	C: See Sections 38-31D and 38-62.
Quadplex (including Condominiums)																	1.5 APS/Unit	1 BPS/4 Dwelling Units	C: (R-4) Total number of units shall meet minimum density requirements as identified in Section 38-31D, Development Standards-All Residential Zoning Districts. Residential uses in commercial zones must conform to residential development standards of Section 38-31D (Minimum 10 and maximum 40 DU/acre maximum)

LAND USES	GENERAL ZONING DISTRICTS													BICYCLE PARKING	LAND USE NOTES					
	E	R	R	R	R	R	R	R	R	O	O	C	C			C	M	M	M	AUTO PARKING
A = Allowed Use C = Conditional Use S = Special Use Permit (Sec. 38-54) Uses are prohibited if not A, C or S.																		Number of Bicycle Parking Spaces (BPS) Required is the greater of 2 or the number below, unless noted as "Not Applicable".	Additional regulations for each land use are listed below, in the Conditional Uses Section 38-53, in the Special Use Permits Section 38-54, and/or in other sections of this Code.	
<b>Sec. 38-33A RESIDENTIAL LAND USES</b>																				
Recreational Vehicle Park																		1 AFS/RV space plus 1 AFS/2 Employees	Not Applicable	See Section 38-57
Temporary/Homeless Shelter																		1 AFS/4 Beds	1 BPS/4 Beds	
Townhouse (Attached Single Family Dwelling Unit)																		2 AFS/Dwelling Unit	Not Applicable	C: (R-4) Total number of units shall meet minimum density requirements as identified in Section 38-31D, Development Standards All Residential Zoning Districts. Residential uses in commercial zones must conform to residential development standards of Section 38-31D (Minimum 10 and maximum 40 DU/acre maximum)

LAND USES	GENERAL ZONING DISTRICTS													AUTO PARKING	BICYCLE PARKING	LAND USE NOTES				
	E	R	R	R	R	R	R	R	R	O	O	C	C				C	M	M	M
A = Allowed Use C = Conditional Use S = Special Use Permit (Sec. 38-54) Uses are prohibited if not A, C or S.																		Number of Bicycle Parking Spaces (BPS) Required is the greater of 2 or the number below, unless noted as "Not Applicable".	Additional regulations for each land use are listed below, in the Conditional Uses Section 38-53, in the Special Use Permits Section 38-54, and/or in other sections of this Code.	
<b>Sec. 38-33A RESIDENTIAL LAND USES</b>																				
Triplex (including Condominiums)																		1 APS/Unit	1 BPS/4 Dwelling Units	C: (R-4) Total number of units shall meet minimum density requirements as identified in Section 38-31D, Development Standards-All Residential Zoning Districts. Residential uses in commercial zones must conform to residential development standards of Section 38-31D (Minimum 10 and maximum 40 DU/acre maximum)
Youth Hostel																		1 APS/5 Beds	1 BPS/10 Beds	

LAND USES	GENERAL ZONING DISTRICTS																AUTO PARKING	BICYCLE PARKING	LAND USE NOTES		
	E	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R				R	
A = Allowed Use C = Conditional Use S = Special Use Permit (Sec. 38-54) Uses are prohibited if not A, C or S.	E	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	Number of Parking Stalls (APS) Required. Also see Section 38-58 for other parking regulations.	Number of Parking Spaces (BPS) Required is the greater of 2 or the number below, unless noted as "Not Applicable".	Additional regulations for each land use are listed below, in the Conditional Uses Section 38-53, in the Special Use Permits Section 38-54, and/or in other sections of this Code.	
<b>Sec. 38-33B RESIDENTIAL-RELATED LAND USES</b>																					
Accessory Uses and Structures	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	Not Applicable	Not Applicable	See Section 38-51	
Greenhouse (Non-Commercial), Garden Shed or Tool Shed	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	Not Applicable	Not Applicable	See Section 38-51	
Home Occupation	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	See Section 38-52	Not Applicable	See Section 38-52	
Kennel/Cattery (Private Residential)	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	Not Applicable	Not Applicable	In accordance with Chapter 7 of the Municipal Code.	
Real Estate Office (Temporary)	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	1 APS/600 sq. ft of gross floor area (GFA)	Not Applicable	Permitted only when used in conjunction with the residential development for which the real estate office serves, provided such use shall be discontinued within three (3) years from the date of final plat approval or final site plan approval. A business registration or license is required.	
Recreational Court, Tennis, etc., Private	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	Not Applicable	Not Applicable	See Section 38-58D.6 and Section 38-57.C	
Storage of recreational vehicles and motor vehicle appurtenances	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	Not Applicable	Not Applicable		
Swimming Pool, Private	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	Not Applicable	Not Applicable	A swimming pool shall be at least five (5) feet from property lines. Approval from the electric utility is required to insure safety. See Section 38-60, Walls and Fences, for other regulations. Required stormwater retention shall be maintained on-site.	
Temporary Uses	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	See Section 38-50	Not Applicable	See Section 38-50	



LAND USES	GENERAL ZONING DISTRICTS																AUTO PARKING	BICYCLE PARKING	LAND USE NOTES	
	E	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R				
A = Allowed Use C = Conditional Use S = Special Use Permit (Sec. 38-54) Uses are prohibited if not A, C or S.																	Number of Parking Spaces (BPS) Required is the greater of 2 or the number below, unless noted as "Not Applicable".	Additional regulations for each land use are listed below, in the Conditional Uses Section 38-53, in the Special Use Permits Section 38-54, and/or in other sections of this Code.		
<b>Sec. 38-33D INSTITUTIONAL LAND USES</b>																				
Cemeteries/Columbarium	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S	1 APS/5 seats in assembly area	1 BPS/2000 sq. ft. of GFA	C: See Section 38-53 S: See Section 38-54
Family Child Care Home (FH) (5-6 children)	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	FH/GH: See section 38-52D CCC: 1 APS/400 sq. ft. of GFA	1 BPS/7000 sq. ft. of GFA	See section 38-52D C: See section 38-53 S: See section 38-54
Group Child Care Home (CH) (7-12 children)	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S			
Child Care Center or Preschool (CCC) (13 or more children)																				
Community Buildings-Uses	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	1 APS/1200 sq. ft. of GFA	1 BPS/5000 sq. ft. of GFA	See Section 38-53
Convention Center/Exhibition Hall																		1 APS/5 maximum occupancy	1 BPS/75 maximum occupancy	
Detention Facility																		2 APS/Employee on maximum shift	0.4 BPS/Employee on maximum shift	
Hospital																		1 APS/2.5 Beds + 1 APS/Employee on maximum shift + 1 APS/Doctor	1 BPS/40 Beds + 1 BPS/20 Employees on maximum shift + 1 BPS/20 Doctors	
Library/Museum																		1 APS/600 sq. ft. of GFA	1 BPS/1000 sq. ft. of GFA	C: Use shall be located on a collector or higher designated roadway.
Religious Institution/Columbarium	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	1 APS/5 seats in primary assembly room	1 BPS/40 Seats in primary assembly room	See Section 38-53

LAND USES	GENERAL ZONING DISTRICTS													AUTO PARKING	BICYCLE PARKING	LAND USE NOTES										
	E	R	R	R	R	R	R	R	R	R	R	R	R				O	C	C	C	C	C	C	M	M	M
A = Allowed Use C = Conditional Use S = Special Use Permit (Sec. 38-54) Uses are prohibited if not A, C or S.																								Number of Parking Spaces (BPS) Required is the greater of 2 or the number below, unless noted as "Not Applicable".	Additional regulations for each land use are listed below, in the Conditional Uses Section 38-53, in the Special Use Permits Section 38-54, and/or in other sections of this Code.	
<b>Sec. 38-33D INSTITUTIONAL LAND USES</b>																										
School (K-8) Public, Private, Parochial	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	2 APS/Classroom	6 BPS/Classroom	See Section 38-53
School (9-12) Public, Private, Parochial	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	1 APS/Employee + 1 APS/5 seats in primary assembly hall	4 BPS/Classroom	See Section 38-53
School, College or University																								1 APS/2 Employees + 1 APS/5 Students	1 BPS/20 Employees + 1 BPS/4 Students	See Section 38-53
School, Commercial, Trade or Technical																								1 APS/2 Employees + 1 APS/4 Students	1 BPS/20 Employees + 1 BPS/10 Students	See Section 38-53

LAND USES	GENERAL ZONING DISTRICTS																AUTO PARKING	BICYCLE PARKING	LAND USE NOTES		
	E	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R				R	
A = Allowed Use C = Conditional Use S = Special Use Permit (Sec. 38-54) Uses are prohibited if not A, C or S.	E	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	Number of Parking Stalls (APS) Required. Also see Section 38-58 for other parking regulations.	Number of Parking Spaces (BPS) Required is the greater of 2 or the number below, unless noted as "Not Applicable".	Additional regulations for each land use are listed below, in the Conditional Uses Section 38-53, in the Special Use Permits Section 38-54, and/or in other sections of this Code.	
<b>Sec. 38-33E RECREATIONAL LAND USES</b>																					
Amusement Park Permanent	S	S																	1 BPS/20 auto spaces	S: See Section 38-54. Must be in accordance with the Las Cruces Municipal Code. The boundary of the use must be a minimum of 500 feet from any residential zone.	
Amusement Park Temporary	C	C																	Not Applicable	See Section 38-50. Must be in accordance with the Las Cruces Municipal Code. The boundary of the use must be a minimum of 300 feet from any residential zone.	
Arcade/Game Room																			1 BPS/1000 sq. ft. of GFA		
Archery Range: Indoor Outdoor																			1 BPS/20 firing lanes + 1 BPS/20 Employees on maximum shift	See Section 38-54 and Section 19-164 of the Municipal Code	
Batting Cages																			1 BPS/20 Employees + 1 BPS/20 Batting Cages		
Billiard/Pool Hall																			1 BPS/4000 sq. ft. of GFA		
Bowling Alley																			1 BPS/7 Lanes		
Country Club	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S		1 BPS/3000 sq. ft. of GFA	See Section 38-54	
Firing Range: Indoor Outdoor																			1 BPS/20 firing lanes + 1 BPS/20 Employees on maximum shift	See Section 38-54 and Section 19-164 of the Municipal Code	
Golf Course	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S		1 BPS/6 holes	See Section 38-54	
Golf Course, Miniature																			1 BPS/6 tees + 1 BPS/1500 sq. ft.		

Art. IV Sec. 38-33E RECREATIONAL LAND USES

LAND USES	GENERAL ZONING DISTRICTS																AUTO PARKING	BICYCLE PARKING	LAND USE NOTES
	E	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R			
	E	E	E	E	E	E	E	E	E	E	E	E	E	E	E	E			
A = Allowed Use C = Conditional Use S = Special Use Permit (Sec. 38-54) Uses are prohibited if not A, C or S.																	Number of Parking Stalls (APS) Required. Also see Section 38-58 for other parking regulations.	Number of Parking Spaces (BPS) Required is the greater of 2 or the number below, unless noted as "Not Applicable".	Additional regulations for each land use are listed below, in the Conditional Uses Section 38-53, in the Special Use Permits Section 38-54, and/or in other sections of this Code.
<b>Sec. 38-33E RECREATIONAL LAND USES</b>																			
Golf Driving Range	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S	Same as Mini. Golf Course	Same as Mini. Golf Course	See Section 38-54
Health/Exercise Club/Gymnasium/Sports Instruction																	1 APS/200 sq. ft. of GFA	1 BPS/1500 sq. ft. of GFA	
Park	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	Based on facilities provided	Based on facilities provided	See Section 38-53
Racetrack, Auto/Truck																	1 APS/5 Seats	1 BPS/80 Seats	See Section 38-54
Racetrack, Mini, e.g., go-carts																	1 APS/5 Seats	1 BPS/80 Seats	
Recreational Courts, e.g., Tennis (Public)	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	1.5 APS/Court	1 BPS/5 Courts	
Skating Rink																	1 APS/250 sq. ft. of GFA	1 BPS/4000 sq. ft. of GFA	
Sports Arena/Field/Course, Commercial																	1 APS/5 Seats	1 BPS/40 Seats	Must be in accordance with the Las Cruces Municipal Code. The boundary of the use must be a minimum of 500 feet from any residential zone.
Sports Complex: Stadium, Baseball, Football, Soccer, Softball, Track, Other Sports	S																1 APS/5 Seats	1 BPS/40 Seats	See Section 38-54.
Swimming Pool, Commercial or Public	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	1 APS/150 sq. ft. of pool surface area	1 BPS/1250 sq. ft. of pool surface area	See Section 38-53 and Section 38-60. C: Allowed pursuant to C-3 development requirements as they relate to building size (individual or center use) and lot size.
Zoo/Botanical Park	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	20 APS/Acre	2 BPS/Acre	Use shall be located on a minor arterial or higher designated roadway.



LAND USES	GENERAL ZONING DISTRICTS													AUTO PARKING	BICYCLE PARKING	LAND USE NOTES		
	E	R	R	R	R	R	R	R	R	R	R	R	R				M	M
A = Allowed Use C = Conditional Use S = Special Use Permit (Sec. 38-54) Uses are prohibited if not A, C or S.																		Additional regulations for each land use are listed below, in the Conditional Uses Section 38-53, in the Special Use Permit Section 38-54, and/or in other sections of this Code.
<b>Sec. 38-33F SERVICE LAND USES</b>																		
Business Offices; Consulting; Credit Reporting & Collection; Desktop Publishing & Graphic Design Institutional Office; Public; Private; Educational; Religious; & Philanthropic Mailing & Stenographic Services																		1 BPS/8000 sq. ft. of GFA
Motion Picture Production Noncommercial Research Organization																		1 APS/450 sq. ft. of GFA
Photography Studio Lessons (Art, Dance, Music, etc.).																		1 APS/450 sq. ft. of GFA
Counseling Services; Funeral Home; Laboratory																		1 BPS/8000 sq. ft. of GFA for Counseling & Labs 1 BPS/2000 sq. ft. of GFA for Funeral Home

LAND USES	GENERAL ZONING DISTRICTS												AUTO PARKING	BICYCLE PARKING	LAND USE NOTES				
	E	R	R	R	R	R	R	R	R	O	O	C				C	C	M	M
A = Allowed Use C = Conditional Use S = Special Use Permit (Sec. 38-54) Uses are prohibited if not A, C or S.																		Number of Parking Spaces (BPS) Required is the greater of 2 or the number below, unless noted as "Not Applicable".	Additional regulations for each land use are listed below, in the Conditional Uses Section 38-53, in the Special Use Permits Section 38-54, and/or in other sections of this Code.
<b>Sec. 38-33F SERVICE LAND USES</b>																			
Hotel/Motel																		1 BPS/20 employees on maximum shift. For additional onsite uses (e.g., office, meeting rooms, storage, retail), see requirements found elsewhere in this table.	
Pharmacy																		1 APS/300 sq. ft. of GFA See requirements for stacking lanes in Section 6.9.	C: Only when serving the occupants of a medical, dental, or similar office and strictly for the purpose of serving the occupants of the office use(s).

LAND USES	GENERAL ZONING DISTRICTS													AUTO PARKING	BICYCLE PARKING	LAND USE NOTES			
	E	R	R	R	R	R	R	R	R	O	C	C	C				M	M	M
A = Allowed Use C = Conditional Use S = Special Use Permit (Sec. 38-54) Uses are prohibited if not A, C or S.																	Number of Parking Stalls (APS) Required. Also see Section 38-58 for other parking regulations.	Number of Parking Spaces (BPS) Required is the greater of 2 or the number below, unless noted as "Not Applicable".	Additional regulations for each land use are listed below, in the Conditional Uses Section 38-53, in the Special Use Permits Section 38-54, and/or in other sections of this Code.
<b>Sec. 38-33G RETAIL LAND USES</b>																			
Auto/Truck Parts Store																	1 APS/500 sq. ft. of GFA	1 BPS/7000 sq. ft. of GFA	
Auto/Truck/Trailer Rental																	1 APS/350 sq. ft. of GFA plus enough APS for each available rental	1 BPS/6000 sq. ft. of GFA	
Bar, Pub, Tavern (No Dancing)																	1 APS/200 sq. ft. of GFA	1 BPS/3000 sq. ft. of GFA	
Building Material																	1 APS/350 sq. ft. of GFA	1 BPS/20 Employees on maximum shift	
Business Center (see Shopping Center)																			See Shopping Center/Business Center for parking requirements, for more specific standards, see Section 38-58
Carpet/Window Treatments																	1 APS/500 sq. ft. of GFA	1 BPS/20 Employees on maximum shift	
Convenience Store																	1 APS/250 sq. ft. of GFA	1 BPS/2000 sq. ft. of GFA	
Department Store																	1 APS/350 sq. ft. of GFA	1 BPS/6000 sq. ft. of GFA	
Equipment Rental																	1 APS/400 sq. ft. of GFA	1 BPS/20 Employees	
Furniture Store																	1 APS/600 sq. ft. of GFA	1 BPS/12,000 sq. ft. of GFA	
Garden Supply																	1 APS/400 sq. ft. of GFA	1 BPS/10,000 sq. ft. of GFA	

LAND USES	GENERAL ZONING DISTRICTS													AUTO PARKING	BICYCLE PARKING	LAND USE NOTES			
	E	R	R	R	R	R	R	R	R	R	R	R	R				M		
A = Allowed Use C = Conditional Use S = Special Use Permit (Sec. 38-54) Uses are prohibited if not A, C or S.	E	R	R	R	R	R	R	R	R	R	R	R	R	M	Number of Parking Stalls (APS) Required. Also see Section 38-58 for other parking regulations.	Number of Parking Spaces (BPS) Required is the greater of 2 or the number below, unless noted as "Not Applicable".	Additional regulations for each land use are listed below, in the Conditional Uses Section 38-53, in the Special Use Permits Section 38-54, and/or in other sections of this Code.		
<b>Sec. 38-33G RETAIL LAND USES</b>																			
Health Care Clinic (Non-Hospital)																	1 APS/400 sq. ft. of GFA	1 BPS/10,000 sq. ft. of GFA	
Newspaper Distribution																	1 APS/500 sq. ft. of GFA	1 BPS/12,000 sq. ft. of GFA	
Pawn Shop																	1 APS/400 sq. ft. of GFA	1 BPS/800 sq. ft. of GFA	
Plant Nursery																	1 APS/400sq. ft. of GFA	1 BPS/10,000 sq. ft. of GFA	
Shopping Center/Business-Service Center (See specific land use to determine whether allowed)																	Less than 15,000 square feet of gross floor area (GFA) - 1 parking stall per 300 square feet of GFA is allowed. 15,000 square feet or more of gross floor area (GFA) - 1 parking stall per 350 square feet of GFA is allowed.	See Section 38-58 for specific parking standards.	
Radio/TV Studio/Station																	1 APS/600 sq. ft. of GFA	1 BPS/8000 sq. ft. of GFA	
Telephone & Communication Ctr																	1 APS/450 sq. ft. of GFA	1 BPS/8000 sq. ft. of GFA	
Theater																	1 APS/5 Seats	1 BPS/80 Seats	

LAND USES	GENERAL ZONING DISTRICTS													AUTO PARKING	BICYCLE PARKING	LAND USE NOTES			
	E	R	R	R	R	R	R	R	R	O	C	C	C				M	M	M
A = Allowed Use C = Conditional Use S = Special Use Permit (Sec. 38-54) Uses are prohibited if not A, C or S.																	Number of Parking Stalls (APS) Required. Also see Section 38-58 for other parking regulations.	Number of Parking Spaces (BPS) Required is the greater of 2 or the number below, unless noted as "Not Applicable".	Additional regulations for each land use are listed below, in the Conditional Uses Section 38-53, in the Special Use Permits Section 38-54, and/or in other sections of this Code.
<b>Sec. 38-33G RETAIL LAND USES</b>																			
Tire Sales/Repair																	1 APS/500 sq. ft. of GFA	1 BPS/7000 sq. ft. of GFA	
Video Tape/DVD Rental/Sales																	1 APS/250 sq. ft. of GFA	1 BPS/4000 sq. ft. of GFA	
Cleaning & Maid Services																	1 APS/450 sq. ft. of GFA	1 BPS/8000 sq. ft. of GFA	
Clothing Store																	1 APS/350 sq. ft. of GFA	1 BPS/5000 sq. ft. of GFA	
Delicatessen, Produce/Meat Market, no eating facilities																	1 APS/350 sq. ft. of GFA	1 BPS/6000 sq. ft. of GFA	
Delicatessen, Produce/Meat Market, with eating facilities																	1 APS/350 sq. ft. of GFA plus 1 APS/4 seats	1 BPS/3000 sq. ft. of GFA	
Grocery Store																	1 APS/350 sq. ft. of GFA	1 BPS/6000 sq. ft. of GFA	
Home Furnishings																	1 APS/400 sq. ft. of GFA	1 BPS/10,000 sq. ft. of GFA	
Laundry/Dry Cleaning Services																	1 APS/400 sq. ft. of GFA	1 BPS/6000 sq. ft. of GFA	
Specialty Foods (Bakeries, Confectioneries, etc.)																	1 APS/400 sq. ft. of GFA	1 BPS/6000 sq. ft. of GFA	
Specialty Store (Books, Music, Toys, Sports Equip., Stationery, etc.)																	1 APS/350 sq. ft. of GFA	1 BPS/6000 sq. ft. of GFA	
Variety Store																	1 APS/350 sq. ft. of GFA	1 BPS/6000 sq. ft. of GFA	
Auto/Truck/Motorcycle Dealers																	1 APS/500 sq. ft. of GFA	1 BPS/6000 sq. ft. of GFA	

LAND USES	GENERAL ZONING DISTRICTS													AUTO PARKING	BICYCLE PARKING	LAND USE NOTES					
	E	R	R	R	R	R	R	R	R	R	R	O	C				C	C	M	M	M
A = Allowed Use C = Conditional Use S = Special Use Permit (Sec. 38-54) Uses are prohibited if not A, C or S.																			Number of Parking Spaces (BPS) Required is the greater of 2 or the number below, unless noted as "Not Applicable".	Additional regulations for each land use are listed below, in the Conditional Uses Section 38-53, in the Special Use Permits Section 38-54, and/or in other sections of this Code.	
<b>Sec. 38-33G RETAIL LAND USES</b>																					
Bar/Night Club (Dancing)																			1 APS/125 sq. ft. of GFA	1 BPS/2000 sq. ft. of GFA	
Manufactured Housing/Buildings Dealers																			1 APS/450 sq. ft. of GFA	1 BPS/8000 sq. ft. of GFA	
Adult Book/Video Store & Entertainment Establishment																			1 APS/350 sq. ft. of GFA	1 BPS/6000 sq. ft. of GFA	See Section 38-54.
Auto/Truck Repair & Service																			1 APS/500 sq ft of GFA	1 BPS/10,000 sq. ft. of GFA	No salvage yard or related activities shall be permitted. No outside storage of parts materials, or equipment is permitted.
Auto/Truck Self-Service/Automated or Full Service Wash/Wax/Detailing																			See stacking lane requirements in Section 38-58, 2 APS/Service lane	1 BPS/20 Employees on maximum shift	
Café, Cafeteria, Coffee Shop, Restaurant, etc.																			1 APS/5 seats; Outdoor seating only 1 APS/100 sq. ft. of GFA	1 BPS/1000 sq. ft. of GFA; Outdoor seating only 1 BPS/2000 sq. ft. of GFA	C: C-1 Drive-up, Pick-up & Delivery, and Outdoor services are prohibited in the C-1 zoning district.
Firewood Sales																			Parking area equal to 28% of area used for sales/display/storage/bldgs.	Not Applicable	If display/storage outside a building, a semi-opaque screen around the perimeter of the use shall be provided. Twenty (20) cord maximum stored on site. Also see C: condition in top cell.

LAND USES	GENERAL ZONING DISTRICTS													AUTO PARKING	BICYCLE PARKING	LAND USE NOTES			
	E	R	E	M	R	R	R	R	R	R	R	R	R				M	M	M
A = Allowed Use C = Conditional Use S = Special Use Permit (Sec. 38-54) Uses are prohibited if not A, C or S.																	Number of Parking Stalls (APS) Required. Also see Section 38-58 for other parking regulations.	Number of Parking Spaces (BPS) Required is the greater of 2 or the number below, unless noted as "Not Applicable".	Additional regulations for each land use are listed below, in the Conditional Uses Section 38-53, in the Special Use Permits Section 38-54, and/or in other sections of this Code.
<b>Sec. 38-33G RETAIL LAND USES</b>																			
Flea Market																	Parking area equal to 28% of area used for flea market.	1 BPS/20 auto spaces	All related activities shall be located within an enclosed building or structure. A semi-opaque screen around the perimeter of the market shall be provided. No RV parking or storage allowed except during the operating hours of the event. 1" stands/display structures are temporary, they shall be removed following each event. If permanent structures are elected, structures shall not contain reflective exterior surfaces. The use shall comply with Chapter to, Article V of the Municipal Code Also see C: condition: in top cell.
Gas Station 1. With Convenience Store 2. With Repair Facilities 3. With Cafe/Restaurant 4. Gas Sales only																	See Parking Note #5 > 1) 1 APS/300 sq. ft. of GFA; 2) 1 APS/400 sq. ft. of GFA; 3) 1 APS/450 sq. ft. of GFA plus 1 APS/5 seats; 4) 1 APS/450 sq. ft. of GFA	1) 1 BPS/2000 sq ft GFA; 2) 1 BPS/6000 sq ft GFA; 3) 1 BPS/2000 sq ft GFA; 4) Not applicable	
Hardware Store																	1 APS/400 sq. ft. of GFA	1 BPS/5000 sq. ft. of GFA	No outside storage of supplies or materials. Also see C: condition in top cell
Kennel/Cattery, Commercial																	1 APS/550 sq. ft. of GFA	1 BPS/20 Employees on maximum shift	Use allowed in accordance with Chapter 7 of the Municipal Code. Also see C: condition in top cell.

LAND USES	GENERAL ZONING DISTRICTS													AUTO PARKING	BICYCLE PARKING	LAND USE NOTES					
	E	R	R	R	R	R	R	R	R	O	O	C	C				C	C	M	M	
A = Allowed Use C = Conditional Use S = Special Use Permit (Sec. 38-54) Uses are prohibited if not A, C or S.																		Number of Parking Stalls (APS) Required. Also see Section 38-58 for other parking regulations.	Number of Parking Spaces (BPS) Required is the greater of 2 or the number below, unless noted as "Not Applicable".	Additional regulations for each land use are listed below, in the Conditional Uses Section 38-53, in the Special Use Permits Section 38-54, and/or in other sections of this Code.	
<b>Sec. 38-33G RETAIL LAND USES</b>																					
Large Equipment Repair & Service (Non-Vehicular)																			1 APS/500 sq. ft. of GFA	1 BPS/20 Employees on maximum shift	No outside storage of supplies or materials. Also see C: condition in top cell.
Large Equipment Repair & Service (Vehicular)																			1 APS/500 sq. ft. of GFA	1 BPS/20 Employees on maximum shift	No salvage yard or related activities shall be permitted. No outside storage of parts, materials, or equipment including outside parking of vehicles overnight is permitted. Also see C: condition in top cell.
Petroleum/Propane Sales																			1 APS/400 sq. ft. of GFA	1 BPS/20 Employees on maximum shift	Use shall be screened with an opaque buffer or screen meeting current Fire Code standards. Also see C: condition in top cell.
Private Club or Lodge																			1 APS/200 sq. ft. of GFA	1 BPS/2000 sq. ft. of GFA	See Section 38-53. Also see C: condition in top cell.
Seasonal Sales Non-Temporary (Fireworks, Agriculture Products, Snowcone Stand etc.)																			1 APS/200 sq. ft. of GFA	1 BPS/2000 sq. ft. of GFA	All structure locations shall meet all applicable setback requirements. If sited on property where other uses exist, there shall be no obstruction of the driving aisles or parking stalls unless it can be proven that there is an excess of parking area. If the use does not follow temporary use provisions, the property shall be subject to all applicable development requirements C: Also see C: condition in top cell.
Small Item Repair Shop																			1 APS/550 sq. ft. of GFA	1 BPS/10,000 sq. ft. of GFA	No outside storage of supplies or material. Also see C: condition in top cell.

LAND USES	GENERAL ZONING DISTRICTS													AUTO PARKING	BICYCLE PARKING	LAND USE NOTES			
	E	R	R	R	R	R	R	R	R	R	O	C	C				C	M	M
A = Allowed Use C = Conditional Use S = Special Use Permit (Sec. 38-54) Uses are prohibited if not A, C or S.																	Number of Parking Stalls (APS) Required. Also see Section 38-58 for other parking regulations.	Number of Parking Spaces (BPS) Required is the greater of 2 or the number below, unless noted as "Not Applicable".	Additional regulations for each land use are listed below, in the Conditional Uses Section 38-53, in the Special Use Permits Section 38-54, and/or in other sections of this Code.
<b>Sec. 38-33G RETAIL LAND USES</b>																			
Specialty Retailer Primary business is the sale of tourism products that may include the sale of fireworks																	1 APS/400 sq. ft. of GFA	1 BPS/6,000 sq. ft. of GFA	CHI & CR: At least 50% of the value of the products must be other than fireworks C: Regional Commercial District Uses allowed pursuant to Regional Commercial development requirements as they relate to building size (individual or center use) and lot size. This condition applies to all Retail land uses.
Temporary Use. (Non-Seasonal)																	1 APS/200 sq. ft. of GFA	1 BPS/2000 sq. ft. of GFA	See Section 38-50. Also see C: condition in top cell.
Theater. Drive in																	See requirements for stacking lanes in Section 38-58 plus 10% over vehicle capacity	Not Applicable	
Upholstery Shop																	1 APS/500 sq. ft. of GFA	1 BPS/10,000 sq. ft. of GFA	C: C-1 All activities shall be within an enclosed building or structure Upholstery of vehicle interiors which require outside storage or parking of use vehicles is prohibited. C: See condition in top cell.



LAND USES	GENERAL ZONING DISTRICTS													AUTO PARKING	BICYCLE PARKING	LAND USE NOTES				
	E	R	R	R	R	R	R	R	R	R	O	C	C				C	M	M	M
A = Allowed Use C = Conditional Use S = Special Use Permit (Sec. 38-54) Uses are prohibited if not A, C or S.	E	R	R	R	R	R	R	R	R	R	O	C	C	C	M	M	M	Number of Parking Stalls (APS) Required. Also see Section 38-58 for other parking regulations.	Number of Parking Spaces (BPS) Required is the greater of 2 or the number below, unless noted as "Not Applicable".	Additional regulations for each land use are listed below, in the Conditional Uses Section 38-53, in the Special Use Permits Section 38-54, and/or in other sections of this Code.
<b>Sec. 38-33H TRANSPORTATION, WHOLESALE TRADE, WAREHOUSING &amp; BULK STORAGE LAND USES</b>																				
Mini-storage Units																		No APS if units have direct vehicular access if not, 1 APS/4000 square feet.	Not Applicable	
Parking Facilities, Commercial (Garages & Private Parking Lots)																		Not Applicable	1 BPS/20 auto spaces	C: See Section 38-53
Railroad Terminal/Depot																		1 APS/300 sq. ft.	1 BPS/2000 sq. ft.	
Storage of dismantled or wrecked vehicles & products																		1 APS/10,000 sq ft of storage area + 1 APS/500 sq ft of office area	Not Applicable	All outside storage shall be enclosed with a Type A screen.
Storage/Display of merchandise for sale (except manufactured buildings, mobile homes & operable cars, trucks, motorcycles and RVs)																		R-4, O-1, O-2 & C-1: Same as specific use requirement. C-2, C-3, MT, M1/M2; 50% of specific use requirement.	Not Applicable	R-4, O-1, O-2 & C-1: No display or storage outside of buildings is permitted. C-2, C-3: Outside display is permitted. MT, M1/M2: Outside display is permitted and is required to be enclosed behind a solid wall or solid fence no less than six feet in height.
Storage outside of buildings of materials, equipment and supplies not for sale																		Not Applicable	Not Applicable	All outside storage shall be enclosed with a Type A screen.

LAND USES	GENERAL ZONING DISTRICTS														AUTO PARKING	BICYCLE PARKING	LAND USE NOTES			
	E	R	R	R	R	R	R	R	R	R	R	R	R	R				M	M	M
A = Allowed Use C = Conditional Use S = Special Use Permit (Sec. 38-54) Uses are prohibited if not A, C or S.	E	R	R	R	R	R	R	R	R	R	R	R	R	R	M	M	M	Number of Parking Stalls (APS) Required. Also see Section 38-58 for other parking regulations.	Number of Parking Spaces (BPS) Required is the greater of 2 or the number below, unless noted as "Not Applicable".	Additional regulations for each land use are listed below, in the Conditional Uses Section 38-53, in the Special Use Permits Section 38-54, and/or in other sections of this Code.
<b>Sec. 38-33H TRANSPORTATION, WHOLESALE TRADE, WAREHOUSING &amp; BULK STORAGE LAND USES</b>																				
Storage, warehousing accessory to Office, Retail Trade, Retail Service or Industry																		See Storage/Display requirement if no Display Not Applicable	Not Applicable	R-4, O-1, O-2 & C-1: Maximum of 90% of total square footage may be used for storage. C-2, C-3, & MT: Maximum of 95% of total square footage may be used for storage. M1/M2; 100% of total square footage may be used for storage.
Trucking Companies																		1 APS/500 sq. ft. of GFA of office area plus 1 APS/10,000 sq ft of storage area	1 BPS/20 Employees on maximum shift	
Wholesale Trade, any product																		1 APS/500 sq ft of office area plus 1 APS required for the first 20,000 sq ft of storage area + 1 APS/10,000 sq ft over 20,000 sq ft	1 BPS/20 Employees on maximum shift	C: Limited in use related to research and development activities for new products or secondary to another allowed use.

LAND USES	GENERAL ZONING DISTRICTS													AUTO PARKING	BICYCLE PARKING	LAND USE NOTES			
	E	R	R	R	R	R	R	R	R	R	R	R	R				M	M	M
<p>A = Allowed Use                      C = Conditional Use                      S = Special Use Permit (Sec. 38-54)                      Uses are prohibited if not A, C or S.</p>																	Number of Parking Stalls (APS) Required. Also see Section 38-58 for other parking regulations.	Number of Parking Spaces (BPS) Required is the greater of 2 or the number below, unless noted as "Not Applicable".	Additional regulations for each land use are listed below, in the Conditional Uses Section 38-53, in the Special Use Permits Section 38-54, and/or in other sections of this Code.
<p><b>Sec. 38-331 MANUFACTURING &amp; RELATED LAND USES, including associated assembly, processing, packaging, and compounding</b></p>																			
<p>Jewelry, Silverware, &amp; Plated Ware; Laboratories (Medical/Dental/R &amp; D); Motion Picture Production; Theater/Studio; Musical Instruments; Printing &amp; Publishing; Signs &amp; Advertising</p>																	1 APS/1000 sq. ft. of GFA, except Labs & Motion Picture Theater/Studio 1 APS/500 sq. ft. of GFA	1 BPS/20 Employees on maximum shift	
<p>Apparel &amp; Other Textile Products-Clothing, Brooms, Brushes &amp; Vacuums, Chemical &amp; Products, Dyeing &amp; Engraving Establishments, Electrical &amp; Electronic Equip. (Computers), Fabricated Metal Products, Food &amp; Kindred Products, Furniture &amp; Fixtures, Glass Cutting &amp; Finishing, Leather Products, Lumber &amp; Wood Products (Sawmill/Planting), Machinery, <b>except electrical</b>, Manufactured Buildings, Metal Work &amp; Machine Shop, Needles, Pins &amp; Fasteners.</p>																	1 APS/1000 sq. ft. of GFA	1 BPS/20 Employees on maximum shift	C: Limited in use related to research and development activities for new products or secondary to another allowed use.

LAND USES	GENERAL ZONING DISTRICTS													AUTO PARKING	BICYCLE PARKING	LAND USE NOTES				
	E	R	R	R	R	R	R	R	R	O	C	C	C				M	M	M	
A = Allowed Use C = Conditional Use S = Special Use Permit (Sec. 38-54) Uses are prohibited if not A, C or S.	E	R	R	R	R	R	R	R	R	O	C	C	C	M	M	M	Number of Parking Stalls (APS) Required. Also see Section 38-58 for other parking regulations.	Number of Parking Spaces (BPS) Required is the greater of 2 or the number below, unless noted as "Not Applicable".	Additional regulations for each land use are listed below, in the Conditional Uses Section 38-53, in the Special Use Permits Section 38-54, and/or in other sections of this Code.	
<b>Sec. 38-331 MANUFACTURING &amp; RELATED LAND USES, including associated assembly, processing, packaging, and compounding</b>																				
Paper & Products, Primary Metal Industries, Rubber & Plastic Products, Stone, Glass & Clay Products, Storage Boxes, Textile Mill Products (Carpets, Rugs, Hosiery, Threads), Tobacco Manufacturing, Toys, & Sporting Goods, Dolls, Games, Transportation Equipment, Writing Utensils (pens/pencils/inked ribbons).																		1 APS/1000 sq. ft. of GFA	1 BPS/20 Employees on maximum shift	Permitted only when such use occurs within a totally enclosed building and related to research and development activities.
Frozen Food Lockers Tire Manufactures & Recyclers Upholstery Shop (Vehicle & Furniture)																		1 APS/1000 sq ft of GFA for Tire M&R; 1 APS/600 sq ft of GFA for others	1 BPS/20 Employees on maximum shift	
Acid & Battery Manufacturing, Slaughterhouse																		1 APS/1000 sq. ft. of GFA	1 BPS/20 Employees on maximum shift	
Body Shops & Vehicle Painting Establishments																		1 APS/1000 sq. ft. of GFA	1 BPS/20 Employees on maximum shift	C: All outside storage shall be enclosed with a Type A screen. Use must be a minimum of 100 feet from a residential use and must obtain Fire Department approval.
Construction Yard or Building(s), Temporary	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	Not Applicable	Not Applicable	See Section 38-53

LAND USES	GENERAL ZONING DISTRICTS													AUTO PARKING	BICYCLE PARKING	LAND USE NOTES						
	E	R	R	R	R	R	R	R	R	O	O	C	C				C	C	M	M	M	
A = Allowed Use C = Conditional Use S = Special Use Permit (Sec. 38-54) Uses are prohibited if not A, C or S.																			Number of Parking Stalls (APS) Required. Also see Section 38-58 for other parking regulations.	Number of Parking Spaces (BPS) Required is the greater of 2 or the number below, unless noted as "Not Applicable".	Additional regulations for each land use are listed below, in the Conditional Uses Section 38-53, in the Special Use Permits Section 38-54, and/or in other sections of this Code.	
<b>Sec. 38-331 MANUFACTURING &amp; RELATED LAND USES, including associated assembly, processing, packaging, and compounding</b>																						
Contractor's Yard (Building/Electrical/Mechanical/Roads/Utilities) Vehicle Repair (Auto/Truck/Heavy Equipment/Motorcycle/Boat/Recreational/Vehicle) Wrecker Services																				1 APS/1000 sq. ft. of GFA	Not Applicable	All storage outside of buildings shall be enclosed with an Opaque screen.
Cottage Industry																				See specific use	See specific use	Cottage industries shall be limited to 5,000 square feet of retail sales space or retail sales space limited to 49% of the total building square footage, whichever is less.
Cottage Industry Retail or Service (Manufacture or processing of goods such as beer, food products, for sale on the premises)																				See specific use	See specific use	Allowed only when such use occurs within a totally enclosed building where the primary use (retail/service) is conducted. The processing of goods shall be clearly secondary to the primary use, shall be sold on site only, and shall not pose any significant adverse impact to adjacent properties due to noise, odor, dust, or vibration. A maximum of 49% of the total business floor area, not to exceed 3,000 square feet, may be used in the conduct of the cottage industry.
Crematorium																				1 APS/800 sq. ft. of GFA	1 BPS/20 Employees on maximum shift	
Extraction of Raw Materials	S	S																		2 APS/3 Employees on maximum shift	1 BPS/20 Employees on maximum shift	S: Use is not to include manufacture, processing or treatment. See Section 38-54



LAND USES	GENERAL ZONING DISTRICTS														AUTO PARKING	BICYCLE PARKING	LAND USE NOTES				
	E	R	R	R	R	R	R	R	R	R	R	R	R	R				R	M	M	M
A = Allowed Use C = Conditional Use S = Special Use Permit (Sec. 38-54) Uses are prohibited if not A, C or S.	E	R	R	R	R	R	R	R	R	R	R	R	R	R	R	M	M	M	Number of Parking Stalls (PS) Required. Also see Section 38-58 for other parking regulations.	Number of Parking Spaces (PS) Required is the greater of 2 or the number below, unless noted as "Not Applicable".	Additional regulations for each land use are listed below, in the Conditional Uses Section 38-53, in the Special Use Permits Section 38-54, and/or in other sections of this Code.
<b>Sec. 38-33J UTILITY &amp; RELATED LAND USES</b>																					
Antennas, Towers, Communication Structures, and Other Vertical Structures	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	No parking stalls are required, however, a driving aisle shall be provided at a minimum width of eleven (11) feet and shall meet the City's paving standards for construction. A turn-around or loading area shall be provided having a minimum radius of 50 feet. A "T" or "Y" cul-de-sac meeting the City's Design Standards is acceptable.	Not Applicable	See Section 38-59 and Section 38-54.
	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S			
Face Mount (Attached to Primary Use)	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	Not Applicable	Not Applicable	Face mounts must be placed or erected to the primary use/structure in a manner which conceals, to the extent possible, the antenna or face mount. No more than ten (10) additional feet in height to the maximum building height shall be allowed as a result of application or erection of the antenna or face mount. See Section 38-59.

LAND USES	GENERAL ZONING DISTRICTS													AUTO PARKING	BICYCLE PARKING	LAND USE NOTES			
	E	R	E	R	E	R	E	R	E	R	E	R	E				M	M	M
A = Allowed Use C = Conditional Use S = Special Use Permit (Sec. 38-54) Uses are prohibited if not A, C or S.	E	R	E	R	E	R	E	R	E	R	E	R	E	M	M	M	Number of Parking Stalls (PS) Required. Also see Section 38-58 for other parking regulations.	Number of Parking Spaces (PS) Required is the greater of 2 or the number below, unless noted as "Not Applicable".	Additional regulations for each land use are listed below, in the Conditional Uses Section 38-53, in the Special Use Permits Section 38-54, and/or in other sections of this Code.
<b>Sec. 38-33J UTILITY &amp; RELATED LAND USES</b>																			
Public/Private Utility Installation, e.g., substations waterwells, transformers, regulators, lift stations, telecommunication site	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	Same requirement as Antennas, Towers, etc.	Not Applicable	See Section 38-53. A solid wall or fence shall surround the installation Landscaping shall be provided to screen and/or buffer the installation as necessary to allow the use to blend with the surrounding properties and minimize noise and visual pollution.
Recycling Centers																	1 APS/500 sq ft of office area plus 1 APS/2000 sq ft of processing facilities.	1 PS/20 Employees on maximum shift	C: Limited in use related to research and development activities for new products or secondary to another allowed use.
Waste Transfer Stations/Sewage Treatment Plants																	1 APS/500 sq ft of office area plus 1 APS/2000 sq ft of processing facilities.	1 PS/20 Employees on maximum shift	C: Limited in use related to research and development activities for new products or secondary to another allowed use. S: See Section 38-54.

**Article V, Section 38-44 G. 2. (University District Overlay)**

*University Avenue Zone (UD-UAZ), Transition Zone (UD-TZ) and Convention Zone (UD-CZ).* Please refer to Table 1 for uses that are allowed (A), conditional (C) and not permitted (NP). Please refer to section 38-33 in the 2001 Las Cruces Zoning Code, as amended, for the range of number of auto parking stalls required per land use.

**Article V, Section 38.49.3 J. 1. (Alameda Depot Overlay)**

*Parking requirements.*

Community development department staff shall review plans for adherence to parking requirements. Parking requirements shall follow section 38-58 of the LCMC, with the exceptions stated below:

1.	Parking Ranges	Parking ranges requirements for automobiles and bicycles are set for land uses in each zone, as noted in section 38-33. Requests to reduce parking requirements shall be evaluated on a case-by-case basis by the Community Development Director or designee.
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**Article VI, Section 38-58 E 3 & 6 (Off-street Parking)**

*E. Minimum number of on-site automobile and bicycle parking stalls allowed.*

1. The formula for calculating the number of parking stalls allowed for a specific land use is found in section 38-33, land uses in general zoning districts and number of parking stalls allowed. The minimum number of parking stalls shall be two: one van accessible stall and one stall for the non-disabled, except in the case of a utility substation. The number of stalls allowed shall be rounded up to the nearest whole number, e.g., if the calculation results in 25.1 allowed parking stalls, this number (25.1) is rounded up to 26 parking stalls. Gross floor area is calculated by using the exterior dimensions of all buildings, including multiple stories, on a site. Enclosed garages are included in gross floor area. However, for example, carports are not included in the calculation.

2. Proposed land uses not specified shall follow the parking requirements for a specified use within the category most appropriate to the proposed use as determined by the Community Development Director or designee.

3. The number of spaces provided shall not be reduced below the minimums allowed in section 38-33, nor shall spaces be provided in excess of prescribed maximums. Any request for a deviation to the allowed parking spaces shall follow the city's variance and/or flexible standards process.

4. Loading space shall be provided for each nonresidential use as approved by the Community Development Director or designee.
5. Up to 40 percent of the allowed parking stalls may be provided on property separate from the property served provided parking is a permitted use and all of the separate parking is within 500 feet from the property served. A parking agreement assuring that the allowed off-street parking is required for the life of the land use shall be properly executed by all the separate property owners, approved as to content and form by the city attorney and the Community Development Director, and recorded with the County Clerk's Office.
6. Shopping center/business-service center: When two or more separate land uses/businesses, as defined in article III, are to be located on the same property, the following formulas shall be used to calculate the total number of parking stalls allowed:
  - A. Less than 15,000 square feet of gross floor area (GFA): One parking stall per 200—300 square feet of GFA is allowed.
  - B. 15,000 square feet or more of gross floor area (GFA): One parking stall per 250—350 square feet of GFA is allowed.

This provision shall be used in calculating the total number of parking stalls required rather than the formula for each separate land use found in section 38-33. However, sections 38-48, 38-54, and 38-58.G. offer options for the reduction in the total number of parking stalls allowed.

1 PLANNING AND ZONING COMMISSION  
2 FOR THE  
3 CITY OF LAS CRUCES  
4 City Council Chambers  
5 September 22, 2015 at 6:00 p.m.  
6

7 **BOARD MEMBERS PRESENT:**

- 8 Godfrey Crane, Chairman
- 9 William Stowe, Vice-Chair
- 10 Joanne Ferrary, Member
- 11 Harvey Gordon, Member
- 12

13 **BOARD MEMBERS ABSENT:**

- 14 Charles Beard, Secretary
- 15 Ruben Alvarado, Member
- 16 Kirk Clifton, Member
- 17

18 **STAFF PRESENT:**

- 19 Katherine Harrison- Rogers, Senior Planner, CLC
- 20 Adam Ochoa, Planner, CLC
- 21 Sara Gonzales, Planner, CLC
- 22 Mark Dubbin, CLC Fire Department
- 23 Chris Mount, CLC Fire Department
- 24 Robert Cabello, CLC Legal Staff
- 25 Becky Baum, Recording Secretary, RC Creations, LLC
- 26

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

28  
29 Crane: Good evening ladies and gentlemen. The Planning and Zoning  
30 Commission meeting for the 22nd of September is called to order. Let me  
31 start as we usually do by introducing the Commissioners present; on my  
32 far right Commissioner Gordon is the Mayor's Appointee; on his left  
33 Commissioner Stowe is, represents District 1 and is also our Vice  
34 Chairman; then Commissioner Ferrary represents District 5. I'm Godfrey  
35 Crane the Chair, and I represent District 4.  
36

37 **II. CONFLICT OF INTEREST**

38 *At the opening of each meeting, the chairperson shall ask if any member on the*  
39 *Commission or City staff has any known conflict of interest with any item on the*  
40 *agenda.*  
41

42 Crane: Let me ask at this point if any Members of the Commission or any  
43 Community Development people have any conflict of interest with any  
44 item on tonight's agenda? No one so indicates. It's appropriate for me to  
45 say at this point that for those of you who were present when we  
46 discussed the case now on Old Business SUP-15-01 at our last meeting I

1 recused myself because I had a friend who was not present who I thought  
2 would be very opposed to the, the proposal. It turned out that shortly after  
3 that meeting I ran into her and she said she had nothing against it. She is  
4 essentially neutral on the matter and so I don't feel that I am under any  
5 pressure to make a decision one way or the other, any outside pressure.  
6 So I will not recuse myself for that.  
7

### 8 III. APPROVAL OF MINUTES

#### 9 1. August 25, 2015 - Regular Meeting

10 Crane: Next item is the Approval of the Minutes for the last regular meeting, 25th  
11 of August. Does any Commissioner have any adjustments?  
12 Commissioner Gordon? No. Commissioner Stowe, Commissioner  
13 Ferrary, and I don't either.  
14

15 Gordon: So I make a motion that we accept the minutes.  
16

17 Crane: Mr. Gordon ...  
18

19 Ferrary: I'll second.  
20

21 Crane: Moves and Ms. Ferrary seconds that we approve the minutes of the last  
22 meeting. All in favor "aye."  
23

24 MOTION PASSED UNANIMOUSLY.  
25

26 Crane: Opposed? None. Is anybody abstaining? No abstentions. So it passes  
27 four/nothing.  
28

### 29 IV. CONSENT AGENDA - NONE

30  
31  
32  
33 1. **Case IDP-15-02:** An Infill Development Process (IDP) application by Fabian  
34 Erives on behalf of Leo Guzman, property owner, for a studio apartment  
35 complex located at 1311 Alamo St. and zoned R-1a (Single-Family Medium  
36 Density). The IDP proposes to utilize R-4 (Multi-dwelling High Density &  
37 Limited Retail and Office) standards and requests a variance from the  
38 minimum required parking spaces. The 0.31 +/- acre property is located at  
39 the southeast intersection of Idaho Ave. and Alamo St. and is further  
40 identified by Parcel ID # 02-26041. Proposed use: Multifamily residential.  
41 Council District 3 (Councilor Pedroza).  
42

43 2. **Case CPB-15-03:** A request to recommend approval of amendments to the  
44 Community Planning Blueprint Initiative Process. The citywide planning area  
45 consists of all Council Districts.  
46

1 Crane: The next items on the agenda are the Consent Agenda. Let me explain  
2 how we handle this. These two items are items which the Community  
3 Planning Department has decided are probably noncontroversial so  
4 they're put together in the Consent Agenda and we, the Commission will  
5 take a vote on them without any debate. However, if any member of the  
6 Commission, any Community Development person, or any member of the  
7 public wishes to discuss either one of these, then we will pull it off the  
8 Consent Agenda and put it at the top of New Business. Does anybody  
9 wish to discuss any, either the two items: IDP-15-02 or CPB-15-03? No  
10 one so indicates, so I'll hear a motion that the Consent Agenda be  
11 approved.  
12

13 Ferrary: I so move.

14 Crane: Commissioner Ferrary moves. Do we have a second?

15 Gordon: I'll, I'll second.

16 Crane: Commissioner Gordon seconds. All in favor "aye."  
17  
18

19  
20  
21 MOTION PASSED UNANIMOUSLY.  
22

23 Crane: Opposed? None. So that passes four/nothing.  
24

25 **V. OLD BUSINESS - NONE**  
26

27 1. **Case SUP-15-01:** Application of Verizon Wireless/Tectonic Engineering on  
28 behalf of A & E Enterprises Inc., property owner, to construct a new stealth  
29 wireless communication facility on a property encompassing 1.552 +/- acres,  
30 zoned C-3 (Commercial High Intensity) and located on the southwest corner  
31 of Stern Drive and Agave Drive; a.k.a. 4790 Stern Drive; Parcel ID # 02-  
32 22899; Proposed use: 65-foot tall stealth wireless communication structures  
33 and associated accessory structures. Council District 2 (Councilor Smith).  
34

35 Crane: So over the page to Case SUP-15-01, application of Verizon Wireless to  
36 put up a tower at Stern Drive and Agave Drive and I, I have to tell anybody  
37 here that we discussed this issue last time and we asked the, Verizon to  
38 check out a couple of things and come back to us with, if at all possible an  
39 alternative proposal. Mr. Ochoa's going to talk to us about it. Mr. Ochoa.  
40

41 Ochoa: Thank you Mr. Chairman. Adam Ochoa, Development Services for the  
42 record. Case, first case tonight we're looking at is Case SUP-15-01. It is  
43 a proposed Special Use Permit for a new wireless communication  
44 structure or facility, excuse me, at 4790 Stern Drive. Just to remind you  
45 where the subject property is located, here in the hash marks about, south

1 of Interstate 10 and Stern Drive south of the NMSU property, Agave Drive  
2 running along the south side of that property.

3 At the last meeting of the July, well not the last meeting, pardon  
4 me, but at the July 28th, 2015 P&Z meeting this case was postponed by  
5 the Planning and Zoning Commission. The P&Z at that time directed the  
6 applicant to seek alternate locations for the proposed communication  
7 structure, just naming a couple; one being NMSU being the most, I guess  
8 the, the most viable as stated by the P&Z and surrounding property  
9 owners and possibly a, a nearby pecan orchard. The applicant did do  
10 these and as you see in your staff report they did provide an e-mail from  
11 NMSU stating that they are no interested in, in providing space on NMSU  
12 property for a new wireless communication structure and the applicant has  
13 also shown that the proposed, the closest proposed pecan orchard would  
14 not meet their needs for the proposed new tower considering it's a little too  
15 far away for them to be able to have the service that they want provide in  
16 that area.

17 With that the applicant did resubmit for final action by the P&Z for  
18 the proposed Special Use Permit. The subject property is located on the  
19 corner of Stern Drive and Agave Drive and currently encompasses  
20 approximately 1.5 acres. It is currently zoned C-3, Commercial High  
21 Intensity, and currently consists of a variety of vacant commercial  
22 buildings. Shown here on the aerial map those vacant commercial  
23 buildings and Interstate 10 here just to give another quick reference where  
24 this is at. The Code sections we are looking at is under Section 38-59F of  
25 the 2001 Zoning Code where it, it states that new communication  
26 structures adjacent to R-1a properties or single-family zoned properties  
27 are not permitted to have a new communication or, new communication  
28 structures are not permitted on properties adjacent to these zoning  
29 designations unless approved through the Special Use Permit process.  
30 Through this process the applicant was required to pay all expenses  
31 associated with the City actually hiring a qualified expert, outside expert to  
32 review the, and provide written recommendation to the P&Z of the  
33 technical information submitted as part of the application by the applicant.

34 The proposal has changed from the first time we did see this.  
35 Originally the applicant was proposing a new wireless communication  
36 facility with a 75-foot tall wireless communication tower. That has  
37 changed now to a 65-foot tall wireless communication structure as well as  
38 that first tower was just to be a standard tower that you could see, metal  
39 towers. The new tower is actually proposed to be a stealth tower, that'll be  
40 disguised to look like either a Cyprus tree or a pine tree and I have some  
41 pictures kinda show you what the applicant has in mind. The, the subject  
42 property is adjacent to an R-1aC property which is what is requiring this  
43 Special Use Permit. The applicant is proposing to locate the new tower  
44 and facility to the rear of the subject property. And in your staff report  
45 you've seen all their development plans and building plans and all those  
46 do seem to meet all requirements, all the requirements of Section 38-59 of

1 the 2001 Zoning Code including all the required setbacks which also  
2 includes the required setback from the adjacent residential lot.

3 Shown here just a site plan of that subject property. Shown here  
4 that new facility where that would be located. And of course the setbacks  
5 that they easily meet all required setbacks from the front, secondary front,  
6 rear, and side of that property. Again this is just an old site plan showing  
7 that, where that pole would be going. Of course this is not what the  
8 applicant is proposing now, they are proposing a stealth pole to look like  
9 either, like I said either a Cyprus tree or a pine tree, but here are some site  
10 photos of roughly where that new facility would be located at.

11 The applicant also submitted a variety of pictures for your reviewing  
12 pleasure if you will. That, at that meeting at, on July 28th a number of  
13 surrounding property owners had issues with their views and so forth like  
14 that and the applicant did provide these pictures just to show you roughly  
15 where, they took, they took pictures in the surrounding areas to show what  
16 that tower, what effects that tower would take on the view of the  
17 surrounding properties. The applicant did also bring up that there is  
18 actually a large major power line running through the rear and they are  
19 trying to do something nicer looking than that with their proposed new  
20 communication structure. First picture on the top left and corner is, was  
21 taken off of Vista Cuesta, you can see here this is the wireless  
22 communication structure if it looked like a pine tree. Down here on the  
23 bottom corner is, this, this picture was taken off of O'Hair, again here you  
24 can see that pine tree/monopole proposed for the wireless communication  
25 tower. This picture was taken off of the corner of Agave Drive and Agave  
26 Place, again the pine tree located here is what that communication  
27 structure would look like. And another picture off of Stern Drive and  
28 Salopeck Boulevard look, looking south towards the property. And here is  
29 that tower again giving you an artists' rendition of what that tower would  
30 look like.

31 As I stated before the, the City did hire a consultant to analyze and  
32 prepare recommendation for the proposed new facility. That analysis and  
33 recommendation was completed by Greg Best Consulting Incorporated on  
34 June 23rd, 2015. And the consultant did concur with the analysis of the  
35 applicant that this proposed new wireless communication facility site, the  
36 actual site itself at 4790 Stern Drive is the best available location in this  
37 area for a new wireless communication structure from a, I guess from a  
38 zoning standpoint, from a, and also from a, a I guess, it's usability if you  
39 will. With that staff has reviewed the proposed Special Use Permit and  
40 based on the review by staff and all reviewing departments of the City of  
41 Las Cruces and NMDOT who did review this as well, as well as based on  
42 the written recommendation from the independent consultant and the new  
43 information submitted by the applicant, and of course those findings found  
44 in your original staff report, staff recommends approval for the proposed  
45 Special Use Permit. These are the findings that are, that staff is basing  
46 their recommendation on, our findings of fact for approval.

1 Your options tonight ladies and gentlemen is 1) to vote "yes" to  
2 approve the proposed Special Use Permit as recommended by staff; 2) to  
3 vote "yes" to recommend approval, to vote "yes" to approve the proposed  
4 Special Use Permit with any conditions deemed appropriate by the P&Z;  
5 3) to vote "no" and deny the proposed Special Use Permit; or 4) vote to  
6 table/postpone the proposed Special Use Permit and direct staff and the  
7 applicant accordingly. The staff did receive an additional e-mail from a  
8 adjacent property owner, I believe you all have a, received a copy of that  
9 in front of you. He does have pictures and so forth like that for you to  
10 review for, for his I guess why he is against the proposed Special Use  
11 Permit. That is the conclusion of my presentation. The applicant is here if  
12 you have any questions for them. And I stand for questions as well.  
13

14 Crane: Thank you Mr. Ochoa. Commission, oh before we get into that. There's  
15 probably some people here from the public who may not have been at a  
16 P&Z meeting before. The Old Business and the New Business as  
17 opposed to the Consent Agenda are handled a little bit differently. As you  
18 see we have first a presentation from Community Development person.  
19 Commissioners can then ask questions of that person. Then we invite the  
20 applicant or the applicant's spokesperson to come up and make a  
21 presentation, again we can ask questions. Finally we ask members of the  
22 public who have an interest to come up and give their views, and we may  
23 ask some questions of them. There's no limit set on what Community  
24 Development or the applicant can spend by way of time, though I think we  
25 all appreciate if it's kept to a reasonable level, however when it comes to  
26 members of the public we customarily have a three-minute limit. We have  
27 a timer up here which I will set and reset as people come up. Please  
28 observe the limit because otherwise you'll be eating in other people's time  
29 and quite possibly their patience. Can I see a show of hands please of the  
30 number of people who right now think they would like to come up and  
31 make a presentation? One. One person. Two, three, four, five, six. All  
32 right that seems manageable. Sometimes we've had, actually once a  
33 hundred. I remember it well. So, let's, Commissioners, Commissioner  
34 Gordon do have a question for Mr. Ochoa?  
35

36 Gordon: Yes, a, Adam do me a favor, will you go back to the, to the pictures on  
37 your presentation for the last one shown, oops, go back to one, here it is.  
38 How far is Stern Drive and, what is that, Salopek Boulevard?  
39

40 Ochoa: Salopeck.

41  
42 Gordon: From this site, do you know?

43  
44 Ochoa: I do not know that off the top of my head sir but I will go ahead and scale  
45 that out and see what I can, if I can get you that.  
46

1 Gordon: The reason I asked is because this also on Stern Drive and I'm just  
2 wondering how close it is in terms of this picture.  
3  
4 AUDIENCE MEMBER SPEAKING OUT, NOT AT THE MICROPHONE.  
5  
6 Ochoa: Mr. Chairman. You're looking at, the subject property's here. Where that  
7 picture was taken was here on Stern and, and Salopek. I'll, I'll go to  
8 measure that out and get you an, get you an answer for that sir.  
9  
10 Gordon: That's fine, I mean that's pretty close.  
11  
12 Ochoa: Yes sir.  
13  
14 Gordon: Can I ask a question from someone who has engineering knowledge from  
15 Verizon other than a, an administrative person? Is there someone here?  
16  
17 Ochoa: Yes sir I believe they are here. They could, they could answer your  
18 questions.  
19  
20 Gordon: Okay. I'd like to do that.  
21  
22 Crane: Any other Commissioner have a question for Mr. Ochoa? Then the  
23 applicant or the applicant's representative come up and if you'll identify  
24 yourself sir I will swear you in.  
25  
26 Gutierrez: Yes Commissioner Crane. My name is Les Gutierrez and I'm an agent  
27 from Verizon wireless.  
28  
29 Crane: Okay Mr. Gutierrez do you swear or affirm that the testimony you are  
30 about to give is the truth and nothing but the truth under penalty of law?  
31  
32 Gutierrez: I do sir.  
33  
34 Crane: Carry on please.  
35  
36 Gutierrez: Yes, once again it's a pleasure to see all of you folks again. We're here  
37 today to answer any additional questions you might have about what  
38 we've resubmitted and I also have with me some folks from Verizon, our  
39 real estate manager and just observing, our legal council from Verizon,  
40 Christian Henderson, he's from Denver. But hopefully I can answer  
41 whatever questions you might have today. We concur with all of staff's  
42 recommendations. We, we once again reiterate, unfortunately Mr. Hamdi  
43 Alaaldin isn't here, he was the RF engineer. But the main reason that  
44 we're tonight is that we have a gap in capacity coverage between existing  
45 sites, and Verizon is planning ahead in order to make sure that not only all  
46 the traffic on that road, but this neighborhood in the next year or so has

1 great wireless coverage. You may not be aware of this or not but about  
2 40% of the homes in America now have wireless coverage and Verizon is  
3 about in 120 million homes so we're in about every one to three homes.  
4 So the, the focus here that we're trying to do is agree with staff's findings,  
5 we agreed with the consultant that prepared the finding that this was the  
6 best location. And I'm here to answer any questions that I might help  
7 make things clearer for you.  
8

9 Crane: Thank you sir. Commissioners. Commissioner Gordon.

10  
11 Gordon: If, if this other tower is, is relatively close I, I heard some gentleman speak  
12 out 100 yards, is that, is that correct, someone say that?  
13

14 AUDIENCE MEMBER SPEAKING, NOT AT THE MICROPHONE.  
15

16 Gordon: Okay a 100 yards. Why is it necessary to build this one?  
17

18 Gutierrez: I, I'm not familiar with a tower that's close to 100 yards. I'm sorry.  
19

20 Ochoa: Mr. Chairman, Commissioner Gordon. The subject property where they  
21 took the picture, pardon me, I'm sorry. This picture here off the corner of  
22 Stern Drive and Salopek is about, about a 100 yards away. The other  
23 tower that you're speaking about off of Union Avenue is actually a fair  
24 more distance to the north. It's off of Union and, and Stern Drive right next  
25 to the Whiskey Dicks, so that property is actually a fair decent distance  
26 away from the subject property.  
27

28 Gordon: All, all right I misunderstood. I thought there was one here at this, at this  
29 particular address. This is just where the photo was taken.  
30

31 Ochoa: Yes sir, that is correct.  
32

33 Gordon: Okay.  
34

35 Ochoa: This is just to give you a perspective as to what the view is from the  
36 subject property here.  
37

38 Gordon: Now, now what happens, my, my next, my next question is what happens  
39 if, what does Verizon do if this is not approved? Just walk away from this  
40 project?  
41

42 Gutierrez: Well Commissioner we'll, we'll probably come back and try to reopen this  
43 case and we, we do need this site and I'd like to maybe back up a little bit.  
44 The site that he was talking about, Verizon is already at that location at, at  
45 Whiskey Dicks location. This is a, a, infill gap between Whiskey Dicks and  
46 we just built a new site in the County that's about I guess a mile up the

1 road called Quality Wood Yard. So, we'll, we'll be back. We, we need to  
2 have this site. It's a capacity site and it's, it's necessary for us sir.

3  
4 Gordon: Again I don't believe you answered my question. What happens, in other  
5 words you, you plan to come back before the Planning and Zoning  
6 Commission again with the same proposal?

7  
8 Gutierrez: Well we, we think we've offered some good alternatives and maybe we will  
9 look at another alternative if we have to, but at this point this is the best  
10 alternative for Verizon's network. We've met all the requirements required  
11 by law and we met the setbacks and we're, we want to be a good citizen,  
12 we want to design something that will work for the neighbors which will be  
13 to their benefit long term so we're having a difficult time understanding  
14 why it may not be approved.

15  
16 Gordon: I haven't said that. I'm not trying to argue with you either, it's just that  
17 you've just, a moment ago said we would look at other alternatives. Are  
18 there other alternatives?

19  
20 Gutierrez: Well we'd look at alternatives in terms of design. We've, we've already  
21 vetted out the process. We've looked at NMSU as you requested. We  
22 talked to that director and they weren't interested in, in that large 16-acre  
23 parcel that's going across the street. That's gonna a five-megawatt solar  
24 plant. I'm not sure what that's gonna look like. We've also looked at the  
25 orchard that you asked us to look at and that was about 2,400 feet away  
26 and it would not work for Verizon's network. We had additional sites that  
27 Greg Best reviewed and those did not work so this, this is actually the best  
28 site. If it's not approved what will happen in a period of time is that while  
29 your phone may show four or five bars as a signal level, it's still not gonna  
30 connect because we don't have the capacity for that. And Verizon doesn't  
31 randomly design a system and spend hundreds of thousands of dollars  
32 until we know that the network is gonna work and that's the best answer I  
33 can give you at this point Mr. Gordon.

34  
35 Gordon: I do appreciate the effort that you made upon my request to go back to  
36 New Mexico State and the pecan farm and, and see if there was some  
37 other place to put this. There are some efforts I can see in our packet  
38 material to mitigate perhaps some of the concerns of the residents but I  
39 think at this point before I, let me go (*inaudible*) and I really want to hear  
40 what they have to say also.

41  
42 Gutierrez: Certainly.

43  
44 Crane: Ms. Harrison-Rogers do you have a question or an illumination?  
45

1 H-Rogers: I, I do. Just in terms of process about next steps. If, if that indeed was  
2 part of your question Chairman Gordon, excuse me Commissioner  
3 Gordon, the applicant has the option if this evening the decision is denied,  
4 to appeal it to City Council, in which case City Council would make a final  
5 decision.  
6  
7 Gordon: Thank you.  
8  
9 Crane: Commissioner Ferrary.  
10  
11 Ferrary: Yes I was just wanting to make sure that it will be the monopole and 65-  
12 foot would be the maximum height, is that right?  
13  
14 Gutierrez: Yes Commissioner Ferrary. Sixty-five feet would be the maximum height  
15 we would go and we do prefer the monopole design but if this Commission  
16 or the public would prefer a stealth design we are open to that also.  
17  
18 Ferrary: And how is the stealth design different?  
19  
20 Gutierrez: Well a monopole is just a, a single pole that goes up and antennas are,  
21 are mounted right directly to that and we would paint that. That was the  
22 original proposal. The stealth design would be the tree, the 65-foot tree  
23 that is capable of holding Verizon's antennas as well as one other carrier  
24 for the future.  
25  
26 Ferrary: Okay. Thank you.  
27  
28 Gutierrez: Yes ma'am.  
29  
30 Crane: Commissioner Stowe.  
31  
32 Stowe: I'm looking through the materials here provided previously and again for  
33 tonight, are there some pictures you can point out to me that show the  
34 view of the mountains in the background. I find no pictures that show a  
35 view either with the cell tower or without but having mountains.  
36  
37 Gutierrez: Okay.  
38  
39 Stowe: The O'Hair picture.  
40  
41 Ochoa: Mr. Chairman, Commissioner Stowe. As you can see there on O'Hair  
42 Drive there's one with the mountains.  
43  
44 Gordon: Ask them how (*inaudible*) view from this property.  
45  
46 AUDIENCE MEMBER SPEAKING, NOT AT THE MICROPHONE.

1  
2 Gordon: The view from this property that they want to put in.  
3  
4 Stowe: Yeah, what, what is the view of this property.  
5  
6 Gutierrez: The view. Yes Commissioner Stowe. The view from that location, the  
7 picture up at the top is showing the, the monopine tree, a 65-foot  
8 monopine tree. The picture down below is from a different location on, I'm  
9 sorry the first one was on Vista Cuesta.  
10  
11 Stowe: Right.  
12  
13 Gutierrez: And the other O'Hair is showing the pine tree to the far left and it looks like  
14 it's very, very negligible and it looks like it's way far northeast of the  
15 mountains from what I can see here sir.  
16  
17 Stowe: All right.  
18  
19 Gutierrez: I, I might point out we've, we've had an opportunity to, to drive the  
20 neighborhood, it's a very, very nice neighborhood. One of the unique  
21 features about this neighborhood is has a lot of landscaping. It has a lot of  
22 mature trees, some of them look 25 or 30 feet. And as we drove through  
23 the neighborhood it looked to me that a lot of the areas would block the  
24 view of this cell phone tower. There are some gaps where you can, you  
25 might be able to see it or discern it but because of the elevation from  
26 where the tower is and it goes into the neighborhood, it drops I would  
27 venture to say that most of the areas would block the view of that cell  
28 phone tower.  
29  
30 Stowe: I see that. Very well. Thank you.  
31  
32 Crane: Any other questions? Okay thank you sir. Members of the public. You  
33 first sir. Please come up, identify yourself and don't be offended when I  
34 put up a three-minute timer.  
35  
36 Brooks: Okay, good evening. My name is Larry Brooks. I'm at 318 O'Hair Drive. I  
37 did speak to you at the last meeting in July, and I'd like to just preface my  
38 remarks with a little outrage over the underhanded way that indefinite  
39 tabling of this proposal has been shown. Yes.  
40  
41 Crane: Let me log you in, swear you in. Okay. Do you swear or affirm Mr. Brooks  
42 that the testimony you are about to give is the truth and nothing but the  
43 truth under penalty of law?  
44  
45 Brooks: I do.  
46

1 Crane: Go ahead please.  
2  
3 Brooks: Okay, again there's a little outrage going on here because the only sign  
4 that told us that this was going to be on the agenda again was on the sign  
5 that was on the site that was not changed, just the dates were changed on  
6 the sign. The original proposal was actually put on a flyer and put on our  
7 doorways. I live on O'Hair and, so we were notified about the original  
8 meeting in July. Then we were told in the July meeting this was  
9 indefinitely tabled, so we said "Okay, fine we don't have to worry about it  
10 until we get notified again." There was no notification, just they changed  
11 one line on the sign on the site and one person in the community saw that  
12 and was able to alert us to enable us to kind of mobilize about this  
13 proposal and tell you what we think about it. So I'm, I'm a little bit  
14 distraught about that, about the integrity of this process if we were not  
15 notified about this meeting tonight and we were not. The whole entire  
16 community. And I can tell you that because I have 17 signatures from  
17 University Mesa which I will provide to the committee this evening and  
18 you're welcome to take this. These are all homeowners in the, they're  
19 licensed, not licensed, but registered voters. We went around to the  
20 community. None of them knew about this re-tabling of this motion to  
21 pass this and again they were all kind of distraught about it because we  
22 had told them what had happened at the last meeting and that we were  
23 going back. So let me just preface my remarks with that. I don't know if  
24 that helps you or not with, with what Verizon's doing here.  
25 Okay, on top of that this tower is not just blocking the view of the, of  
26 the mountains for a lot of the homeowners, but it's also at the gateway to  
27 two communities; University Mesa and the next community over. And I'm  
28 not sure if they have a proposal here tonight or proposal or a petition here  
29 tonight but there was somebody else in the other community that was  
30 hopefully going around with a, a petition. Is there, hopefully he'll come up  
31 and talk also. But again it's not just that the tower does block the view of  
32 the mountains and it does from backyard, it absolutely does cause I'm on  
33 O'Hair Drive, I'm a little it further down on O'Hair Drive from Stern but it, it's  
34 right at the entrance to these two communities and they're unsightly.  
35 There is no doubt in my mind that this stealth proposal is not something  
36 that, that is going to be easily camouflaged. If you'd like I can show you a  
37 picture of the Whiskey Dick tower. May I take this up and give you a  
38 picture of this? This is a photograph of the Whiskey Disk tower at Union  
39 and Stern.  
40  
41 Crane: You know you're running short of time Mr. Brooks?  
42  
43 Brooks: I understand. I'm trying to talk as fast I can here.  
44  
45 Crane: Okay.  
46

1 Brooks: But the Whiskey Dick tower you know has a lot of stuff hanging off of it.  
2 We've also heard from Verizon that they will hang other, other cell  
3 providers material off of that tower, so we're not talking about just their  
4 "stealth tower," we're talking about somebody else coming on and hanging  
5 a bunch of other things off of this and creating a huge unsightly, I, I call it a  
6 mess, hanging in the air. Now there is one at Whiskey Dicks 1.2 miles  
7 away from the proposed location and another one a mile south. Now I  
8 have contacted Tortugas. Tortugas was never contacted as the possibility  
9 of locating this tower on tribal land. Tortugas is probably less than a  
10 quarter mile away from where this is proposed. We also contacted  
11 Arrowhead Corporation which is not the NMSU people. The NMSU real  
12 estate people which I contacted which is Scott Eschenbrenner said he  
13 was never contacted by Verizon, so contrary to this realtors proposed  
14 contact of NMSU and their reneging of that, he said that they proposed  
15 that they take the Cricket tower that's right by their soccer field and use  
16 that. They said that was too close to the towers that were at NMSU's  
17 football stadium. But he never did contact the Arrowhead Corporation  
18 which are the people that control that, that piece of parcel of land that's  
19 between I-25 and I-10. So he contacted the wrong person. He never  
20 contacted Arrowhead. I have contacts for him if, if he wants. I can give  
21 him a card of the realtor that, that, oh the realtor, the, the gentleman that  
22 works for Arrowhead Corporation that would control that land.

23 Also Tortugas was supposed to have a representative here tonight.  
24 Is he here? There is a representative from the Council. They met  
25 Saturday. I talked to a gentleman who is the president of the Council, I'm  
26 not sure his last name, Dominic and he said that he had never been  
27 contacted by Verizon to hosting that tower on tribal land. Tortugas, it can  
28 use that money for a numerous bunch of projects that they have, they  
29 have museums coming up, they have a, a baseball field for their kids that  
30 are, are dirt, that are totally dirt. There's no grass on them at all. Tons of  
31 stuff that he can do with, with an income stream from a Verizon tower that  
32 would take this away from the community. There's also Triple A storage  
33 that's about a half mile down the road that said they would love to host  
34 that tower which is out of the community which is aware from any of these  
35 properties there. So again there is a bunch, a host of other avenues to put  
36 this tower that were never conceive or a, addressed by the Verizon  
37 representative here tonight. So I believe that we're being kind of  
38 "railroaded" into this location as being the only one. Also his RF engineer  
39 is not here but after the last meeting we spoke to his RF engineer and he  
40 said they can actually tune their towers so they don't conflict, so if one's  
41 a little closer to another one they can actually I guess it's, it's like aiming  
42 those, the new receptors so they don't interfere with each other. So there  
43 are ways of doing, of, of putting these towers maybe a little closer  
44 together, maybe not "optimum" to where they'd like to have it, but to make  
45 it work. And if he had known that the community was that against it he  
46 might've not proposed this as being the optimum site. So I think there's a

1 lot of things that are still left on the table here that need to be addressed.  
2 I'd like to, to give you these petitions of 17 home owners in University  
3 Mesa and hopefully somebody else will come up and have a petition from  
4 the other subdivision that's right next to us and show you that this is not  
5 just a, you know that we're opposed to technology or Verizon coming in,  
6 we want the service. We understand that the need for this, all that traffic  
7 down I-10 and I-25, I'm sure there's gonna be all kinds of data that's  
8 coming off the vehicles coming through there, but there are better  
9 locations for this that will not affect the community. So thank you very  
10 much for your time and I'll give you this partition.

11  
12 Crane: We won't be taking this home with us so you can pick it up afterwards.

13  
14 Brooks: I don't need it.

15  
16 Crane: If you don't. Okay. Yes Mr. Brooks went on for a while. I let him do it  
17 because I think that he covered so many points that it may help many of  
18 you to keep your presentations shorter because you can just say that you  
19 endorse what Mr. Brooks said, something like that. In spite of the fact that  
20 he went on, I want to hold you to three minutes. Before we get to the next  
21 person I have a couple of questions, a question about the notice. Does  
22 Community Development have anything to say about the notice on this  
23 second time this has come up? And also on the question of notifying  
24 Tortugas.

25  
26 Ochoa: Mr. Chairman. We did notify. We used standard City requirement of 500  
27 feet out from the subject property as well as additional more feet because  
28 of the right-of-way adjacent I-10 to go out further out to NMSU. We used  
29 the same notification we used this time as, as we did at the last meeting.  
30 If there were flyers or something hang, hung on people's doors, that might  
31 have been just a prior, an adjacent property owner who did that but we do  
32 not do that. Sir we did send out a regular mail requirements that are  
33 certified mail requirements as well, as well as we did advertise in the El  
34 Paso, sorry Las Cruces Sun News and the sign was updated, changing  
35 the date and the actual proposal as well.

36  
37 Crane: So regarding Tortugas did they, you said they got mail notifications?

38  
39 Ochoa: Mr. Chairman. I believe Tortugas is not close enough to get a, a letter for  
40 this sir.

41  
42 Crane: They're not close enough.

43  
44 Ochoa: No sir.

45

1 Crane: Okay. And regarding the close people, you said they did get a notification  
2 by mail of the, of the second meeting, today's meeting?  
3  
4 Ochoa: Yes sir. As I stated before we did send out the same number of letters as  
5 we did for the first meeting, for the second one, or this one presently.  
6  
7 Crane: Thank you.  
8  
9 Gordon: Mr. Chair.  
10  
11 Crane: Commissioner Gordon.  
12  
13 Gordon: Your name is Mr. Brooks? Right. Well the information that Mr. Brooks  
14 just gave us is very disturbing to me. I tried to go back in my mind to the  
15 last meeting and I don't remember that I heard anything in the nature of  
16 what you brought up about other places specific to what you mentioned  
17 tonight. I, I, am I correct?  
18  
19 AUDIENCE MEMBER SPEAKING, NOT AT THE MICROPHONE.  
20  
21 Crane: Mr. Brooks is coming up to the mic again.  
22  
23 Brooks: At that time we had asked that other locations be considered, the area  
24 between I-10 and 25. We didn't know that was Arrowhead Corporation  
25 that did that. And we asked if Tortugas had been approached and they  
26 said "No Tortugas has not been approached." And again I talked to the  
27 realtor at NMSU and he said he had not been approached and he is not  
28 the right person. It's Arrowhead Corporation so.  
29  
30 Gordon: Okay. I remember at the last meeting I did ask Verizon to make an effort  
31 to go back and that was the reason we postponed the issue to try to work  
32 out something with them which we thought would be a better site to put  
33 this. Now apparently there are other places where this can go. Now you  
34 also brought up a point about, you spoke to the engineer who said that  
35 perhaps if these towers were just a little bit in a different place close to  
36 where it's been proposed a little tweaking of the antennas or turning of the,  
37 of the dishes or whatever that day, I'm not technically you know, that it's  
38 possible that that's also a situation. If that's the case I think that we're not  
39 having enough information to make a decision here. I think that, you're  
40 absolutely right, if this is a place where Verizon now has other  
41 opportunities I'm, I'm looking for every possible area that we can put this  
42 that will put the least impact on a neighborhood. Now if it's possible and  
43 that it can go there, I, I see no reason why we can't postpone this again  
44 and go back ...  
45

1 Crane: I, I want to call up the gentleman who's name I wrote on a piece of paper  
2 that is not in front of me at this minute who presented from Verizon  
3 because we, let's get some answers from him so we don't spend any time  
4 debating a, what might be a non-issue. Okay Mr. Brooks.  
5  
6 Brooks: I, I did want just mention that there is a representative of the Tortugas  
7 Council here tonight of the Tortugas tribe cause we had contacted them  
8 and they said they had never been contacted by Verizon.  
9  
10 Crane: Okay. He's free to ...  
11  
12 Brooks: And they're less than a quarter mile away from this location.  
13  
14 Crane: He's free to come up.  
15  
16 Brooks: Excellent. Thank you.  
17  
18 Crane: If he wishes. Sir we have Mr. Gordon's question and let me give you mine  
19 too at this point. But answer his, well go ahead answer his first please.  
20  
21 Gutierrez: Chairman, Commissioner Gordon. Your question about why we didn't  
22 look at these other locations. We did look at these other locations. The  
23 location picked was because it was the center between two existing sites.  
24 The location that the Tortugas tribe area and San Francisco area was too  
25 close to Whiskey Dicks which we already have a current site. So that,  
26 those sites would not work for us and I think that's addressed maybe in  
27 Greg Best's report. The Tortugas tribe might work. You still have County  
28 to deal there, there's residences around there. You have the same zoning  
29 issues that you might have with this so that really doesn't affect us. But  
30 electrically Mr. Alaaldin isn't here but it's probably in the last minutes that  
31 this site was selected because it provided the best coverage for that  
32 neighborhood.  
33  
34 Crane: What about this matter of the tunability of the antenna, is that feasible?  
35  
36 Gutierrez: Well Chairman, Commissioners, I'm not an engineer. Verizon is regulated  
37 by the FCC. Their transmitters go out at 40 watts and they're, they have  
38 to comply with those. I could not answer that but I, I don't believe that  
39 Verizon would tweak it's antennas unless there was a severe interference  
40 that was required to be corrected by the FCC so that's as far as I know.  
41  
42 Crane: My previous question was you've shown the mast type antenna, the  
43 monopole with the array of antennas around it. Does that array get  
44 covered by this spruce or spine tree?  
45

1 Gutierrez: Yes. And we would be happy to provide closer photo simulations. I'm, I  
2 didn't have a chance to look at that but I, I went by the Whiskey pole,  
3 that's a three-carrier monopole. That's been there for a number of years.  
4 AT&T is there, Verizon's there, and I believe Sprint is there. The, the  
5 design that we're looking at is the antennas would be hidden in the  
6 branches, it would not be exposed and they would be painted to match. If  
7 you look closely and you drive by you'd, you'd have to be close, you would  
8 probably see the antennas in there but from a distance the branches  
9 would cover those antennas.  
10  
11 Crane: Thank you. Is your question answered Mr. Gordon? Yes, Ms. Ferrary.  
12  
13 Ferrary: With the spruce or pine tree and you mentioned that you might have  
14 additional from other businesses added on would they also be disguised  
15 within this tree-like camouflage?  
16  
17 Gutierrez: Yes. Mr. Chairman, Commissioner Ferrary. The City of, of Las Cruces  
18 would regulate that. It's required to remain stealth. So we're not certain  
19 that another carrier would go on that, they still have to apply through the  
20 City and they would have to provide them documentation to show that  
21 they're disguised also. It, it has to remain in its stealth character.  
22  
23 Ferrary: Okay. Thank you.  
24  
25 Gutierrez: Yes ma'am.  
26  
27 Crane: Thank you sir.  
28  
29 Gutierrez: Thank you.  
30  
31 Crane: Another member of the public. Yes sir. Tell us who you are please?  
32  
33 Smith: My name's William Smith.  
34  
35 Crane: Mr. Smith do you swear or affirm that the testimony you are about to give  
36 is the truth and nothing but the truth under penalty of law?  
37  
38 Smith: Yes sir I do.  
39  
40 Crane: Okay, let me start this.  
41  
42 Smith: I'll be brief. First I would like to say thank you. I do appreciate that you  
43 listen to us, we're the citizens. I agree 100% with my neighbor. I'm on the  
44 other side so I'm on Agave Place. This is directly coming into our house.  
45 From my backyard I promise you, you can see a 65-foot tower. Stealth by  
46 definition implies blending in. It's a flat piece. I appreciate the angles and

1 distances of which those photos that you're seeing there. I sent Mr.  
2 Ochoa some photos as well and I, with the Whiskey Dicks tower. Whiskey  
3 Dicks tower doesn't seem obtrusive because it's tucked away. Verizon  
4 has a, a huge tower on Lohman. It's in the middle of a commercial  
5 corridor. It's tucked away so it's not intrusive. We live in an area where  
6 we don't even have overhead electric. We have walking trails. It's, it's a  
7 very low profile area. I would just submit to you out of just a gut check or  
8 pure logic this is nearly a seven-story structure is what they're proposing  
9 and I promise you from numerous neighborhood backyards, having a bar-  
10 b-que, or, or even time with, with family with an obtrusive tree that's totally  
11 out of place, I would ask you to juxtapose that with respect to the  
12 surrounding area. It does affect and obstruct the views as well as the, the,  
13 the fact of, the, the neighborhood values. We're not Verizon. We're not  
14 wealthy. We work very hard. This is, this is our homes and so Verizon  
15 has the wherewithal to relocate to another place. We can't sell all of our  
16 properties and up and relocate. We worked very hard. There's pride in  
17 our neighborhood. And certainly no deference to, to technology and to  
18 Verizon but I certainly think that there are other locations where they do  
19 not have to have something that is this obtrusive. And lastly I would, I, I  
20 noticed all of my neighbors. There's a whole bunch of people this is, that  
21 this is going to affect and as I said we, we don't have a lot so we just  
22 simply want to enjoy what we have and, and, and that's all I can say. So  
23 again I don't see us ... stealth sounds nice, but please use the common  
24 sense of juxtapose that to this flat area. And lastly there are, I sent a tree.  
25 I, I sent a, a disguised tree as a photo to Mr. Ochoa and he assured me  
26 that that was forwarded to you all as well. So I can show you pictures,  
27 Verizon can show you pictures, irrespective, spruce or pine, put it where it  
28 is, you're nearly a seven-story structure and that's the only entrance into  
29 our neighborhood or there's only one other entrance and that's into the  
30 adjoining neighborhood. That's it, we have two entrance and exits. That's  
31 it. So we can't sell our homes with a pine tree or a spruce tree that  
32 doesn't belong. Thank you very much for your time.

33  
34 Crane: Thank you Mr. Smith. Rebuttal. Please keep it short Mr. Gutierrez, okay.

35  
36 Gutierrez: Yes sir.

37  
38 Crane: Confine it to rebuttal of fact, okay?

39  
40 Gutierrez: Yes. We appreciate the gentleman's concern about the design of that  
41 pole or the structure. We do want to remind the Commission that there is  
42 a 75-foot power line easement within that subdivision. Those power poles  
43 to me look they affect about half of the subdivision and they're about 90  
44 feet tall. They've been there for a number of years and it appears to me  
45 that from the backside of that subdivision, you will see those first before

1 you actually see the Verizon pole. It was on a previous slide by Mr.  
2 Ochoa. Thank you.  
3  
4 Crane: Thank you. Another member of the public? Mr. Smith. All right. Quickly.  
5  
6 Smith: The line he's speaking of is down where the pecan orchards are.  
7  
8 Crane: Sorry, start at the beginning.  
9  
10 Smith: This is, no sir.  
11  
12 Crane: You're, you're off the mic sir.  
13  
14 Smith: The, the, the, the huge utility poles that he's speaking of are not where we  
15 are at, it's in the back by those pecan orchards that they apparently are  
16 not able to work something out or choose not to work something out to put  
17 their, their spruce tree or pine tree in the middle of pecan orchards which  
18 I'm sorry that just makes sense to me but they're not, they are not on our  
19 property sir. They are not.  
20  
21 Crane: Thank you. Another member of the public. Gentleman in the green shirt.  
22 Tell us who you are please. Who are you?  
23  
24 Braker: Philip Braker.  
25  
26 Crane: Draker?  
27  
28 Braker: Braker. B R A K E R. Yes.  
29  
30 Crane: Mr. Braker do you swear or affirm that the testimony you are about to give  
31 is the truth and nothing but the truth under penalty of law?  
32  
33 Braker: Yes I do.  
34  
35 Crane: Go ahead please.  
36  
37 Braker: I would like to take to task the Verizon future plans. The, there is a tower  
38 a mile south, a tower a mile, within two miles or two and a half miles  
39 there's already two towers and we have to put one right in between. At  
40 what point are they gonna need to put one in between there? I, I guess I  
41 really am questioning ... technology's changing. I work for the College of  
42 Engineering. I see it every day. Technology is changing. A couple years  
43 ago we had 3G, now we have 4G. I am strongly supporting that if this  
44 tower doesn't go in Verizon will find another way to supply the needs of  
45 the customers. This may be a cheaper way for them but they will find  
46 another way if this tower doesn't go in. So the answer to the question

1 here, if it doesn't go in what happens, well they'll keep coming back trying  
2 to find a cheaper way but there is other ways to do it, and they don't have  
3 to build towers every mile. You start putting a grid of towers every mile  
4 and pretty soon we're gonna have a really, really busy intersection and  
5 you're gonna have it yours and they're gonna have it in theirs, there's  
6 other was to do this and I would recommend that if this is turned down  
7 permanently they will find another way to continue to service their  
8 customers because they make *(inaudible)*. So thank you.  
9

10 Crane: Thank you Mr. Braker. Anyone else? Gentleman from Tortugas did you  
11 have something to say? Please bear in mind for a moment sir that the  
12 City says that Tortugas is not close enough to get a notification so you  
13 might want to address that. Tell us who you are.  
14

15 Jimenez: *(inaudible)*. My name's Laurence Jimenez and I'm currently, hold the  
16 position of secretary for Los Indigenes de Nuestra Senora de Guadalupe  
17 in Tortugas.  
18

19 Crane: Okay sir let me ... Mr. Jimenez do you swear or affirm that the testimony  
20 you are about to give is the truth and nothing but the truth under penalty of  
21 law?  
22

23 Jimenez: I sure do.  
24

25 Crane: Go ahead.  
26

27 Jimenez: I understand the notification might have been a problem being that our  
28 address is centrally located in the little, in the little skirt of Tortugas and I  
29 know it may have not been a concerned issue being that it's a little off from  
30 the area that we're discussing at the current moment. But also hearing the  
31 testimony from Verizon that there was only one location considered on our  
32 area of land-age that we own. But there are also if I could notify, we also  
33 have about nine other pieces of property that I'm not too sure that within  
34 triangulation it would benefit Verizon but as earlier stated we have not  
35 been contacted. The representative that Mr. Brooks was speaking to was  
36 Dominic Fierro, our corporation's president and its four years that he's  
37 been in president, he's never been notified. So just to state that for the  
38 record. But now that we just found out about this and heard that we're  
39 willing to, to work with Verizon in that nature if they're willing to go and,  
40 and observe the new areas that we could propose for them. I don't know  
41 how the straight angle of tower-to-tower would be or if they could  
42 triangulate. I don't know the radius of every tower and how it incorporates,  
43 what's the range of each tower proposed, but I would say give or take  
44 being just off of Stern Drive a new location could be proposed that it's not  
45 even 100 yards off of Stern. Where as this location might be 25 yards 30  
46 yards off of Stern, so I don't know how significant that would impact

1 Verizon's decisions on building the tower on this location as to proposed to  
2 any other locations that we do have in our 40 acres of land that we do  
3 maintain.  
4  
5 Crane: Thank you sir. Anyone else from the public? In that case I will close this  
6 to further input from the public and Mr. Ochoa do you want to say anything  
7 about the Tortugas matter? Any rebuttal? If you don't that's fine.  
8  
9 Ochoa: Mr. Chairman I just wanted to state Tortugas is actually located in the  
10 County so essentially the Verizon applicant would have to run through  
11 their process making sure that the zoning allows the tower, basically what  
12 they did with us. Making sure they find a piece of property that's zoned for  
13 it and that they meet all the requirements for a tower would have to go  
14 through the County essentially sir.  
15  
16 Crane: Thank you. So Commissioners any discussion before we take a vote?  
17 Mr. Gordon.  
18  
19 Gordon: I think I would've like to have heard more from a technical standpoint.  
20 What we're getting now is arguments based on esthetics you know how  
21 it's gonna look, what it's gonna, people are gonna see and now that I hear  
22 about this other additional land be it not on City property but on County  
23 property apparently this might be another option for Verizon. I'm very  
24 concerned about the fact that I don't really think that there's been enough  
25 investigation to, to come up with a, a decision as to whether or not we  
26 should allow this. I think, I think it should've been more, perhaps the  
27 gentleman was right some more notification should've been given to areas  
28 even though they're not required by law or maybe Verizon should've  
29 investigated further other than what they thought would be the ideal place  
30 or the easiest place for them at this point to put this, but I think that, I just, I  
31 did believe I would've liked to have heard more from a technical standpoint  
32 than I am from how personal feelings are.  
33  
34 Crane: Thank you. Commissioner Ferrary.  
35  
36 Ferrary: I tend to agree that I think with all of the neighborhoods that would be  
37 impacted without knowledge that Verizon could not find another place that  
38 would be suitable, that they, we can't approve this right now.  
39  
40 Gordon: One, one other thing.  
41  
42 Crane: Mr. Gordon.  
43  
44 Gordon: That I just thought of. If, if they were to go a mile or so down the road and  
45 put up a tower and in order to perhaps create an ideal triangulation that  
46 they could then, then put another tower someplace else that would be not

1 obtrusive or interfere with people's, again aesthetics, (*inaudible*) a little  
2 more money. I'm not, I'm not gonna have to pass the hat for Verizon, I'm  
3 sure they have enough money to do this but perhaps that would be  
4 inevitable solution that not, only one tower could be built that would be the  
5 solution to their maintaining coverage of the area in which that they want  
6 to maintain. So by moving this to another place perhaps they would have  
7 to build another tower like that gentleman said in some area close to that  
8 that would solve this problem. Again I think they're just perhaps other  
9 areas that have to be researched.

10

11 Crane: Thank you. Commissioner Stowe.

12

13 Stowe: Do, do any of the people from Verizon have a comment on the timeliness  
14 of this issue, whether it's, you are able to proceed, let us proceed by more  
15 information ...

16

17 Crane: Commissioner I'm not gonna allow that because we've closed to external  
18 input now.

19

20 Stowe: Right.

21

22 Crane: Thanks.

23

24 Ochoa: Mr. Chairman if I may interject. This SUP update was submitted by the  
25 applicant for final action so they would like a final action vote of "yes" or  
26 "no" on this sir.

27

28 Crane: Thank you. If there's no further input from Commissioners we can  
29 proceed to a vote. I'll, we have before us the matter SUP-15-01 with  
30 recommendation for approval by the communication, the Community  
31 Development Department. Do I have somebody to move this? Mr. Stowe  
32 moves.

33

34 Stowe: Are we moving ... are we moving ...

35

36 Crane: Second.

37

38 Stowe: Are we moving to table this for further study or are we ...

39

40 Crane: No sir we are moving, unless, well if nobody moves that we vote on this  
41 motion then you can make another motion, but let's see if we find anybody  
42 to move on this.

43

44 Ferrary: I'll second it.

45

1 Crane: Uh well it's, I need you to move. We don't, we don't have a, a, we haven't  
2 got a motion yet. Do you want to move it? Maybe somebody will second.  
3 Mr. Gordon.  
4  
5 Gordon: All right I make a motion that we vote on Case SUP-15-01.  
6  
7 Crane: All right can I record it, can I record a second from you Ms. Ferrary?  
8  
9 Ferrary: Yes I'll second.  
10  
11 Crane: Okay. So we'll vote. Mr. Gordon.  
12  
13 Gordon: Before we vote, before we vote we only have four people, we need a  
14 majority of three.  
15  
16 Ochoa: Mister.  
17  
18 Crane: I can never remember. Do we need a majority of the Commissioners  
19 present do we not?  
20  
21 Ochoa: Mr. Chairman, Commissioner Gordon.  
22  
23 Crane: Yes.  
24  
25 Ochoa: To answer that question, yes it's just be a, a to either approve this or  
26 whatever it is that we'd need a majority of the four, so three out of the four  
27 to, to approve this.  
28  
29 Crane: And a two/two vote would be a nay vote, correct?  
30  
31 Ochoa: Correct sir and it would still be a no, essentially no contest, gonna be a no  
32 essentially.  
33  
34 Crane: Okay. So Mr. Gordon your vote and the basis for it.  
35  
36 Gordon: Well based on findings and discussions and what I've said and what I've  
37 heard I vote no.  
38  
39 Crane: Okay. Commissioner Stowe.  
40  
41 Stowe: Based on findings and discussions here I vote no.  
42  
43 Crane: Commissioner Ferrary.  
44  
45 Ferrary: I vote no based on findings and discussions.  
46

1 Crane: And the Chair votes yes based on findings, discussion, and site visit. So  
2 the motion fails three to one. Thank you for that.

3  
4 **VI. NEW BUSINESS**

- 5  
6 1. **Case A1735:** A variance application of Frank X. Benavidez, property owner,  
7 to vary fifteen (15) feet from the minimum required fifteen (15) foot secondary  
8 front yard setback for an accessory structure resulting in a zero (0) foot  
9 secondary front yard setback. The purpose of the variance is to legalize the  
10 existing accessory structure on the subject property zoned R-1a (Single-  
11 Family Medium Density) and located on the northeast corner of Missouri  
12 Avenue and Baldwin Drive; a.k.a. 1905 Missouri Avenue; Parcel ID # 02-  
13 12827. Council District 3 (Councilor Pedroza).

14  
15 Crane: The next item on the agenda is A1735, a variance application by Mr.  
16 Benavidez regarding a setback property at 1905 Missouri Avenue. Mr.  
17 Ochoa's gonna present.

18  
19 Ochoa: Yes sir, next, next case tonight, for tonight is Case A1735, it is a request  
20 for a variance from the minimum required secondary front yard setback for  
21 an accessory structure located at 1905 Missouri Avenue. Shown here in  
22 the hash mark area as you can see in the sea of R-1a zoning district here  
23 north of Missouri, east of what is Baldwin Drive. The actual specific  
24 section we're looking under the code is under 2001 Zoning Code, Section  
25 38-51 D1 which essentially states no accessory structure where a building  
26 permit is required or not shall be permitted within the setback of the  
27 required front yards primary or secondary. With that as I stated before  
28 property located on the northeast corner of Missouri Avenue and Baldwin  
29 Drive is zoned R-1a, Single-Family Medium Density and currently consists  
30 of a single-family residence with accessory structures. The applicant  
31 tonight is seeking a 15-foot variance to the required, to the required 15-  
32 foot secondary front yard setback for an existing accessory structure  
33 which currently encompass, measures approximately 248 square feet in  
34 size.

35 Just to give you a little background that accessory structure has  
36 essentially been existing on the property prior to the current property  
37 owner owning it. The staff and the applicant has done some research and  
38 we found that that structure has been existing on that property since the  
39 1960s and it was originally an enclosed workshop for the original property  
40 owner. The Zoning Code at that time actually did not allow structures  
41 within the required front yard, so essentially the structure was constructed  
42 illegally at that time within the required secondary front yard setback.  
43 What is, why this case is now before you is the applicant, the current  
44 property owner and applicant submitted for a building permit for an  
45 addition to the rear of the existing primary structure on the property and  
46 during an inspection by one of our building inspectors it was seen that

1 there was actual work being done to that existing accessory structure  
2 which actually required a building permit. When the property owner came  
3 in to get a building permit that is when staff let him know that that  
4 accessory structure actually does not meet the required 15-foot secondary  
5 front yard setback for the accessory structure. Since that is the case, the  
6 applicant is now seeking essentially to legalize that structure with a zero  
7 foot setback from that secondary front property line.

8 Giving a little more detail what is, here's the primary home, that  
9 accessory structure located back here on the back corner. Here in the  
10 aerial as you can there are actually other properties within the area with  
11 accessory structures within the secondary front yard as well. Here you  
12 can see some site photos that staff took of it with some of those upgrades  
13 done to the structure as of now. This is looking at it right from Baldwin  
14 and this is looking at it closer from Missouri where that accessory structure  
15 currently exists.

16 As I stated before the structure was erected prior to the actual  
17 ownership of the current property owner and if approved tonight all permits  
18 and structure modifications and all inspections for that structure will be  
19 required of the applicant to finalize and finally get a certificate of  
20 occupancy for that accessory structure. This, staff, when reviewing this  
21 we did see that it is not out of character with the surrounding area, as I  
22 stated before in that aerial view there are other properties in that area with  
23 existing accessory structures within the secondary front yard setback, so  
24 it's definitely not out of character. Staff also did not identify any health,  
25 safety or welfare issues identified with the proposed variance. The  
26 applicant has also provided a letter from his adjacent property owner to  
27 the north who is the most affected person by that accessory structure  
28 stating that he has no issues with it and that it has been there for such a  
29 long time that he has no issues with the, the approval of this proposed  
30 variance. Stating that though, there is, under the 2001 Zoning Code staff  
31 has a very strict guideline as to how we could actually approve variances,  
32 the criteria to approve variances and with that staff recommends denial for  
33 the proposed variance based on the findings found in your staff report,  
34 and these are those findings essentially. Again found in your staff report.  
35 Your options tonight ladies and gentlemen is: 1) to vote "yes" and approve  
36 Case A1735; 2) to vote "yes" and approve Case 1735 with any conditions  
37 deemed appropriate by the P&Z; 3) to vote "no" and deny Case A1735; or  
38 4) to vote to table and postpone and direct staff and the applicant  
39 accordingly. Just to let you know P&Z you do have final authority on this  
40 variance barring any appeals to City Council. And also just to let you  
41 know staff did not receive any other public input from the, any adjacent  
42 neighbors, we just got that one letter from the adjacent property owner to  
43 the north stating that he is supporting, supportive of the proposed  
44 variance. And that is the conclusion of my presentation. The property  
45 owner/applicant is here if you have any questions for him. And I stand for  
46 questions.

1  
2 Crane: Thank you. Any questions for Mr. Ochoa? Mr. Stowe your lights on did  
3 you ...? Okay. Ms. Ferrary.  
4  
5 Ferrary: Yes, Mr. Ochoa if we were to approve this can we make a condition that  
6 this would not be enclosed or made into another, like another home or  
7 something like that but just kept in the same use that it is now seen?  
8  
9 Ochoa: Mr. Chairman, Commissioner Ferrary. That is a condition that you could  
10 possibly do. The applicant is actually trying to enclose it cause essentially  
11 again going back to the background, the structure as it exists now was  
12 enclosed. It was not used for a residence, it was used for a workshop  
13 essentially. Accessory structures cannot be used as residential,  
14 residential uses on single-family residential properties, you're only allowed  
15 one single-family home. So the applicant's intent is to enclose it and  
16 basically to bring it back to its original state as a workshop. The reason  
17 you saw it open is because through the years the, the building actually  
18 started deteriorating and falling apart and they just left it as an open air  
19 shade structure just to not completely tear it down and leave just a roof up  
20 if you will. But the applicant does have that in mind to enclose it and use it  
21 as an accessory structure again ma'am.  
22  
23 Ferrary: And if we did deny it then he would have to tear it down?  
24  
25 Ochoa: Mr. Chairman, Commissioner Ferrary. That is correct. He'd either, he'd  
26 either have to tear it down or modify the structure to meet the required  
27 setbacks or he would, he does have the option to appeal the, the denial to  
28 the Planning, I'm sorry, to the City Council as well.  
29  
30 Ferrary: Okay. Thank you.  
31  
32 Crane: Any other questions for Mr. Ochoa? Mr. Gordon.  
33  
34 Gordon: Adam again I guess we're, we're trapped again by old problems with  
35 current solutions?  
36  
37 Ochoa: Mr. Chairman, Commissioner Gordon. Essentially yes, we're trying to  
38 legalize something that was done illegally a very long time ago this time.  
39  
40 Gordon: And, and this keeps coming up to us after meeting, after meeting, after  
41 meeting, people have been living here for so many years and have had  
42 these things and all of a sudden they want to do something and they find  
43 out they can't because they don't meet current, current zoning  
44 requirements. And, and again you're being trapped. And if you go ahead  
45 and do it and somebody complains and code enforcement comes along

1 and then you're really stuck so I think this is an attempt to try to do  
2 something to right a wrong under current law. Yes?  
3  
4 Ochoa: Mr. Chairman, Commissioner Gordon. Correct. This, this variance is to  
5 legalize that, the non-conforming structure.  
6  
7 Crane: Anyone else? Mr. Stowe  
8  
9 Stowe: I believe a variance, voting on a variance puts this Commission as the  
10 final arbiter. Does the, does the City Council vote on variances or can ...?  
11  
12 Ochoa: Mr. Chairman, Commissioner Stowe. No, the Planning and Zoning  
13 Commission is final authority on variances unless appealed to City  
14 Council.  
15  
16 Stowe: Okay. Thank you.  
17  
18 Crane: Ms. Harrison-Rogers.  
19  
20 H-Rogers: Just a point of order that if this Commission is desirous of voting in the  
21 opposite direction that staff has recommended, that new findings need to  
22 be stated as the findings that staff had presented are for denial.  
23  
24 Crane: Thank you.  
25  
26 Gordon: Adam excuse me.  
27  
28 Crane: Is the applicant present?  
29  
30 Gordon: Could you bring, on, on, on the screen the, all the steps where it said like  
31 for example permits and modifications and inspections if completed.  
32 Where is that again? So Katherine if you're saying that if they, if they  
33 meet all these requirements that they're asking for an analysis and we  
34 vote yes this changes?  
35  
36 Crane: Ms. Harrison-Rogers.  
37  
38 H-Rogers: Mr. Chairman, Commissioner Gordon. Ultimately the, the findings that  
39 staff has presented in their staff report concur with their recommendation  
40 of denial, so if, if this Commission wants to recommend approval then new  
41 findings need to be stated. So for example it meets the character of the  
42 neighbor, neighborhood, and, and you find that maybe it does meet some  
43 of those items listed above.  
44  
45 Crane: Mr. Stowe.  
46

1 Stowe: I, I just am uncomfortable with something that's been in place since the  
2 1960s before I graduated from college and now were asked to review it,  
3 whether it's useful or not useful, legal or not, not legal. I'm not comfortable  
4 with that.  
5  
6 Crane: Any other questions for Mr. Ochoa? Okay, is the applicant here? Tell us  
7 who you are please sir. Tell us who you are on the mic.  
8  
9 Benavidez: I'm Frank Benavidez. I'm the owner of the property.  
10  
11 Crane: Mr. Benavidez do you swear or affirm that the testimony you are about to  
12 give is the truth and nothing but the truth under penalty of law?  
13  
14 Benavidez: Yes I do.  
15  
16 Crane: Go ahead please.  
17  
18 Benavidez: Yes I, I brought the property about 10 years ago and the property was built  
19 in the '60s. And I refurbished the, the structure in the back, I figured by  
20 and it improves the curb appeal to the property a lot by what was there  
21 before. And, and encourage the other 16 owners around there to try to  
22 up, you know upgrade the property in the area. It was a workshop before,  
23 now it's more like a gazebo where it's just two walls, a wall to the west and  
24 a wall to the north and the roof. We make it a shade gazebo like there is a  
25 cookout area there too in that corner that the original owner had built. And  
26 the, like a, we mentioned the property owner to the north he said that  
27 thing's been there for 30, he said he's been there for over 30 years and,  
28 and that, that structure was falling down, which it was, the roof was caving  
29 in and the walls were all wobbly and I figured well I'll just redo it and make  
30 it more sturdy and safer and make it more like an outside structure where  
31 it just gives the shade and, and shade from the, from the west. It's got a  
32 cement floor which was there for a long time. The original owner had like I  
33 said, it was a workshop when he, when I first originally. I could say it's like  
34 a workshop because it had doors and, and I, doors came down, they was  
35 just falling down and we're trying to support the, the walls and the, and the  
36 roof and it was almost an impossible. We could've just covered those  
37 existing walls but it would've been a, a real health hazard to whoever lives  
38 there you know. And I mean redid the whole property. I put over \$40,000  
39 in improvements to the whole, to the house and to the outside and so.  
40 You know a lot of times you, you can't fast-forward 70 years and say well  
41 you know you can't have that there. That type of stuff you know. I  
42 could've just left it, the structure there but it's, it's a lot better shape now  
43 it's, and that's my.  
44  
45 Crane: Thank you sir.  
46

1 Benavidez: I hope you approve it.  
2  
3 Crane: Thank you. Any questions for Mr. Benavidez? Ms. Ferrary.  
4  
5 Ferrary: Yes. Mr. Benavidez are you planning to leave it as it is now or to enclose  
6 it to be a workshop again?  
7  
8 Benavidez: No, no, no, I'm gonna leave it as it is right now. That was my intent from  
9 the beginning, just leave it like the two walls is not enclosed. More like a  
10 gazebo, more like an outside porch where people can enjoy the shade  
11 back there and have a cookout. Excuse me. There's a little fireplace  
12 there where you can have a cookout.  
13  
14 Ferrary: Okay. Thank you.  
15  
16 Crane: Any other questions for Mr. Benavidez? Thank you sir. Any member of  
17 the public wish to address this? All right. Commissioners, we're closed to  
18 outside input. Commissioner Gordon.  
19  
20 Gordon: I, I just want to make sure I understand. If I, if I say that I want to approve  
21 this based on that permits modifications and inspections will be required,  
22 that would be enough.  
23  
24 H-Rogers: Mr. Chair, Members of the Commission, Commissioner Gordon.  
25 Ultimately what you stated sounds a bit more like a condition, but you  
26 could, you, you could use that as part of your motion. I would recommend  
27 perhaps stating that based on the discussion tonight and the fact that the  
28 neighborhood supports it, the fact that perhaps it's in character with the  
29 neighborhood, and that it supports the purpose and intent of the Zoning  
30 Code, those items may be able to be utilized as, as findings. If you wish  
31 staff could perhaps draft something that would aid you. We could take a  
32 moment to do that.  
33  
34 Gordon: That would be nice.  
35  
36 H-Rogers: Mr. Chair, Members of the Commission. I will leave it to the Chairman to  
37 perhaps have a, a break while staff does that.  
38  
39 Crane: With the objective that you will come up with a package of  
40 recommendations so it would not be negative.  
41  
42 H-Rogers: Essentially ...  
43  
44 Crane: Abstracted from the recommendations or the, the analysis that you've  
45 done, is that correct?  
46

1 H-Rogers: We, we would, we would assist in, in, in drafting findings that are, that are  
2 supportive based on what has been heard or discussed tonight.  
3  
4 Gordon: Okay.  
5  
6 Crane: Okay. Does any member of the Commission object to that? Apparently  
7 not. Mr. Stowe your lights on, you have a comment?  
8  
9 Stowe: A question. What affect would it have if we table this, indefinite table?  
10  
11 Crane: With what object in mind? Why would you want to table it?  
12  
13 Stowe: Would that not achieve the effect of leaving the structure as it is now? Are  
14 we required ...  
15  
16 Crane: I don't think so. Would it Ms. Harrison-Rogers, Mr. Ochoa?  
17  
18 H-Rogers: No Mr. Chair, Members of the Commission. It would still be out of  
19 compliance and ultimately there's codes with the police department that  
20 we would have to contend with in, in order to make it compliant.  
21  
22 Stowe: It's too easy.  
23  
24 Crane: Okay so we will recess for, how long will it take, five minutes?  
25  
26 H-Rogers: Just, just a couple of minutes. It should be relatively short.  
27  
28 Crane: And we'll just sit here patiently. We won't even hold a recess unless Mr.  
29 Gordon wants ... okay.  
30  
31 H-Rogers: Is someone good at singing? We could have some entertainment while  
32 we wait.  
33  
34 APPROXIMATELY A MINUTE BREAK.  
35  
36 Crane: Commissioners recess is over. Mr. Ochoa has a, some suggestions for  
37 us.  
38  
39 Ochoa: Mr. Chairman if the Planning and Zoning Commission were willing to a,  
40 vote to approve this they can base it on the findings of the discussions that  
41 took place tonight here at the meeting based on, as well of the findings  
42 that the adjacent property owner most effected by the structure has no  
43 issues with the proposed variance and based on the finding that this is not  
44 out of character with the surrounding area for accessory structures, and  
45 also based on the findings that it is, it is compliant with the purpose and  
46 intent section of the 2001 Zoning Code, Section 38-2.

1  
2 Crane: Can we reference what you have just said as, as we, reasons for our  
3 vote? Ms. Harrison-Rogers.  
4  
5 H-Rogers: Mr. Chair, Members of the Commission. I believe that if the motion is  
6 made stating the findings as stated by, by staff during the hearing as  
7 opposed to those found in the staff report, I think that would suffice.  
8  
9 Crane: Okay. In that case I think we know enough to frame a motion. So, in fact  
10 we have a motion if somebody will be good enough to move it. We need  
11 somebody to move it.  
12  
13 Ochoa: Yeah Mr. Chairman if I may interject as well, the motion must be made in  
14 the affirmative as well.  
15  
16 Crane: Yes.  
17  
18 Ferrary: I'll make a stab at this.  
19  
20 Crane: Ms. Ferrary is moving that this be approved. Right?  
21  
22 Ferrary: I'm moving that we approve Case A1735 according to the findings that  
23 staff during the hearing ...  
24  
25 Crane: I don't think you need to say that at this moment. You have to give it as  
26 reasons for you vote when you vote if you vote affirmative.  
27  
28 Ferrary: Okay.  
29  
30 Crane: Because they recommended denial. So to, if you should vote affirmative  
31 ...  
32  
33 Ferrary: I move that we vote in favor.  
34  
35 Crane: Okay we'll ... I see I'll need somebody to second.  
36  
37 Gordon: And I'll second.  
38  
39 Crane: Second by Mr. Gordon. Okay. And let's start with Mr., Ms. Ferrary to  
40 vote. Go ahead.  
41  
42 Ferrary: I vote yes according to findings, discussion and site visit.  
43  
44 Crane: Which specific findings?  
45  
46 Ferrary: The findings discussed during the Commission meeting.

1  
2 Crane: More specific. You have to say what Mr. Ochoa ...  
3  
4 Ferrary: What Mr. Ochoa has provided as findings during this Commission  
5 meeting.  
6  
7 Crane: Okay. Ms. Ferrary, yes. Mr. Stowe.  
8  
9 Stowe: I vote yes based on discussions this evening, input by staff providing new  
10 findings based on our discussions, I vote yes.  
11  
12 Crane: Mr. Gordon.  
13  
14 Gordon: Based on discussions and findings that were discussed and presented by  
15 Mr. Ochoa I vote yes.  
16  
17 Crane: And the Chair votes yes based on site visit, discussion, and the points  
18 made by Mr. Ochoa a few minutes ago. That passes, 1735 passes  
19 four/nothing. Thank you.  
20  
21 2. **Case A1736:** A variance request by Sankara Saranam, on behalf of Dina  
22 Dabby, property owner, to vary twenty (20) feet into the required twenty (20)  
23 foot rear yard setback resulting in a setback of zero (0) in order to construct a  
24 proposed addition to the existing dwelling. The subject property zoned R-1a  
25 (Single-family Medium Density), encompasses 0.17 +/- acres, and is located  
26 on the south side of Morning Star Drive, 680 + feet west of its intersection  
27 with Roadrunner Parkway; a.k.a. 2890 Morning Star Drive; Parcel ID #: 02-  
28 25042; Proposed use: Single-Family residential. Council District 6  
29 (Councilor Levatino).  
30  
31 Crane: Next item on the agenda is Case A1736, a variance request by Sankara  
32 Saranam for a variation, variance and setback for a property at Morning  
33 side, Morning Star Drive and Roadrunner Parkway, 2890 Morning Star  
34 Drive. Ma'am I don't know you.  
35  
36 Gonzales: Good evening. No you do not. This is my first.  
37  
38 Crane: All right. Go ahead tell us who you are for the record.  
39  
40 Gonzales: I am Sara Gonzales, an acting planner.  
41  
42 Crane: Sara Gonzalez.  
43  
44 Gonzales: For the record.  
45

1 Crane: Okay. Do I have to swear in members of the Community Development  
2 Department?

3  
4 H-Rogers: No you do not sir.

5  
6 Crane: Okay. Thank you. Go ahead Ms. Gonzales.

7  
8 Gonzales: Okay, this is for Case A1736 for a variance to the required rear yard  
9 setback on a property located at 2890 Morning Star Drive. This is the  
10 subject property which is highlighted. It is south of Morning Star, also  
11 west of Roadrunner Parkway. This is a residential area. The lot east of it  
12 is a vacant lot. As stated it is about 680 feet west of its intersection with  
13 Roadrunner Parkway. It does encompass about 0.17 acres and is zoned  
14 single-family R-1a. There is a single-family home and an in-ground pool  
15 which is located here on your aerial map showing most of the dwelling is  
16 in the north side and the pool does carry a lot of the rear yard. The  
17 applicant is seeking to construct an addition to the existing dwelling in the  
18 rear yard of the subject property. According to the code 38, Article 4,  
19 section 38-31D of the Zoning Code, R-1a does require a minimum 20-foot  
20 rear setback. This variance would allow the addition to be constructed in  
21 the rear yard of the property with a zero setback, meaning it will be up  
22 against the wall.

23 We did send this out to several reviewing departments because it  
24 does go through building, fire, and as well as engineering. There were  
25 concerns. Engineering's concern is basically for drainage. If you look at  
26 the aerial map you do see that in the rear property to the west side you  
27 can see some parts where drainage can take place if that becomes  
28 enclosed. As far as building, since it would be built up to the property line  
29 or the property wall, they would be required to fire-rate that wall cause it's  
30 closer than three feet, as well as provide parapets for the drainage. The  
31 other section will be for fire department, their concern would be for egress,  
32 where are the windows, doors going to be for exiting since it will be up  
33 against the wall.

34 We did provide the applicant with an alternate solution which would  
35 be to construct an accessory structure around the pool which would not be  
36 attached to the home. The applicant would meet one of the criterias for a  
37 Tier 3 on an accessory structure which would be the 1,089 square footage  
38 minimum, maximum, however he does have to maintain the 30% rear  
39 yard, so he would ask for a variance to meet that condition. From here we  
40 do have to look at the fact that P&Z must review request in relation to the  
41 Comprehensive Plan to the purpose and intent of the code and consider  
42 the following hardship criteria which is found in your staff report.

43 Staff did identify several concerns with the variance as far as the  
44 hardship we do not see that it meets that requirement for the hardship.  
45 We also do not see a basis for granting the variance due to the concerns  
46 of the building code. Ultimately P&Z does have the final authority on the

1 variances. So basically our findings are that an R-1a zoning district does  
2 require that minimum 20 foot rear setback which is part of the Zoning  
3 Code and then we also see that if we do see that 20 feet there is a zero  
4 setback on that property which does not meet code for the setbacks as  
5 well as there are no identifying issues for the criteria of the variance as a  
6 hardship.

7 As far as public input I did receive two e-mails from neighboring  
8 properties asking basically the height of the structure and what the use  
9 was going to be. I also did receive an e-mail early this morning which was  
10 sat on your chairs as far as they were concerned with the drainage.  
11 Currently I believe there was a Codes Officer out there due to the  
12 drainage was going to the streets and to neighboring properties of that  
13 pool. Their concern is just where is the drainage gonna go if the pool is  
14 now enclosed with this structure. Ultimately you do have the options to: 1)  
15 vote "yes" to approve case A1736; or vote "yes" with the conditions from  
16 the appropriate P&Z; or vote "no" and deny the case recommended by  
17 staff; or to table this. These are some site photos of the property.  
18 Currently right now there is the pool, the concern is the drainage which  
19 would be to only on the existing rear yard you can see that's the side  
20 where drainage would take place if this property was enclosed. It would  
21 go from this porch to basically the overhang right here would be where the  
22 wall is constructed for the rear part of that building. If you look on this one  
23 that means the rear wall of the structure would go right here because the  
24 property owner's actual property line is this. This is a drainage area that  
25 was given by the subdivision which actually does own or is owned by the  
26 rear property of Morning, of the subject property. So it's the adjacent  
27 property's ownership for that section.

28  
29 Crane: I'm sorry I didn't quite catch that. Who owns that strip?

30  
31 Gonzales: The property directly behind it, south of it.

32  
33 Crane: The one that up on the, above the wall.

34  
35 Gonzales: Correct. That is the person who owns that property.

36  
37 Crane: Thank you.

38  
39 Gonzales: That would be my presentations. The applicant is available and then I am  
40 available for questions.

41  
42 Crane: Any questions? Mr. Gordon.

43  
44 Gordon: Yes. Could, could you just go back to the previous slide with the picture of  
45 the property? There are three walls, right, cause I was there today, I went  
46 to take a look at the property.

1  
2 Gonzales: Okay.  
3  
4 Gordon: There were three walls, there's one that's about I don't know six or seven  
5 feet from the edge of the pool.  
6  
7 Gonzales: Right.  
8  
9 Gordon: And that's the property line?  
10  
11 Gonzales: Correct. That is based on the subdivision plats that I actually pulled from  
12 record.  
13  
14 Gordon: Okay. And the area behind that wall looks like a sidewalk, that's the  
15 drainage?  
16  
17 Gonzales: It's actually a drainage and it does continue all the way on into the next  
18 four properties down the road.  
19  
20 Gordon: It goes, it goes ...  
21  
22 Gonzales: So the four properties that are adjacent to the west side is the drainage.  
23  
24 Gordon: Right because the other side is all vacant land.  
25  
26 Gonzales: Correct.  
27  
28 Gordon: Okay.  
29  
30 Gonzales: On the east side is vacant land which is owned by the church. On the  
31 west side is four other neighboring properties.  
32  
33 Gordon: Okay. Now the, the wall behind that and then there's some planting and  
34 there's a very high wall belongs to the neighbor behind it.  
35  
36 Gonzales: Correct. Those are considered the retaining walls to maintain since there  
37 is that slope difference. The retaining walls are built up on that property.  
38  
39 Gordon: And, and, and that neighbor maintains all those plantings?  
40  
41 Gonzales: No sir I do not believe so.  
42  
43 Gordon: Pardon?  
44  
45 Gonzales: Commissioner. No they do not maintain that.  
46

1 Gordon: Who does that?  
2  
3 Gonzales: The property owner that is at 2890 requesting the variance has maintained  
4 it.  
5  
6 Gordon: Yeah cause it makes for a very nice backyard.  
7  
8 Gonzales: Correct.  
9  
10 Gordon: So they want to put a structure that would go right up against that first  
11 wall?  
12  
13 Gonzales: Correct. And be 10 feet high.  
14  
15 Gordon: Or ... right or they would have an option of putting something over the  
16 pool to enclose it.  
17  
18 Gonzales: Correct. Yes sir.  
19  
20 Gordon: Now I read in here that there was a problem with drainage (*inaudible*)  
21 where they pumped the pool, they pump it up into that what looks like a  
22 sidewalk and it runs down to wherever.  
23  
24 Gonzales: But, yes Commissioner. Based on the e-mail I received today that was  
25 the cut, the neighboring property two locations down that was his concern,  
26 yes. He, he has seen it. I'm not as far as if that is what is taking place.  
27 There was a Codes Officer out there to verify and to see that information.  
28 Nothing has come of that incident yet or if it has been taken care of. But  
29 the applicant is here to address those comments for you.  
30  
31 Gordon: I, I, cause that explains. I couldn't figure where the 20 feet was going.  
32  
33 Gonzales: Exactly. In the process we did review it. The applicant did believe that  
34 was a buffer area that they were able to use. Unfortunately it is the  
35 adjacent property's ownership in which we cannot allow use for that.  
36  
37 Gordon: (*inaudible*) that they were to build ...  
38  
39 Gonzales: As far as if drainage were to go into that.  
40  
41 Gordon: That they would build this structure, how high is it going to be?  
42  
43 Gonzales: Ten feet high.  
44  
45 Gordon: And that would be about equal to the top of this big wall?  
46

1 Gonzales: I am not sure how high that wall would be.  
2  
3 Gordon: It's pretty high. And there's a fence on top of it.  
4  
5 Gonzales: The wall that's located as far as the property line is about three feet high.  
6  
7 Gordon: Right.  
8  
9 Gonzales: So you, I mean you can basically see its maybe a couple more feet as it  
10 would continue and then this one would be about four or so more feet.  
11  
12 Gordon: Okay well that explains it. Thank you.  
13  
14 Crane: Any other questions for Ms. Gonzales? Thank you ma'am. Is the  
15 applicant here? Want to come up and talk to us. Tell us who you are  
16 please.  
17  
18 Saranam: My name is Sankara Saranam.  
19  
20 Crane: Mister, sorry I have trouble with that name. Let me look at it here.  
21 Saranam right.  
22  
23 Saranam: Saranam. Yes.  
24  
25 Crane: Saranam. Mr. Saranam do you swear or affirm that the testimony you are  
26 about to give is the truth and nothing but the truth under penalty of law?  
27  
28 Saranam: Yes.  
29  
30 Crane: Go ahead please.  
31  
32 Saranam: I'm requesting this because I have a, well they're not sure if it's  
33 fibromyalgia or lupus but I have a condition that I've had for 20 years of  
34 arthralgia or arthritis or whatever they're trying to find it is. It causes me a  
35 tremendous amount of pain and it has for decades. My doctor said that  
36 swimming is the best way not to, it's not gonna cure anything but it will  
37 prevent the deterioration as best as possible. The problem is, is that in  
38 the winter and even in the summer you think it's really hot outside but it's  
39 dry air so you get out of the pool and you're freezing and I have to literally  
40 run to something to get warm because even three minutes of freezing my  
41 bones after getting out of a heated pool hurts. The enclosure would  
42 basically mean I could swim year round and that's the biggest thing and so  
43 I'm not gonna have six months, five months or more where I can't swim  
44 where I'm just basically more sedentary, more in pain, and those months  
45 of where it degenerates further. The ironic thing about it is that there is a  
46 default easement. I maintain, I sweep the, the sidewalk I guess you could

1 call or the, the drain. I maintain the drip system and plantings and mulch  
2 the upper level, and if you're standing at the, the level of the pool to the  
3 top of the last, the rock wall, it's not just simply 10 feet it's more like 15 to  
4 20 feet. It's a very high rock wall that last one. So in effect I will be  
5 continue to maintain it even if I build a structure, of course. But the  
6 structure will go to the first rock wall and the drainage will be, I have dirt on  
7 both sides of the pool where I have foliage. So I have plenty of dirt for my  
8 drainage both for the pool flushing and for the runoff from the roof of the  
9 enclosure. So there is nobody as it's been mentioned to my, well I don't  
10 it's, I guess that's the church's property, the property next to me on the  
11 other side has zero view let's say across my pool cause there's a lot of  
12 foliage there. The only time I every see the people who technically own  
13 this strip that I maintain is when I have to call, I literally get about five balls  
14 a week fall from the neighboring children's yard into my yard. I have to  
15 throw them up, or ask my son to do so. Sometimes they throw rocks into  
16 my pool. They once broke a glass. I asked them to stop that and they've  
17 been pretty good. But balls still come, tennis balls, balls of various types,  
18 soccer balls, they don't mean to break a glass. They're not throwing rocks  
19 any more, but the enclosure would also protect me and my children from  
20 flying objects. But that's the only time that, they certainly don't get a  
21 ladder down and enjoy their little strip of land and you know. So for all  
22 intents and purposes practically speaking I maintain it, I'm responsible for  
23 it if I want to have something nice to look at. It also helps with erosion if I  
24 do. I don't talk your ears off. I don't feel this takes, takes anything from  
25 anybody. It does give me probably maybe 10, 15 years of a little less pain  
26 in my life as I live here and exercise. And that's very important to me and  
27 to my family.

28  
29 Crane: Thank you Mr. Saranam. Any questions for the applicant? Mr. Gordon.

30  
31 Gordon: Could you, could you tell me what your alternate option is about creating  
32 a, to enclose the pool if you don't build this structure?

33  
34 Saranam: My option. I don't have any. If I don't enclose it I don't swim there in the  
35 winter months and I can't go to public pools because I need this pool  
36 literally at 94 degrees and it feels okay; 92 and it feels cold to me. So it's  
37 not like I can just go to another pool or you know and different kinds of  
38 exercise don't have the same weightlessness effect that water has the  
39 buoyancy. So I'm, just standing here I'm hurting. My right hip is in pain. I  
40 even brought medical records of my x-rays and all of that. I need that  
41 weightlessness, so I can't just invert. I have an inversion table but I can't  
42 just do calisthenics.

43  
44 Gordon: I'm, I'm not questioning your health and I'm very sorry to hear that and I  
45 have empathy for you. But we have to make a decision based on this

1 information. Could you try to describe what kind of structure you're  
2 planning on building?  
3  
4 Saranam: Well I'd guess I'd call it a clubhouse. Basically we're taking, we're going  
5 from inside my existing roof, jutting out over the pool ...  
6  
7 Crane: Mr. Saranam you can use the mouse ...  
8  
9 Saranam: Oh, okay.  
10  
11 Crane: I believe to, yeah there you go.  
12  
13 Saranam: That work. Okay. So it's gonna, it's gonna go from inside the roof to  
14 about like four feet in the roof. So it's gonna be structurally sound, well,  
15 okay. And it's gonna go over, over the pool. There's gonna be, here the  
16 wall will go up above five, well maybe six feet more, maybe, maybe seven,  
17 six or seven, about up to here, meet over the pool and of course we will be  
18 not going any farther than the, the actual existing roof this way or this way.  
19 So in other words we're, we're gonna have plenty of easement here,  
20 space on both sides. So the only question really here is about this. And  
21 there'll be a door here, a door here, and there'll be some, a few windows,  
22 and sky windows in the top and along here. I'm willing to work with code  
23 on how many windows they want or don't want, it doesn't really matter to  
24 me. Or if they want, (*inaudible*) gonna be two exists, if they need a third or  
25 a fourth for whatever reason, that's fine too. But basically the enclosure  
26 allows so I can walk out and I'm not gonna feel freezing by the weather  
27 and the heat, the pools' heating will actually heat the space. That's the  
28 idea.  
29  
30 Crane: Before, you, you have a question too. I was wondering Mr. Saranam if  
31 you'd be more comfortable sitting cause those mics are live there.  
32  
33 Saranam: Oh yeah that'd be fine.  
34  
35 Crane: You can't use the mouse but you can answer questions. They are  
36 working, right? You have to push a button to ...  
37  
38 Saranam: Hello. Yes.  
39  
40 Crane: Yes. Ms. Ferrary did you have a question.  
41  
42 Ferrary: Yes. You described draining the pool. There was plenty of dirt on the  
43 sides of both ...  
44  
45 Saranam: Both sides yes ...  
46

1 Ferrary: So I'm wondering why there is a codes investigation with your having  
2 drained in that canal, and destroying the cement part of the canal and also  
3 having I guess a smell and water, wastewater discharge from the pool.  
4

5 Saranam: A while back, about two weeks ago somebody came and asked me not to  
6 drain the pool on the drainage. So I brought in somebody to bring a pipe  
7 over so I wasn't draining there at all. And then two days ago somebody  
8 came and said they had some complaints about the pipe I was putting  
9 there and I explained that just two weeks ago somebody came to me and  
10 asked me to do it. The initial code I guess enforcers, I don't know, in  
11 uniform, they asked me to either go the other direction or onto my dirt. So  
12 I did exactly what they said and then the next one came and didn't actually  
13 say anything, just looked at it and left. So I thought I was just following  
14 what the first guy told me to do. If that's not what he wanted me to do I  
15 don't under ... that, so I think it's a little bit of miscommunication between  
16 the right hand and the left hand. But in either, in any case wherever you  
17 want me to drain it I'm happy to, whether it's that direction, another  
18 direction, onto the right dirt, the left dirt, doesn't matter to me. I'm, I'm just,  
19 I just literally put this in a few days ago and at the request of the person  
20 who went to my door about two weeks ago.  
21

22 Ferrary: But it also sounds like your neighbor to the west is concerned if you drain  
23 that it will go into his property is there ...  
24

25 Saranam: Oh no. No. That, that, that I took care of. That can't happen any more  
26 already. That's what the first guy asked me to do so that's, that won't  
27 happen. But if you'd like me to put in a space that it won't, where  
28 something else, I'd be, I'd be happy to do that as, whether this is approved  
29 or not. But right now it, it's not going on anybody property.  
30

31 Ferrary: Okay. Also if you, as suggested by Planning were to just have an extra  
32 structure instead of enclosing the whole pool which they are suggesting  
33 you know just to have that extra structure, would that, wouldn't that still  
34 make it so that you had some protection because the high wall would not  
35 let in you know the breezes, you would have the, basically pretty much  
36 enclosed if you had the side fences even built up.  
37

38 Gonzales: If I may interject Chairman and Councilor. What it is, he can actually  
39 enclose those four walls. It can be an accessory, an accessory structure  
40 as an enclosed structure. So all four walls can be enclosed.  
41

42 Ferrary: Just not ...  
43

44 Gonzales: The two sides which means the one closest to the home because it is not  
45 a 10 foot in distance and the one located to the rear wall, if it is closer than  
46 three feet would have to be fire rated which means there's no openings

1 and no doors but to the sides of that structure can be both. So it can be  
2 fully enclosed.

3

4 Ferrary: Oh I see. Thank you for explaining that as well.

5

6 Crane: Mr. Saranam, Saranam, the people who came to see you were neighbors  
7 or City people?

8

9 Saranam: No they were City people. The first and the second set.

10

11 Crane: Code Enforcement or?

12

13 Saranam: I, I don't know but they told me what, the first set told me what they wanted  
14 me to do based upon the complaints. I did it. Then the second set were  
15 just somebody said "I see he's putting some pipe down, I don't know what  
16 he's doing." And then they said "can we come look at what you're doing"  
17 and I said yeah I'm doing exactly what the first set of officials told me to  
18 do.

19

20 Crane: And the reaction of that person was?

21

22 Saranam: He went back behind and I was working with, I had a meeting with some  
23 people and he, I didn't see him, he just left.

24

25 Crane: So you don't know which of the two methods is approved as of the  
26 moment?

27

28 Saranam: Well I, I do know that the issue that brought the first set of people to my  
29 door is resolved. But especially, if, if whether this is approved or not we  
30 can address this, but especially if somebody wants to come and tell me  
31 exactly if what I'm doing right now is okay, that's fine too, but nobody's  
32 gonna be seeing it on their property anymore. I've, I've piped it away.

33

34 Crane: Thank you. Anybody else, questions for Mr. Saranam?

35

36 Gordon: Just a question ...

37

38 Crane: Mr. Gordon.

39

40 Gordon: For Sara, have any of the neighbors. Have you had any responses from  
41 anybody adjacent to the property or in the neighborhood have objected to  
42 him doing this?

43

44 Gonzales: Mr. Chairman, Councilor Gordon. Yes, we, the only e-mail we received  
45 that was in negative response is the one that was sitting on your chair.

46

1 Gordon: But that's the ...  
2  
3 Gonzales: The other two were more just concerns. The structure, they wanted, the  
4 e-mail was based on postponing it for the structure based on drainage.  
5 There wasn't any concerns of the structure identified, it was more for the  
6 drainage. The other two e-mails were just addressing what was going to  
7 be in place and where it was going to be placed and how high the  
8 structure would be.  
9  
10 Gordon: But, but did they object or just was a question ...  
11  
12 Gonzales: No, they were just questions and concerns. They were just questions of  
13 what was being built.  
14  
15 Gordon: And were they answered?  
16  
17 Gonzales: Correct. Yes they were.  
18  
19 Gordon: And you've never heard a negative response.  
20  
21 Gonzales: No, no sir I have not.  
22  
23 Saranam: May, may I say something?  
24  
25 Gordon: Pardon?  
26  
27 Crane: Go ahead.  
28  
29 Saranam: Of course I'm biased because I want this built but this structure because of  
30 the set in nature of my backyard practically will not be seen by anybody. It  
31 does not affect anybody.  
32  
33 Crane: Okay. Any more questions for Mr. Saranam? Mr. Stowe.  
34  
35 Stowe: It said here in the package of information that I received, there's an  
36 alternate design option developing the structure as an accessory  
37 structure. How is that different from what you plan?  
38  
39 Crane: Ms. Gonzales.  
40  
41 Gonzales: I can, Commissioner. Basically it's just detached from the home. It is not  
42 attached to the home. So then it becomes a separate structure on its  
43 own. That's when it would have to meet the requirements of a Tier 3  
44 which requires that it's only allowed to be 30% of the rear yard coverage  
45 so it does put more of a restrain based on the size of the structure but it is  
46 not attached which means it doesn't have to vary from that 20 foot rear

1 yard setback. It still means it can be enclosed, it can still be a size within  
2 that 30%. Does that answer your, the question?  
3  
4 Crane: Would that kind of structure meet your personal needs Mr. Saranam?  
5  
6 Saranam: In terms of the swimming, absolutely. Probably. Would it be totally  
7 enclosed, the pool?  
8  
9 Gonzales: You can enclose the total pool. Correct.  
10  
11 Crane: On the mic please, your question again.  
12  
13 Saranam: The, the issue with the suggestion was that from my home I'd be literally  
14 looking at a wall. I wouldn't be able to see the pool. So the value of the  
15 property would just plummet in terms of that utter lack of visibility. It'd be  
16 literally like living in Brooklyn when I lived in Brooklyn. You'd see a brick  
17 wall in front of you. And so the, the beauty of looking out and seeing your  
18 pool, turning on at night, seeing the light of the, that's gone. Also I have to  
19 freeze my, my tuckus between the buildings. So there are those problems  
20 with, with that suggestion.  
21  
22 Crane: Do you regard it as an acceptable compromise?  
23  
24 Saranam: The, the, the problem is, is that either way the cost is nearly \$20,000. So  
25 to put, build, spend \$20,000 on something that is going to ruin the view of  
26 the yard, the backyard which is the, the, you know one of the selling points  
27 of the place was the, is the pool and the beauty of the blue water. I  
28 probably will not spend \$20,000 to diminish the value of the home and  
29 property.  
30  
31 Crane: Thank you. Ms. Ferrary.  
32  
33 Ferrary: Is there a chance that you could just enclose the three sides and it not be  
34 attached to the home and leave it open?  
35  
36 Saranam: It, it, any, you, you know New Mexico so any open space, a window even  
37 and it's cold. So a whole open side and it's not enclosed, it might as well  
38 not be there. The only value is if I can, I can, if, if it's an enclosed pool  
39 therefore it's, it's, I mean for example to, to heat it at 94 degrees when the  
40 heat is just rising up and the humidity of the pool is just going up in the dry  
41 cold weather, I, I would be filling the pool constantly first off. The heat, the  
42 cost of heating the pool in the winter versus let's say now in the summer is  
43 going to be probably \$1,500 per month in the winter. That, it's just not  
44 even feasible. But if it's enclosed winter, summer, it's actually cheaper to  
45 heat the pool and it's, it's actually, you know it's, it's a feasible thing to do.  
46 So any, any opening and ...

1  
2 Gordon: The neighbors are here.  
3  
4 Ferrary: Okay. Thank you.  
5  
6 Crane: Mr. Stowe. Okay. I guess no more questions for Mr. Saranam. Thank  
7 you. Members of the public. Anybody wish to, all right I see three hands  
8 go up and I saw these people first. You want me to take the lady in the  
9 back? Okay. Lady in the back in red. Come down, tell us who you are,  
10 I'll swear you in and then three minutes starts, okay.  
11  
12 Horton: Okay. I'm Jackie Horton.  
13  
14 Crane: Your name is?  
15  
16 Horton: Jackie Horton.  
17  
18 Crane: Jackie Horton. Ms. Horton do you swear or affirm that the testimony you  
19 are about to give is the truth and nothing but the truth under penalty of  
20 law?  
21  
22 Horton: Yes sir.  
23  
24 Crane: Go ahead please.  
25  
26 Horton: Okay. I own the property directly west of 2890 Morning Star. I believe the  
27 Las Cruces Building Codes and the setback requirements are in place to  
28 create and maintain cohesive, aesthetic quality of our City and our  
29 neighborhoods. That quality is diminished once a variance is accepted  
30 and allowed. Excuse me. And that aesthetic quality cannot be regained.  
31 I do sympathize with the applicant's health issues. I purchased my home  
32 in 1997. At that time my back yard was wide open and I had magnificent  
33 views of the mountains and as time progressed the neighborhood built up  
34 around me. As you saw in the pictures that back wall just went up in tiers  
35 and it cut my visibility significantly to the south and southwest and also  
36 made me feel a bit boxed in as you can imagine. Even so I've always  
37 cherished my ability to see just a little bit of the mountains and the  
38 openness from my backyard. I can also have views from several windows  
39 at the back of my property. I've always cherished this for the past 18  
40 years it's been a part of my life to look east whenever I open a window.  
41 Whenever I'm near a window that's just my habit. I look towards the  
42 mountains. I extended my patio further into the yard just to enjoy this view  
43 and to feel the openness that's back there. Regardless of the tiered wall,  
44 as you saw in the pictures.  
45 The proposed addition at 2890 Morning Star will disrupt all of that.  
46 It'll disrupt the aesthetic quality of our neighborhood. It'll total destroy my

1 precious small view of the mountains and a boxed in feeling to my  
2 backyard and home. We're all well aware of the value placed on mountain  
3 views in our City and you've heard their value to me; the mountain views  
4 and the openness. The property addition will not only decrease the value  
5 of my property but it'll decrease the quality of my life. Thank you.  
6  
7 Crane: Thank you. Any other member of the public? Gentleman in the red.  
8  
9 Hamrick: My name is Michael Hamrick.  
10  
11 Crane: Mr. Hamrick do you swear or affirm that the testimony you are about to  
12 give is the truth and nothing but the truth under penalty of law?  
13  
14 Hamrick: I do.  
15  
16 Crane: Go ahead please.  
17  
18 Hamrick: We are the neighbors just to the south, up above the big retaining walls.  
19 We oppose, my wife and I, we oppose the case A7, A1736 variance. To  
20 our knowledge this, the person submitting the application or the request is  
21 a tenant. He's not even an owner. The way we understand it. He is  
22 renting the, the house. We, we oppose this that it does not meet the  
23 setback per the codes that you all have in place. It will, from what we  
24 understand they've already been drilling into the wall. We understand that  
25 drilling into the wall can weaken the retaining walls that we have in place.  
26 Yes we do have a very large retaining wall. We know that. We don't want  
27 that to come down. Okay. As I stated previously we understand that  
28 they've already been testing the wall and we understand that they do not  
29 have a permit in place to be doing so.  
30  
31 Crane: Thank you Mr. Hamrick.  
32  
33 Hamrick: Okay. But we, we do oppose this at this time.  
34  
35 Crane: Any questions for Mr. Hamrick? Ms. Gonzales if, well let me ask Mr.  
36 Saranam, are you a tenant or are you the owner? You better, could you  
37 get on the mic, maybe there's a portable.  
38  
39 Saranam: For considerations not pertinent to this discussion, my mother is the,  
40 purchased it and I have yet to put myself on the warranty deed just  
41 because I'm, haven't been able to get to the, to the escrow company. But  
42 for all intents and purposes I could put my name on it tomorrow because I  
43 paid for it. But so it's my family's home. That, that's not a relevant issue  
44 to be honest. As far as the view, in all honesty I rarely do ever see my  
45 neighbor in her backyard. There is a huge oleander between her and I. I  
46 don't know how she can see anything across my pool especially when

1                   there's large fences on both sides of my property that she'd have to see  
2                   through. And the views there are not so magnificent anyway.  
3  
4   Crane:         Let me clarify a point. Does the fact that Mr. Saranam is not technically  
5                   the owner of the property invalidate this application?  
6  
7   Gonzales:     I'm gonna ask Katherine to help me with that.  
8  
9   Crane:         Could you get on the mic a little more please?  
10  
11   Gonzales:     I'm gonna ask Katherine to help me with that Mr. Chairman.  
12  
13   H-Rogers:     Mr. Chair, Members of the Commission, no we actually have a signature  
14                   of the property owner as is required when the applicant is, is not the  
15                   property owner.  
16  
17   Crane:         Okay.  
18  
19   H-Rogers:     So that's part of the application process.  
20  
21   Crane:         Thank you. May I suggest you stay there in case we need you again?  
22                   Any other member of the public wish to speak? Yes ma'am.  
23  
24   AUDIENCE MEMBER SPEAKING, NOT AT THE MICROPHONE.  
25  
26   Crane:         Ma'am if you want to speak, please come up.  
27  
28   Hamrick:      We're just curious as to why the drilling into the wall, is that going to be  
29                   addressed? If they're already doing some work without a permit.  
30  
31   Crane:         You're talking about drilling the holes in the wall that you're afraid will ...  
32  
33   Hamrick:      Yes.  
34  
35   Crane:         Weaken yours.  
36  
37   Hamrick:      That's ...  
38  
39   Crane:         Well it's a consideration which we will take into account if anybody has any  
40                   more technical information on that. Let's hear from you.  
41  
42   Saranam:      I can address the drilling.  
43  
44   Crane:         Sir.  
45

1 Saranam: The drilling is to, is screws, like wood screws, concrete screws about the,  
2 half the width of my finger to keep the pipe down which I was requested to  
3 put in by the first people who visited my home. This doesn't weaken a,  
4 you know a six foot concrete wall. Its little screws that I put in my walls to  
5 hand up painting. And I only put them there so that the pipe which I was, I  
6 thought I was told to put down wouldn't move around. That's it. And of  
7 course I have a contractor that would be building the structure and  
8 obviously he's not gonna do anything to, to lessen the integrity of the wall.  
9 There's no wall's gonna come down from this.  
10  
11 Crane: But the screws you're speaking of are already there, right?  
12  
13 Saranam: There, they're, yes.  
14  
15 Crane: Yeah.  
16  
17 Saranam: Cause that was, thought I was ...  
18  
19 Crane: Don't know for sure what the contractor's gonna do.  
20  
21 Saranam: Well the contractor's not gonna put screws in that part and if we build this  
22 that whole issue that I thought I was addressing is moot because we'll  
23 build in, with the structure a, a separate drainage. So this was only a  
24 temporary fix that I thought I was being asked to do by the first visit. It's  
25 not something I'm attached to.  
26  
27 Crane: Okay. Thank you. Any more public out, input. I see somebody at the  
28 back. And for those of you who might be getting uncomfortable when  
29 we're through with this matter I will call a ten-minute recess. Tell us who  
30 you are sir.  
31  
32 Hayden: My name is Jay Hayden.  
33  
34 Crane: Last name was?  
35  
36 Hayden: Hayden. H A Y D E N.  
37  
38 Crane: Do you swear or affirm Mr. Hayden that the testimony you are about to  
39 give is the truth and nothing but the truth under penalty of law?  
40  
41 Hayden: Yes I do.  
42  
43 Crane: Go ahead please.  
44  
45 Hayden: So my comment to the City would be two questions from a structural  
46 standpoint so, this is my property right here, so the applicant said he was

1 gonna build a wall, his, on top of the first retaining wall. So has the City  
2 done any structural analysis to see if that wall was built? I mean that wall  
3 was built as a retaining wall, I'm sure was not built to support a structure  
4 and serve as a wall for a house addition. And then my second question to  
5 the City would be where is the drainage of that roof structure going to be?  
6 Is it going to be to the side of this new structure draining into his yard or is  
7 this, the drainage off the roof gonna be into what we've all been referring  
8 to as the sidewalk that drains down below the, us, property owners above  
9 them as you can see, pointing the mouse, the drainage would then go  
10 down here and then run into Stellar Way. So again not knowing when this  
11 subdivision was built what that drainage was built water-wise to handle.  
12 So now you have another structure that's gonna be pretty large it sounds  
13 like, it's gonna have a lot of water coming off, especially on, during the  
14 heavy monsoon season. So those are the two questions I have, has the  
15 City considered this if they're gonna allow this permit to go forward or not.

16  
17 Crane: Thank you. Ms. Gonzales can you answer?

18  
19 Gonzales: Yes Mr. Chairman, Mr. Hayden. Based on the property, the drainage  
20 would be required to be located on site drainage so it would have to be  
21 maintained within the property. This area here and very little right here  
22 would be the impervious area that that property would have to be drained  
23 to if that structure was constructed. As far as the wall, the map here, they  
24 are not able to build here. They're going to actually build the structure  
25 within this property. So it won't be on a wall. It will be on the, the  
26 applicant's property within his property line. There's a zero setback on the  
27 property, however it will not be constructed on the wall. It will be up  
28 against it. Is that clear?

29  
30 Crane: Thank you.

31  
32 Hayden: Thank you.

33  
34 Crane: Any other member of the public? No. In that case we'll close input,  
35 discussion input from the public. Commissioners. Commissioner Stowe.

36  
37 Stowe: It seems like we, we are in need of some certificates or some technical  
38 approvals of what is being proposed. Either the two options available to  
39 the applicant. I, I'm hearing that those are requiring some approval,  
40 technical approval. Has that been looked into?

41  
42 Gonzales: Mr. Chair, Councilman. I'm not sure as far as technical approval. Our  
43 building official and as well as our engineering staff has reviewed it based  
44 on their requirements. If the structure was to be built, the drainage would  
45 have to be on site per engineering and then building would maintain that  
46 they have to do, they have to meet egress which is exit ways as well as

1 fire rating anything that is next to a wall or closer than three feet to a wall.  
2 So the building codes have been already reviewed. Those would be the  
3 requirements of the structure. If they were to, if the applicant chooses to  
4 take the second option which would be the accessory structure ...  
5

6 Stowe: Accessory.

7  
8 Gonzales: Correct, then he would have to fire rate both walls because the are closer,  
9 10 feet closer to the structure of the home, the main dwelling, and three  
10 feet closer to the rear property. So the guidelines are basically, they were  
11 given as far as the two options from the building staff's review, so they are,  
12 they have been reviewed and the recommendations would be to variance  
13 for the structure to be built to the zero property line, leaving only the seven  
14 feet on the two sides is what we're here for this evening, or to do the  
15 accessory structure.  
16

17 Stowe: And the applicant understands those two choices?

18  
19 Saranam: Yes I do. And may I also say that, or am I allowed to speak ...  
20

21 Stowe: Yes.  
22

23 Saranam: Am I part of the public? Oh that the zone, the code as it is and if I just  
24 followed it and not asked for variances, does not protect the view. I, it  
25 would be ruining the view either way. It only, my request from, from my  
26 version is that it just allows me to actually use it the way I want to use it.  
27 Secondly it does not protect the wall, The wall is protected either way, so  
28 worries about walls coming down is, is either way it's not an issue,  
29 whether I build it one version or the other. The only real difference is like I  
30 said before, one version is by the book but I can't see my pool, I have to  
31 walk in a building and out a building, it ruins the value of the property. The  
32 other version removes that wall. I'm still building all the other walls in the  
33 same manner and I don't mind fire rating the, the far, that wall anyway.  
34 But it just, it that wall that maintains the value of my property is, is not  
35 there and the, and the engineering and the contractors that I hired  
36 understands that and would be building accordingly to make up for the  
37 lack of that wall. There'd be extra pillars, blah, blah, blah.  
38

39 Stowe: Okay. Thank you.  
40

41 Crane: So Commissioners. Would somebody like to move that the, we have to  
42 vote on this matter in the positive sense so somebody move that this  
43 application be approved? Mr. Stowe are you moving?  
44

45 Stowe: Yes I move that Case number A1736 be approved.  
46

1 Crane: All right. And do I have a second?  
2  
3 Ferrary: I'll second.  
4  
5 Crane: All right. Second by Ms. Ferrary. And as Ms Harrison-Rogers pointed out  
6 with the last matter if you wish to use the, if you wish to vote to approve  
7 you cannot cite the findings in the, the City's work because they have  
8 recommended denial. So if you want to approve you have to come up  
9 with other reasons. Let's start with Mr. Gordon this time please.  
10  
11 Gordon: Based on site visit, findings, staff recommendations and also agency  
12 recommendations I vote no.  
13  
14 Crane: Mr. Stowe.  
15  
16 Stowe: I vote yes based on discussions this evening.  
17  
18 Crane: Okay. Ms. Ferrary.  
19  
20 Ferrary: Based on site visit, findings, and discussion I vote no.  
21  
22 Crane: And the Chair votes no based on findings, discussion and site visit. The  
23 motion fails one to three. Thank you. It being 10 after eight and quite a lot  
24 of people here for other business, let's take a 10 minute break and meet  
25 again at 8:20, get a little comfortable.

26  
27 RECESS OF 10 MINUTES.

- 28  
29 3. **Case A1737:** A variance application of Fluorescent Signs, Inc. on behalf of  
30 Mesilla Valley Business Park, LLC, property owner to allow one (1) additional  
31 freestanding sign on a property zoned PUD (Planned Unit Development),  
32 encompassing 0.757 +/- acres and located on the southeast corner of  
33 Roadrunner Parkway and Bataan Memorial East; a.k.a. 3090 Roadrunner  
34 Parkway; Parcel ID # 02-24740. The subject property currently contains the  
35 maximum permitted one (1) freestanding sign. The proposed variance would  
36 permit two (2) freestanding signs on the property. Council District 6  
37 (Councilor Levatino).

38  
39 Crane: All right ladies and gentlemen. Welcome back. The next case is A1737:  
40 A variance application for a second sign on the property at 3090  
41 Roadrunner Parkway. Mr. Ochoa will speak. Go ahead sir.

42  
43 Ochoa: Yes sir. Thank you. Next case for tonight for your considerations is  
44 Variance Case A1737: A request for a variance to the maximum number  
45 of permitted freestanding signs on a property for a property located at  
46 3090 Roadrunner Parkway. Subject property is located here in the hash

1 mark, as you can see zoned PUD. It is part of what we call the Northrise  
2 Business Park PUD located on kind of like northeast side of Roadrunner  
3 Parkway and south of Highway 70 and Bataan Memorial East. The  
4 section of the code that we're actually looking at tonight is under the Las  
5 Cruces Sign Code. It is Section 38-46.6 which states that the number of  
6 permitted freestanding signs is limited to one per lot in the City of Las  
7 Cruces.

8 Like I stated before the property is on PUD, Planned Unit  
9 Development and it is part of the Northrise Business Park. It is, current  
10 use of the property is an, is a restaurant actually Domino's restaurant on  
11 that subject property. The applicant is seeking to install a new  
12 freestanding sign on the property where one freestanding sign already  
13 exists for a grand total of two freestanding signs on the property. The  
14 existing sign currently exists fronting Roadrunner Parkway. The new sign  
15 would be facing Bataan Memorial East or US-70 essentially. All other  
16 requirements of the Sign Code for the proposed new sign would have to,  
17 and as proposed will meet all requirements of the City of Las Cruces Sign  
18 Code. The applicant believes they are justified on, with this variance  
19 request stating that the additional sign is needed to provide for more  
20 visibility for the actual business along US Highway 70 and Bataan  
21 Memorial before potentially increasing gross tax receipt, increasing  
22 business visibility and traffic flow, customer traffic flow into the property,  
23 and potentially increasing employment positions in the restaurant. The  
24 applicant has also provided in your staff report a letter from the Northrise  
25 Business Park Design Committee who is a committee who reviews all  
26 development in that area and they have approved the proposed new  
27 freestanding sign as proposed by the applicant.

28 Subject property here seen in the aerial map, Roadrunner along  
29 here, Bataan Memorial East up here, the existing sign as he stated before  
30 is located roughly around here at the entrance along Roadrunner  
31 Parkway. The new sign would be located here fronting Bataan Memorial  
32 East. Here on the site plan showing a little bit better existing sign like I  
33 stated and where the new sign would be located fronting again Bataan  
34 Memorial East. Here is a proposed sketch of what that sign would look  
35 like. This was proposed by the applicant and a proposed street view what  
36 that sign would look like if you were driving on Bataan, I'm sorry on US  
37 Highway 70.

38 When staff reviewed this proposed variance staff did not see any  
39 significant, significant health, safety, or welfare issues for the proposed  
40 variance but staff does see that the, or as stated before in other variances  
41 where additional signs or taller signs were required, there are other  
42 existing options in the sign code that the applicant could do to meet their  
43 needs for more visibility and more potential advertisement, one being  
44 working with NMDOT to locate those blue information signs along  
45 Highway 70 or Bataan Memorial East directing customers to the, the exit  
46 and the location of the proposed, of the restaurant at the exits of Highway

1 70. The other option that they have is also actually relocating the existing  
2 sign that they have now at the entrance along Roadrunner Parkway to the  
3 proposed location along Bataan Memorial East and utilizing other signs  
4 for, other permitted signs along Roadrunner Parkway, them being  
5 entrance signs, I'm sure we've all seen them for example like the small  
6 four-foot-tall McDonald's sign that says "Entrance" with the arch on top.  
7 That'd be something they could definitely use and would not even need a  
8 sign permit for those as long as they meet all requirements of the Sign  
9 Code. So based on that and based on staff findings found in your staff  
10 report and the options available for the applicant, staff believes that the  
11 proposed variance does not meet those strict variance criteria as outlined  
12 in the 2001 Zoning Code and therefore staff does recommend denial  
13 based on the findings found in your staff report. And these are those  
14 findings, again stating simply one, just one freestanding sign is permitted  
15 per lot in the City of Las Cruces as permitted by the Las Cruces Sign  
16 Code.

17 Your options tonight ladies and gentlemen is: 1) to vote "yes"  
18 approve Case A1737; 2) to vote "yes" and approve Case A1737 with  
19 conditions deemed appropriate by the P&Z; 2) to vote "no" and deny Case  
20 A1730, A1737 as recommended by staff; and 4) table/postpone and direct  
21 staff accordingly and the applicant accordingly. Again, variances are a  
22 final, final authority of the Planning and Zoning Commission and just to let  
23 you know staff did not receive any public input for the proposed variance.  
24 But that is the conclusion of my presentation. I stand for questions. The  
25 applicant is available for questions as well.

26  
27 Crane: Thank you Mr. Ochoa. Commissioners. Commissioner Ferrary.

28  
29 Ferrary: Mr. Ochoa. You just mentioned that the sign that is down at the bottom of  
30 the hill could be smaller and like a McDonald's "Entrance" sign and then  
31 they could either replace that sign or do another sign up at the top of the  
32 hill that would be more visible for traffic on Highway 70.

33  
34 Ochoa: Mr. Chairman, Commissioner Ferrary. Essentially yes. What they could  
35 do is remove the sign that's located now on Roadrunner Parkway, build  
36 their proposed sign which is larger than what's existing along, excuse me  
37 Bataan Memorial East and utilizing what we call directional signs at that  
38 front entrance along Roadrunner Parkway, which are signs that are  
39 allowed by right for the property, four feet tall that have a, a generic saying  
40 like "Entrance," "Welcome," "Thank You," you know whatever and then  
41 they could have their logo on it as well so they could have the actual  
42 Domino's logo as this. It cannot say "Domino's" but it can have their logo  
43 and they are allowed to have those by right as long as they meet all those  
44 requirements. Where, I'm sorry which includes the sign require, the size  
45 requirements of maximum of four feet in height and six square feet in size  
46 and those signs can be illuminated and one can be located on one side at

1 the entrance and another one can be located at the exit side as well.  
2  
3 Ferrary: Thank you.  
4  
5 Crane: Commissioner Gordon.  
6  
7 Gordon: I was there today to look at it and I don't remember whether or not on the  
8 south side of the building, which is the opposite side of where they want to  
9 put the new sign, is, is there something on the, on the side of the building  
10 that says "Domino's?"  
11  
12 Ochoa: Mr. Chairman, Commissioner Gordon. There are a number of attached  
13 signs on the property. The attached signage is allowed by right as well.  
14 They can do additional attached signage ...  
15  
16 Gordon: No.  
17  
18 Ochoa: As well.  
19  
20 Gordon: I mean ...  
21  
22 Ochoa: But they do have signs.  
23  
24 Gordon: I know but is there a sign on the south side of the building that says  
25 "Domino's?"  
26  
27 Ochoa: Mr. Chairman. I will let the applicant speak about that sir.  
28  
29 Gordon: Oh?  
30  
31 Ochoa: But I, I believe he has stated that he does not think there is a sign.  
32  
33 Gordon: Because I think, I think that's a wonderful suggestion. Change the sign at  
34 the bottom of the driveway, put a sign on the south side of the building that  
35 says "Domino's" and put your new sign up on Bataan Memorial. I, I think  
36 that that's probably where a lot of your traffic would, I'd like to address the,  
37 the applicant.  
38  
39 Ochoa: Sure.  
40  
41 Gordon: If I could.  
42  
43 Crane: Any other questions for Mr. Ochoa? Okay. Thank you sir. The applicant  
44 please. Tell us who you are.  
45  
46 Joy: Lawrence Joy.

1  
2 Crane: Mr. Joy do you swear or affirm that the testimony you are about to give is  
3 the truth and nothing but the truth under penalty of law?  
4  
5 Joy: Yes sir.  
6  
7 Crane: Go ahead please.  
8  
9 Gordon: Okay. Thank you. What was I going to say? All right. The, oh.  
10  
11 Crane: Well. Excuse me. Would you care to make a presentation first or if you ...  
12  
13 Joy: All right.  
14  
15 Crane: Or want to go right to Mr. Gordon's question?  
16  
17 Joy: Give me a microphone and I have a, you know love talking.  
18  
19 Crane: You got a mic. Well okay. Let's ...  
20  
21 Joy: Okay.  
22  
23 Crane: Get Mr. Gordon's question.  
24  
25 Gordon: Do you find it would be more advantageous to have the proposed signage  
26 you wanted on, on Bataan or to leave the one that's down at the bottom of  
27 the hill and ...  
28  
29 Joy: See one of the things and let's, it, how do I navigate back to your part of  
30 the presentation here? You went out to the property today, yes?  
31  
32 Gordon: Yes. Yeah.  
33  
34 Joy: Hopefully you would agree with me that this is one of the more unique  
35 business properties in the City of Las Cruces in that we're a Roadrunner  
36 address, okay. And if you're driving on Roadrunner the business is a good  
37 40 feet up above your head.  
38  
39 Gordon: Right.  
40  
41 Joy: It's up there on a hill. So of course we have our best sign meeting all code  
42 at this point in time at the entrance on Roadrunner.  
43  
44 Gordon: Right.  
45  
46 Joy: The fact that it's a, such a unique location, a unique property and again

1 we're a unique business in that we're not just a retail business where  
2 people pull in and out of our parking lot which our current signage is what  
3 directs people to do but we're also a service business that provides  
4 service to that entire area there on the East Mesa. So the ability for  
5 people to see that attractive monument sign would be very beneficial to  
6 the business itself. We are located in a PUD and the development, we've  
7 been working with them for months trying to come up with this option to  
8 present to you and to seek being able to build this sign. The development  
9 will not allow any type of a pole sign so of course we have a, a lovely  
10 attractive monument sign.

11  
12 Gordon: Right.

13  
14 Joy: Designed and ready to go in place so we are looking to communicate with  
15 the people that are driving by at road level at business level.

16  
17 Gordon: Right.

18  
19 Joy: So I picked up a copy early, on my way in and your traditional American  
20 business has a sign in the air out in front of their business. This particular  
21 property, we're facing north so we're not even facing Roadrunner.

22  
23 Gordon: Right.

24  
25 Joy: We face Highway 70 and the sign going up in the corner of the property,  
26 there's no obstruction. There's no ...

27  
28 Gordon: Right.

29  
30 Joy: Neighbor.

31  
32 Gordon: Yeah.

33  
34 Joy: There's no problem with fire, you know people pulling out of an  
35 intersection and having an issue with the sign. So it's simply to make it a  
36 more attractive business, making that property more attractive and  
37 specifically this business more attractive. I, I project a nice sales increase  
38 and more gross receipts tax for the City.

39  
40 Gordon: Let me ask you then would, how about the suggestion that was just  
41 proposed, just making this small little sign at the bottom of the driveway,  
42 making sure you have a nice sign on the south side of the building, put  
43 your new sign up on Bataan, would that satisfy you?

44  
45 Joy: It is an option but then again I come back to the point that we're a  
46 Roadrunner address and so to have a directional sign pointing people to

1 the property down here at the, the bottom of the hill, that's the entrance to  
2 the business.  
3  
4 Gordon: Right.  
5  
6 Joy: Every business has an attractive sign at the entrance of their business as  
7 opposed to a directional sign. So again we're seeking the variance simply  
8 because this is a very unique property. It, it's totally unique to, I've been  
9 trying to think and I've been driving around town, "Is there another  
10 property that I can you know show you that would be of a similar nature?"  
11 And I, and I don't have one in mind at all so that's the reason why we're  
12 requesting the variance.  
13  
14 Gordon: All right. Thank you very much. Thank you.  
15  
16 Joy: Thank you sir.  
17  
18 Crane: Any other questions for the applicant? No? I thank you sir.  
19  
20 Joy: I thought about bringing pizzas to the meeting tonight. I had no idea that  
21 the Verizon issue was, it's good that I wouldn't have brought enough but  
22 that's ...  
23  
24 Crane: You're suggesting we could be bought with pizza?  
25  
26 Joy: No, no, no, no, no. That was, this is what I do. I take pizzas where I go.  
27 We are, this is the nature of our business so no, of course not.  
28  
29 Crane: It, it would have made things very awkward.  
30  
31 Joy: And beyond that I missed lunch myself so I'm hungry so, thank you for the  
32 opportunity to speak in front of you today.  
33  
34 Crane: Okay. Any members of the public wish to address this? Well then  
35 Commissioners what is your wish? Will somebody please give us a  
36 motion that we can work on? I sense that Mr. Stowe is about to move that  
37 this Z20, oops wrong one, Z1737 be approved.  
38  
39 Stowe: A1730, I propose that Case Number A17, A1737 be approved.  
40  
41 Crane: All right. Is there a second?  
42  
43 Gordon: I second.  
44  
45 Crane: Second by Mr. Gordon. Okay. Is there any discussion before we vote? I,  
46 you have something to say Mr. Stowe?

1  
2 Stowe: Just that we had a short discussion a few minutes ago and it seems to be  
3 perfect, perfectly logical that ...  
4  
5 Crane: I agree.  
6  
7 Stowe: Let's go forward with it.  
8  
9 Crane: It seems that Domino's here is a victim of topography and in a good way  
10 they're up on a hill and in a bad way yes you can't see the place from  
11 several directions and it seems to me this is an appropriate variance. It  
12 doesn't create a nasty precedent and my inclination is to approve and if  
13 that's the inclination of any of you, again because the City recommends  
14 denial we'll have to come up with our own reasons for approval. We  
15 cannot cite the City's views.  
16  
17 Stowe: The, one of the, one of the, one of the reasons for voting yes is that it is a  
18 very unique property.  
19  
20 Crane: Yeah. Yeah. Okay. We'll start the voting with Ms. Ferrary this time.  
21  
22 Ferrary: I vote yes regarding discussion and site visit.  
23  
24 Crane: Mr. Stowe.  
25  
26 Stowe: I vote yes based on discussions this, this evening.  
27  
28 Crane: Mr. Gordon.  
29  
30 Gordon: Based on site visit and our discussion I also vote yes.  
31  
32 Crane: Yes.  
33  
34 Gordon: Yes.  
35  
36 Crane: And the Chair votes yes based on discussion and site visit. The motion  
37 passes four/nothing. Thank you.  
38

39 **MOTION PASSES UNANIMOUSLY.**

- 40  
41 4. **Case Z2888:** An application of Gary Krivokapich requesting a zone change  
42 from R-3 (Multi-Dwelling Medium Density) to R-3/C-3C (Multi-Dwelling  
43 Medium Density/Commercial High Intensity-Conditional) for a 4.2 +/- acre  
44 property located on the northeast corner of Farney Lane and El Paseo Road:  
45 a.k.a. 801 E. Farney Lane; Parcel ID# 02-11764. Proposed use: A mixed  
46 use commercial and/or residential development. Council District 2 (Councilor

1 Smith).

2  
3 Crane: Next item up is Case Z2888: Application to a, for a zone change on a plot  
4 of land at Farney and El Paseo, 801 East Farney. Mr. Ochoa.

5  
6 Ochoa: Yes sir. Next case is as you stated zone change Case Z2888. It is a  
7 proposed zone change from R-3 to R-3/C-3C at 801 East Farney Lane.  
8 Subject property is located here in the hash marked area with El Paseo  
9 running along on this side here, Farney to the south, and West Park Drive  
10 to the east. Las Cruces High School is here to give you a little bit bearing  
11 of where this property is located at. It is located on the northeast corner of  
12 Farney Lane and El Paseo Road and currently encompasses roughly 4.2  
13 acres. It, it is currently zoned R-3, multi-dwelling medium density and is  
14 located in Council District 2 in the City of Las Cruces. There is currently a  
15 single-family residence on the subject property, on the small portion of  
16 subject property actually located near that intersection of Farney Lane and  
17 El Paseo Road. Just to give you a little bit of background on this property,  
18 this property was actually approved for a Planned Unit Development back  
19 in 2004, the concept plan essentially stating it would follow all  
20 development standards of the, what was called then the Crescent Center  
21 Development Plan. But since that PUD was not vested a final site plan  
22 was not submitted and no type of work was done to vest that PUD. The  
23 PUD actually expired in 2009 which is what brings us now, brings the  
24 applicant now before you for a proposed zone change. Shown here the  
25 aerial, as you can see a vastly vacant piece of property here, that small  
26 residential property located on the southwest corner of it, Las Cruces  
27 lateral is located to the west, there is a church to the north, single-family  
28 residential surrounding the, the west and the south, and a park to the east.

29 The applicant is proposing a zone change to R-3/C-3C which is  
30 multi-dwelling medium density as it exists now/commercial high intensity  
31 conditional. The proposed zone change is, is being proposed by the  
32 applicant to allow for the flexibility to develop the subject property and  
33 potentially even develop the property with mixed uses: Commercial,  
34 residential, and office uses on the property. With the proposed zone  
35 change the applicant did submit a, a list of prohibited uses and other  
36 restrictions that would be placed on the property as a condition. The  
37 reason for this is the applicant was hoping to help mediate any conflicts  
38 with the neighbors in the surrounding area and he just felt that these were  
39 uses that, that he deemed and he, possibly the neighborhood deemed  
40 undesirable and inappropriate for the area.

41 Because of the magnitude of the zone change though, staff did  
42 require the applicant to provide early notification to the surrounding area.  
43 That early notification letter did go out and a meeting was requested by  
44 some surrounding property owners and it was provided by the applicant.  
45 During the meeting several issues and concerns were discussed and as a  
46 result of that the applicant actually came back to staff with a number of

1 other conditions or prohibitions for the proposed zone change, again to  
2 help mediate any conflict with the surrounding neighbors.

3 When staff took a look at this proposed zone change we, we, when  
4 we were analyzing it we, we saw this property is actually located in the  
5 Infill Development area. It is a vacant piece of property and underlie,  
6 underutilized piece of property in the center of the city and this, we feel  
7 that this proposed zone change will help encourage a development of this  
8 mostly vacant infill property. Subject property is also adjacent to El Paseo  
9 Road which is a minor, minor arterial roadway as designated by the  
10 Mesilla Valley Metropolitan Planning Organization and is in close proximity  
11 to NMSU where this proposed zoning and uses are encouraged. The  
12 proposed zone change is also supported by the Comprehensive Plan, the  
13 purpose and intent of Section 38-2 of the 2001 Zoning Code and it also  
14 does, does meet some of the goals and intents of the lot, the El Paseo  
15 Corridor Community Blueprint which is a, a policy that is actually located in  
16 this area as well.

17 Just to let you know, notice was sent out to all the relevant  
18 agencies and departments. Nobody saw any major issues with the  
19 proposed zone change. Traffic Engineering did state that they will require  
20 a traffic impact analysis at the time of development to see what type of  
21 road improvements or access improvements would be required of the  
22 development and notice was sent out to the surrounding properties  
23 following all City and State statute requirements. When I did this, pardon  
24 me when I did this slide show I didn't have no public input at the time but  
25 before you, you do have an e-mail from the surrounding property owners,  
26 or a property owner in the surrounding area that has some concerns with  
27 the proposed zone change.

28 With that though staff does recommend approval with conditions for  
29 the proposed zone change based on the findings found in your staff  
30 report. The Planning and Zoning Commission is simply a recommending  
31 body to City Council where this will actually go before them for final action.  
32 Here are the recommended findings for approval found in your staff report  
33 that staff has stated for supporting that proposed zone change and here  
34 are the conditions for approval which are found in your, in Attachment  
35 Number Four in your staff report. As you can see here the property owner  
36 does have a large number of prohibited uses that he had plus some  
37 additional ones that he put on there after his public notice meeting. There  
38 are also some other limitations or prohibitions of limiting the number of, of  
39 multifamily dwelling units on the property if that gets developed, limiting  
40 restaurants' liquor/alcohol sales, limiting package alcohol sales for, for, for  
41 different businesses that sell package liquors, alcohol sales, and also a  
42 prohibition on business operations happening between the hours of 12  
43 a.m. and 6 p.m. The applicant has also let me know before we actually,  
44 the meeting started, he would like to add some additional conditions if you  
45 would like to vote to approve this with additional conditions other than that  
46 what's stated in Attachment Number Four essentially limiting the maximum

1 height permitted for any type of development on the property to 35 feet so  
2 that'd be the maximum height permitted for building in that property as well  
3 as limiting or prohibiting the use of manufactured homes and, and, and  
4 mobile homes on the property. By doing this the applicant feels now his  
5 permitted uses on the property are mirrored or the same as a commercial  
6 medium intensity zoning district now instead of a high intensity zoning  
7 district on the property.

8 With that ladies and gentlemen is your options: 1) to vote "yes"  
9 vote to recommend approval for the proposed zone change as  
10 recommended by staff with conditions; 2) to vote "no" and recommend  
11 denial for the, for the proposed zone change to City Council; 3) vote to  
12 amend where you can again modify and add additional conditions to the  
13 proposed zone change as deemed necessary by the P&Z; and 4) vote to  
14 table and postpone the proposed zone change and direct staff and the  
15 applicant accordingly. That is the conclusion of my presentation. The  
16 applicant is also available for any questions.

17  
18 Crane: Thank you Mr. Ochoa. Mr. Gordon do you have a question for Mr.  
19 Ochoa?

20  
21 Gordon: No.

22  
23 Crane: No. Anyone else? Appears not. Thank you. The applicant present?  
24 You're Mr., I knew I was going to have trouble with this ... Krivokapich.

25  
26 Krivokapich: Krivokapich or Krivokapich if you want.

27  
28 Crane: Okay. Mr. Krivokapich do you swear or affirm that the testimony you are  
29 about to give is the truth and nothing but the truth under penalty of law?

30  
31 Krivokapich: Yes I do.

32  
33 Crane: Go ahead please.

34  
35 Krivokapich: Thank you for your time and your service to the City of Las Cruces. I'm a  
36 native New Mexican and graduated from New Mexico State University.  
37 My parents purchased the property in 1965 while they were going to  
38 graduate school at NMSU. As it was stated and I'll try to cut some of this  
39 out, we, we obtained a PUD in 2004 with only commercial uses. We tried  
40 marketing that. It was just way too restrictive so we came back in July to  
41 basically add residential uses back in to give a mixed use into, and, and to  
42 bring it into synch with the Corridor Plan because the Corridor Plan is  
43 calling for a mixed use, usage in the area. We're, then again we're  
44 proposing C-2, I mean C-3/R-3 zoning with the prohibited uses that we've  
45 brought forward from our PUD and also we've met with a group and we  
46 came up with uses, and the group is also able to hand us sheets of paper

1 to say, "Hey this is what is bothering," we've had about 11 of those. We  
2 tallied those back up to see what we could do to meet their needs. And  
3 really it ended up where the property owner said, their spokesman was  
4 that "If you take it, take it to C-2/R-2 we'll be happy." Well there's one  
5 problem with that. C-2 does not accept, our, our property's too big for C-2.  
6 So what I did, one thing I did is I went through all the zoning on C-2 and C-  
7 3 and the only really difference was manufactured homes and flea  
8 markets. So those we can prohibit, that's not a problem. So basically  
9 then we went back in and said, "Well we can live with 15, with 16  
10 residential units instead of the, the 20." So it's essentially C-2/R-2 in uses.  
11 Okay and I, I really basically what, has, how we see the zoning is a really  
12 win for everybody. It increases the probability that this property will be  
13 developed. It will help provide a dynamic corridor into NMSU and into the  
14 City of Las Cruces. It will provide a walkable, bike-able businesses and  
15 residential. It would definitely increase the revenue to the City and will  
16 provide a development that protects the neighborhood but, and also  
17 enhances the neighborhood. Again I'd like to thank you for your time and  
18 your consideration. Thank you very much. And you have any questions  
19 just ...

20  
21 Crane: Thank you Mr. Krivokapich. Commissioners, questions for the applicant?

22  
23 Ferrary: This is more of a ...

24  
25 Crane: Commissioner Ferrary.

26  
27 Ferrary: Comment. It sounds like you all worked really well together with the  
28 community and you know you as a, an, property owner and that  
29 everything that a neighborhood would not like to have you're fine with and  
30 but they would like to have of, is a walking community and businesses that  
31 they can go to and you know be a part of where they're already existing,  
32 the church and the development. Sounds like a very nice way to  
33 compromise.

34  
35 Krivokapich: Thank you.

36  
37 Crane: Anyone else? Apparently not. Thank you sir. Any members of the public  
38 wish to address this? Okay. I saw the lady in white first. Tell, tell us who  
39 you are please.

40  
41 Ames: Judith Ames.

42  
43 Crane: Ms. Ames do you swear or affirm that the testimony you are about to give  
44 is the truth and nothing but the truth under penalty of law?

45  
46 Ames: I do.

1  
2 Crane: Carry on please.  
3  
4 Ames: My husband and I are residents of Farney Lane, apparently too far away  
5 to have been notified of this public meeting, the neighborhood meeting so  
6 we were unaware of it. We are extremely concerned about traffic. The  
7 traffic is very, very frequently 50 miles an hour on our 25 mile per hour  
8 street and we don't have enforcement to alleviate this very often. I know  
9 the police have other things to do but the increased traffic is a little  
10 frightening actually so I wonder about what, what about traffic impact.  
11 No?  
12  
13 Crane: Thank you.  
14  
15 Ames: The property does need to be developed. It's, it looks awful and it would  
16 be great to have it used but we're, as I said we're concerned about the  
17 traffic and I would like to know if the gentleman who spoke to us about the,  
18 the property plans to develop it himself or sell it because I wonder if all  
19 these conditions would apply to a purchaser or only to him if he develops it  
20 himself.  
21  
22 Crane: Thank you. We'll get some answers for you. Mr. Ochoa. Regarding the  
23 conditions being applicable to somebody else who develops the property.  
24  
25 Ochoa: Mr. Chairman. To answer that question, the conditions run with the  
26 property. They are prohibitions so they will stay with the property and the  
27 zoning will stay with the property. Doesn't matter whether the property  
28 owner develops or he sells it and somebody else develops it. Those  
29 conditions stay on the property.  
30  
31 Crane: And regarding traffic that will be dealt with at some point when detailed  
32 plans are developed?  
33  
34 Ochoa: Mr. Chairman. That is correct. Like I stated before Traffic Engineering did  
35 state they will require a traffic impact analysis before the development of  
36 this property. With that traffic impact analysis they will look at you know if  
37 there are any road improvements required to Farney Lane to  
38 accommodate for any additional traffic or whether even access will be  
39 allowed to Farney Lane and just strictly allowed only like on El Paseo or  
40 West Park as a secondary access point. Unfortunately we don't have that  
41 traffic impact analysis because we don't know exactly what's going in  
42 there yet but when the development does happen, that will have to  
43 happen sir.  
44  
45 Crane: Thank you. Any other member of the public? Gentleman in the blue shirt.  
46

1 Haynes: Good evening. Scooter Haynes.  
2  
3 Crane: Tell us who you are please.  
4  
5 Haynes: Scooter Haynes. Scooter Haynes.  
6  
7 Crane: Haynes?  
8  
9 Haynes: Yes.  
10  
11 Crane: Okay. Do you swear or affirm that the testimony you are about to give is  
12 the truth and nothing but the truth under penalty of law?  
13  
14 Haynes: I do.  
15  
16 Crane: Go ahead.  
17  
18 Haynes: Good evening Commissioners, Mr. Chairman. I'm an adjacent property  
19 owner to the subject property in the Heritage Farm subdivision across  
20 Farney Avenue highlighted on your subject map there in blue. I would like  
21 to start with the fact that Mr. Gary has been very easy to work with. I  
22 appreciate all of his concessions but his testimony did, and, and his  
23 accommodations have been slightly in his favor and so I would like to also  
24 mention that I am in favor of development of the property and in favor of  
25 the zone change in general. With that said I, I need to draw your attention  
26 to the proposed use in your packet and also in his testimony this evening.  
27 He mentions that the proposed use is a potential new development made  
28 up of limited commercial and office uses as well as possible residential  
29 uses. The applicant is not able to say that as he is not the potential  
30 developer. He is simply a property owner that is trying to sell that piece of  
31 property. Without being the developer he cannot represent the potential  
32 future uses. To that note it would be very helpful through this whole  
33 process to have had a site development plan that neighbors could review,  
34 discuss, and approve. I've been told by staff that there is not a process  
35 within the City that would allow a, a site, a site development plan to be  
36 brought back before this body for public comment and consideration. If  
37 there was that would be a condition that I would like to place on this zone  
38 change. Furthermore if that is not available I think we can make this  
39 better with a, a, a, a few additional conditions, primarily being no drive-  
40 thrus which go to previous testimony, increase traffic and do harm  
41 potential neighbors and also height. As you can see and I, I, Adam if we  
42 could go back to the aerial the majority of the surrounding area is in  
43 single-family residences. As single-family residences a three-story  
44 apartment complex or commercial development in this property would not  
45 be conducive to, to the neighborhood and therefore I would suggest that a,  
46 that the 35-foot condition that the applicant is suggesting is not reasonable

1 and a more reasonable height would be in the 20 or 22-foot condition.  
2 Tonight you, this body must make a, a decision based on a number of  
3 criteria: 1) Does it impair an adequate supply of light, air, and air to  
4 adjacent property or otherwise adversely adjoining properties? I would  
5 suggest that yes it does without additional conditions. Number two: Does  
6 it unreasonably increase the traffic in public streets? Yes it does without  
7 additional conditions. Number seven: It, would it constitute a spot zone  
8 and therefore adversely affects property values? Yes it would. Adam,  
9 one more time how do I get to the surrounding property picture? As you  
10 will notice there is no other commercial zoning. A number of, of  
11 residential, single-family residential, it would constitute a spot zoning.  
12 Again while I am in favor of that it is something this body must consider.  
13 Lastly, for the record I believe that it has been brought to my, well I, I don't  
14 believe it has brought to my, been brought to my attention that the posting  
15 does say, have an incorrect date on it and so I just would like that on the  
16 record for, for, for the, the Commission this evening. I stand for any  
17 questions.

18  
19 Crane: Thank you. Mr. Ochoa. I, I think your answer to a, a question before  
20 applies here, that the, the zoning change should we vote for it with these  
21 conditions will obligate the, whoever develops the property, whoever  
22 actually makes decisions as to what goes in there, correct?

23  
24 Ochoa: Mr., Mr. Chairman. That is correct. All conditions will stay with the  
25 property as I stated before so all conditions that would state, that we place  
26 on it tonight and then if City Council goes ahead and approves it as, as  
27 stipulated, those conditions will stay with the property sir.

28  
29 Crane: Thank you.

30  
31 Haynes: If I could address the Commission for a moment more. Chairman, Mr.  
32 Commissioners. It, my point to that is I understand that the, the conditions  
33 run with the property. My, my issue with that is that the applicant is  
34 representing that a walkable you know a, a, a, community-enhancing  
35 development is proposed and, and I, I can't accept that for truth in this  
36 matter unless he is the developer. And to date he has not represented  
37 that he is the developer and so that, that leads me to the desire to have a  
38 developer present this body and the public with a site development plan  
39 that, that the neighbors can review to actually determine if it is a walkable,  
40 community-enhancing development. The applicant is not in a position to  
41 make those representations at this time.

42  
43 Crane: Can you help us Mr. Ochoa?

44  
45 Ochoa: Mr. Chairman. He is correct that, that a site plan wouldn't have to come  
46 back before you. That is something that is taken care of administratively,

1 reviewed and finally potentially approved administratively but I'd like to  
2 remind the Planning and Zoning Commission tonight also that this  
3 property is located in the El Paseo Community Corridor Blueprint which  
4 actually is a policy that staff can reference to that requires those types of  
5 uses of walkability, providing pedestrian access and so forth like that when  
6 the development does come in for review.  
7  
8 Crane: That can be required, it's not simply a recommendation?  
9  
10 Ochoa: Mr. Chairman. That is something that the, that staff and the potential  
11 future developer would have to basically negotiate with us to see if, what  
12 they can do to meet those requirements sir or those goals. Excuse me.  
13  
14 Crane: Thank you. Any other member of the public wish to address, gentleman in  
15 the red shirt. Oh, Mr. Ochoa's coming back.  
16  
17 Gordon: Mr. Chair wait.  
18  
19 Ochoa: Mr. Chairman. Also just to address the issue about the height  
20 requirement, the applicant is proposing as I said to add a, an additional  
21 condition of limiting the maximum height of any development on the  
22 property to 35 feet. Thirty-five feet is actually the maximum height  
23 permitted for all that residential zoning district around them including the,  
24 the neighborhood to the south and to the west, sir. Houses are allowed to  
25 go two stories in height which is about 35 feet in height and that's what he  
26 would be, is proposing for his property as well sir.  
27  
28 Crane: Thank you.  
29  
30 Gordon: Mr. Chair. Mr. Chair.  
31  
32 Crane: Yes Mr. Gordon.  
33  
34 Gordon: But aren't we trying to put the cart before the horse? I mean how can you  
35 expect a developer, unless he has someone who is interested at the  
36 moment in buying the property come in here and telling us basically what  
37 they're planning to do with it, I mean he's just asking for a, a zoning  
38 change with these conditions and telling us what he will allow or not allow  
39 based on the, on the conditions that are in this schedule. I don't  
40 understand how the gentleman can expect to, to answer your question.  
41 Could you please come back to the microphone? How can, how can you  
42 answer that question about what is going to be there if, if we don't have  
43 someone who's at the moment is, is interested in buying the property?  
44 You have to get the zoning approval first.  
45  
46 Haynes: Absolutely correct and I am in agreement with that but without a developer

1 asking for this zone change and, and able to tell us what is going to be  
2 there, there are representations made that I, I cannot agree to being  
3 accurate and that is to my point that we would like to see a site  
4 development plan in the future if, if this body would, would make that a  
5 condition that the, that the neighborhood could review and have public  
6 input on. Without that, additional conditions are needed to make it  
7 conducive to the community and, and fit in.  
8  
9 Gordon: So, so what you're saying that if in the future, if, let's say we grant this and  
10 then with the condition that you would like to see in the future if it, if, if, if  
11 the property owner has a developer who's willing to buy it and develop the  
12 property must present a site plan.  
13  
14 Haynes: Correct.  
15  
16 Gordon: Which would come back to us, all right at which point you would have your  
17 time to come and comment.  
18  
19 Haynes: Correct.  
20  
21 Gordon: But that does not prohibit that site plan from happening even if you don't  
22 agree.  
23  
24 Haynes: That is correct. It would be at the discretion of this body.  
25  
26 Gordon: Okay. I understand what you want. I don't know how we can do that.  
27  
28 Crane: Well you could add conditions ...  
29  
30 Gordon: Yeah, we would have to, we'd have to, to, excuse me. We would have to  
31 approve the development down the line at which time you would have the  
32 opportunity then even to come before this Board.  
33  
34 Haynes: Commissioners, Mr. Chairman. It is my understanding that you would not  
35 have to approve the development down the line should the, should the  
36 development conform with the R-2, R-3/C-3C zoning and all other  
37 applicable codes, this body would have no further action on that  
38 development. It would, it would be administrative.  
39  
40 Crane: You agree with that Community Development? Ms. Harrison-Rogers.  
41  
42 H-Rogers: Mr. Chair, Members of the Commission. As currently proposed yes.  
43 There would be no more action by this body in terms of how the property  
44 is developed once the zone change occurs unless of course there's a  
45 variance request or, or a Special Use Permit request or some sort of item  
46 that would require it come back to you.

1  
2 Gordon: But would, but wouldn't that be very restrictive to, to the owner of the  
3 property in his attempt to, to sell it to a developer where he's putting this  
4 restriction upon the developer if for some reason the, the, if it has to come  
5 back to us with the, with that condition that we would add tonight to then  
6 have their, have that come up to have our comment on it at that time?  
7 Cause wouldn't it then have to come back to us?  
8  
9 H-Rogers: Mr. Chair, Members of the Commission, Commissioner Gordon. If, if you  
10 all decided to add that condition I would recommend that it be stated as,  
11 "A final site plan shall come to this, this Board for approval." It would be  
12 similar to how a PUD is dealt with. Of course this is not a PUD at this  
13 point in time. It was but it is not currently. But it would be similar to that  
14 process so it, it could be added.  
15  
16 Gordon: Okay. So we, we could add that as a condition which you have the other  
17 conditions in Attachment Four.  
18  
19 H-Rogers: You could.  
20  
21 Crane: Any other members of the public wish to address us? Yeah, gentleman in  
22 the red, yeah. Tell us who you are please.  
23  
24 Nelson: James Nelson. James Nelson.  
25  
26 Crane: Mr. Nelson, okay.  
27  
28 Nelson: Nelson. Yes.  
29  
30 Crane: Do you swear or affirm that the testimony you are about to give is the truth  
31 and nothing but the truth under penalty of law?  
32  
33 Nelson: Yes I do.  
34  
35 Crane: Go ahead please.  
36  
37 Nelson: Thank you. I am a, a resident, here we go in this property right here. I  
38 was not notified of this meeting. There's only one entrance to this  
39 subdivision and it's right here and so everyone in this division is, is  
40 affected by the change here and yet I must be far enough away that I don't  
41 count. The signs located here and here state that the meeting is on  
42 September 20th which was last Sunday evening so we're not notified. We  
43 don't know what's happened here. This is Heritage Farm. It was  
44 developed by Mr. Henry Gustafson who is a member of the City Council  
45 for many, many years and in doing so he was a business man and also a,  
46 a very firm advocate for good communities, attractive communities and he

1 built a wonderful development here with mixed use including a nursing  
2 home right here. And he donated to the City this large park right here  
3 which is used on a daily basis by many, many people and then this is also  
4 a park here. And so there's a lot of people here and there's a lot of  
5 parking on the street, both sides of the street here in the afternoons when,  
6 when people come out to participate in sports teams and other events at  
7 that park so there's a tremendous amount of traffic here. Since the high  
8 school changed their, their location we have seen a tremendous increase  
9 in traffic here on Farney as people try to avoid the three traffic lights  
10 between here and Boutz Road and they're turning right here and the high  
11 school students are also, have an exit from their parking lot here and  
12 they're coming down this way so I think we definitely need a, a, a traffic  
13 analysis. I know that's not this Commission's job to do that but we  
14 definitely need some kind of a traffic analysis. There are, it would be, the  
15 traffic is very, very heavy along here and, and right now it's even hard to  
16 turn. There are frequent ambulance and fire truck emergency/rescue calls  
17 to the nursing home that come down Farney and down through the  
18 neighborhood down to the nursing home right here so we need to, to look  
19 carefully at traffic patterns and what's happening. We are not opposed to  
20 development. We just want to know what's going to be there and we want  
21 to be involved in the process of where the entrances to that development  
22 will be. Are they going to be on El Paseo, are, we don't want it on Farney.  
23 Do you want it where those kids are playing sports here on, on West  
24 Park? It needs to be carefully planned and we want to be a part of that  
25 planning process. We appreciate what's, what's happened to date and  
26 look forward to further cooperation from the developer and the  
27 Commission. I thank you.

28  
29 Crane: Thank you sir. Any other input from the public? Tell us who you are sir.

30  
31 Gonzales: My name is Pat Gonzales, 852 Chile Court.

32  
33 Crane: Okay. And you got, I, no I didn't start the clock, it's my fault. You have  
34 three minutes.

35  
36 Gonzales: Mr. Chair, Mr. Chairman, Members of the Commission. Thank you for  
37 allowing us to appear before you this evening and I guess I agree with,  
38 with the gentlemen's that previously spoken and the young woman. My  
39 concern is exactly what they asked about in regards to the development,  
40 in regards to 60 units and of course I, I take it that's apartments and my  
41 concern with the apartments is if you drive along University Drive, Espina,  
42 even El Paseo there's plenty of vacancy signs in regards to the availability  
43 of apartments. So that's one huge concern. Of course the traffic  
44 infrastructure is another one and I guess it seems to me that if, if you guys  
45 were to, if the Commission was to approve this request does it kind of give  
46 the developer a green light to develop anything within the R-3/C-3C code

1 that allows other than the uses that he has said that he would prohibit, and  
2 I understand him wanting to get a, a rezoning for it. It seems like the  
3 person buying it would be doing his due diligence to make sure that he  
4 could come and develop and meet with the neighbors and get a good  
5 community plan that would be in agreement with the neighbors and so I  
6 just bring these questions to you and would ask if you'd consider the  
7 property owner also putting a, prohibiting apartments in, in, on this  
8 property just because of the fact that there are so many just in that one  
9 area, so many apartments that are vacant. And I want to thank all of you  
10 for your time and we appreciate it.

11  
12 Crane: Thank you sir.

13  
14 Gonzales: God, God bless you guys. Thanks.

15  
16 Crane: Anyone else? Then we'll close the meeting to public input and  
17 Commissioners. Mr. Gordon did you have in mind to put in additional  
18 conditions other than what's in that attachment?

19  
20 Gordon: I, I'm thinking about that suggestion.

21  
22 Crane: Okay.

23  
24 Gordon: About the site plan.

25  
26 Crane: Because if so we'll need it to be in the motion. While Mr. Gordon's  
27 thinking about that does any other Commissioner want to make utterance?  
28 I'll say that I think there are enough safeguards built into the process as  
29 it's been, been outlined to us that neighborhood considerations, concerns  
30 will be attended to. The major problem seems to be traffic and I think the  
31 City has shown in other things that we've dealt with that Traffic  
32 Engineering does take a very serious look at impacts and makes sure that  
33 traffic is adequately taken care of, guided in and out of the area by in this  
34 case three possible streets. My inclination is to vote for this. Mr. Gordon  
35 did you have a, a motion to make?

36  
37 Gordon: Is, is, is, what happened to the gentleman? Oh. All right. Is, is it your, do  
38 you have, do, do you have someone now who is interested in developing  
39 the property?

40  
41 Crane: This is Mr. Krivokapich.

42  
43 Krivokapich: Well ...

44  
45 Gordon: I, I don't mind, I'm not ...

46

1 Krivokapich: We, we're, we're actually not supposed to say anything about that right  
2 now.  
3  
4 Gordon: Right. Okay.  
5  
6 Krivokapich: I do say the process as I see it when somebody turns in an application,  
7 we're not going to see a dime until they can pull the building permit so if  
8 we don't meet all the conditions in, that we've set down they are not going  
9 to let them pull a building permit or a use, or a, let a use in the building so  
10 it's already fairly well protected. We are not planning on developing the,  
11 the project ourselves because it's probably a \$4-6 million project but at this  
12 time I can't comment on whether we have one or not. We've been told not  
13 to.  
14  
15 Gordon: Do, do you think that, that adding a condition of a site plan is onerous to  
16 your, to your intent here to change the zoning?  
17  
18 Krivokapich: Well right now if you get an offer in it's going to take about six months to  
19 close so you're probably pushing that into like a nine-month period. By the  
20 time you do a notification, you do another neighborhood meeting, you got  
21 two or three months additional into it so I think it, we could, we could deal  
22 with it. It's just going to make it harder to market that particular property if  
23 somebody already has the zoning that you have to go back in and say,  
24 "Okay do you like this?" And I guess my question is: Does that plan have  
25 to be approved by, by this Commission or does it, has to just be presented  
26 and people get a, put their input?  
27  
28 Gordon: Well I think if, if that ...  
29  
30 Krivokapich: It adds another layer. I guess I'm to say it adds a whole complete layer of  
31 probably two or three months to development if you have to do it that way.  
32  
33 Gordon: But, but that is, that is the point in question here as to whether or not to do  
34 this would require it come back to us again?  
35  
36 Crane: Ms. Harrison-Rogers.  
37  
38 H-Rogers: Mr. Chair, Members of the Commission. That, that would be the pleasure  
39 of this Commission ultimately. You, you could dictate what occurs.  
40  
41 Gordon: In, in other words by adding that condition of a site plan that would  
42 automatically bring this back to us again to have another hearing for  
43 people to come in and question what the proposed developer wants with  
44 his site plan.  
45  
46 H-Rogers: Mr. Chair, Members of the Commission. It, it would depend on how you

1 word the condition and, oh look, we lost our lights. It, it, it would depend  
2 on, upon how you, you word it. You could for example state that it would  
3 come back to this Commission just for discussion, just as a discussion  
4 item. You could state that it would be processed as a final site plan similar  
5 to a PUD in which case you would be a decision-making body on that.  
6  
7 Gordon: All right. But it, but eventually when some, if, if the property is rezoned  
8 and then sold and somebody came in it would have to come to us for  
9 approval for what they're going to do on it, it, in, that not true?  
10  
11 H-Rogers: If you add that condition. Currently if that condition is not added, no it  
12 would not have to come back to this, this Commission.  
13  
14 Crane: So do you want to add that, add, add that condition?  
15  
16 Ferrary: I have a question.  
17  
18 Crane: Commissioner Ferrary in the meantime.  
19  
20 Ferrary: Yes. Ms. Rogers would it add the two or three months as was suggested  
21 to the approval process?  
22  
23 H-Rogers: It, it could add even longer than that depending upon how it's processed  
24 and how it's, how it's received and the, the negotiations that occur but  
25 shortest time frame would be about two months.  
26  
27 Gordon: Is, is the gentleman in the blue shirt there, I for, I'm sorry I forgot your  
28 name. All the, did, did you see the conditions that were listed on  
29 Attachment Four as to what prohibited uses were and limited uses and  
30 everything of, of, of the sort?  
31  
32 Haynes: Commissioner Gordon, Mr. Chairman. Yes I have.  
33  
34 Gordon: Okay. And if all those prohibitive uses are okay with you, what there  
35 possibly could be that you would be offended by?  
36  
37 Haynes: No, I am asking if, if we, if, if the body is unable or, or unwilling to add the,  
38 the condition of approving a site plan that additional uses of no drive-thrus  
39 and a maximum height of 22 foot be placed on, as additional conditions on  
40 the, the zone change.  
41  
42 Gordon: Well that's, that's for us to look in a crystal ball. I mean I don't know what  
43 they're going to do with this property. It's very difficult for me to make a  
44 decision to tell someone that they can't build a building that's three stories  
45 high, you can, it can only be two stories high but it shouldn't be a Wendy's  
46 there with a drive-thru.

1  
2 Haynes: I, I am in agreement with you Commissioner Gordon and Mr. Chairman.  
3 It, that is why it is my suggestion that this body recommend and, and  
4 require a developer bring back a site, a site plan for final site plan approval  
5 by the Planning and Zoning Commission. Because we do not have a  
6 crystal ball.  
7  
8 Crane: That seems reasonable.  
9  
10 Gordon: Yeah. I don't have a problem with it either.  
11  
12 Crane: Yeah. Ms. Ferrary.  
13  
14 Ferrary: Shouldn't we rely on the El Paseo Blueprint and the efforts that have been  
15 put into that, that would be guiding this decision?  
16  
17 Crane: Is that restrictive enough Ms. Harrison-Rogers, Mr. Ochoa?  
18  
19 H-Rogers: Mr. Chair, Members of the Commission. It's a policy document. It, it  
20 probably would not be restrictive enough unless you condition it to be.  
21  
22 Crane: But we can't specify what this, we can't change the impact of this policy  
23 document, can we?  
24  
25 H-Rogers: Mr. Chair, Members of the Commission. I don't see that there would be an  
26 issue in terms of requiring that any future development meet the  
27 recommendations of the Blueprint Plan. That would be in your purview.  
28  
29 Crane: Thank you. Mr. Gordon you seem to be in the driver's seat on several  
30 issues here. Let me suggest perhaps that you frame the motion that it be  
31 approved with the conditions in the, the attachment, Number One I think it  
32 is, and further ... Ms. Ferrary do you have a suggestion as well?  
33  
34 Ferrary: It was Attachment Four.  
35  
36 Crane: I can't hear.  
37  
38 Ferrary: I'm sorry. I think it was Attachment Four.  
39  
40 Crane: Four. That'd be correct. Thank you. Attachment Four plus a, a  
41 requirement in some terms or other that this body see this plan again  
42 when it's better developed or some such wording. It does seem that we  
43 are, it does not seem to my mind appropriate that this be the last time that  
44 this Commission is going to look at this, I can't say even proposed  
45 development, but this issue.  
46

1 Gordon: But a, a condition where we're asking for a developer to come back with a  
2 blueprint does not prohibit a developer from going to 35 feet if that was  
3 originally ...  
4  
5 Crane: Well we might care to add that, that no buildings over two stories or some  
6 ...  
7  
8 Gordon: Well I wouldn't want to do that now. I, you, you're asking me to look at a  
9 site plan, then I would like to make a decision based on what a  
10 developer's planning to do with the property. I mean how do I know now  
11 whether he's going to put ten units that are going to be 35 feet high or  
12 they're going to put 60 units that are going to be 22 feet high? I don't  
13 know what he's going to do and I don't know what the people in the area  
14 would approve or not approve. You follow me? And right now he's just  
15 asking for a zoning change and in the zoning requirements he's allowed to  
16 do buildings of certain heights and put certain things ...  
17  
18 Crane: So you think that can be taken care of later, the, the idea of no drive-thrus  
19 and ...  
20  
21 Gordon: That would be taken care of later.  
22  
23 Crane: Yeah. Okay. So you want ...  
24  
25 Gordon: You know when ...  
26  
27 Crane: Us to stop at ...  
28  
29 Gordon: When he comes, when, when he comes in with a blueprint if he has a  
30 Wendy's with a drive-thru and people are going to complain and we feel,  
31 "Well that's not really appropriate for this particular piece of property, we  
32 say no."  
33  
34 Crane: So what, you want to back up to just what we have here, the zoning  
35 change with the Attachment 4 conditions?  
36  
37 Gordon: No, but then you would, it, if you do that then you're not going to allow  
38 these people to have the opportunity to see a blueprint.  
39  
40 Crane: All right then add one, add a condition that the Commission be, let me see  
41 the, the developer be required to submit a site plan to the Planning and  
42 Zoning Commission. Would you go for that?  
43  
44 Gordon: Yes.  
45  
46 Crane: Okay. Let's consider that moved by Mr. Gordon. Is there a second?

1  
2 H-Rogers: A point of clarification. Would that be for approval or just discussion? I  
3 think it's important that the, that distinction is made.  
4  
5 Gordon: Well that would be in, that would just be an, an, aside from Schedule Four,  
6 Attachment Four rather, I'm sorry that would just be an additional  
7 condition.  
8  
9 H-Rogers: Correct. But the question that I'm asking is: Will that site plan just be  
10 brought to this, this Commission for discussion or would that site plan be  
11 brought to this Commission similar to a final site plan where you all make  
12 the decision about whether or not it's approved?  
13  
14 Crane: I think the latter.  
15  
16 Gordon: The latter.  
17  
18 Crane: Yeah. We don't want to just sit here and ...  
19  
20 Gordon: I mean if you're going to ...  
21  
22 Crane: Chat about it.  
23  
24 Gordon: It, right. If you're going to go that, that, that path you might as well, if to go  
25 to the trouble of bringing this back you might as well be in a position to ...  
26  
27 Crane: Absolutely.  
28  
29 Gordon: Make a decision.  
30  
31 Crane: Yeah.  
32  
33 H-Rogers: Might I recommend that it be worded in such a way that a final site plan be  
34 brought to this Commission for review and decision?  
35  
36 Crane: Sounds good to me. Do you agree with that Mr., Mr. Gordon?  
37  
38 Gordon: Yes, great. Yeah.  
39  
40 Ochoa: If, and if I may interject as well, the applicant is trying to get this approved  
41 with conditions that are prohibitive which would not put a time limit on the  
42 zoning on the property so potentially wording it some word, somewhere  
43 the developer of the proposed subject property will not, will not be allowed  
44 to develop until the time that a final site plan be brought forward to the  
45 Planning and Zoning Commission for review and, and a final approval.  
46

1 Gordon: So Adam are you saying that if we add this condition we are not granting a  
2 change in the zoning?  
3  
4 Ochoa: Mr. Chairman, Commissioner Gordon. No. What we're doing is  
5 essentially if we state, if we state the condition as we first stated at, that  
6 they will be required to bring the site plan beforehand that is a requirement  
7 under code that actually would put a timeline on the zoning on the  
8 property. It is a condition that puts a timeline and that zoning could  
9 essentially ...  
10  
11 Gordon: Expire?  
12  
13 Ochoa: Expire just like the PUD before it and we'll be back in the same boat as  
14 before.  
15  
16 Gordon: For how long?  
17  
18 Ochoa: It's the, two years is all I have sir.  
19  
20 Gordon: Well I think two years is not unreasonable.  
21  
22 Ochoa: Yes sir but like I said before, as staff has worked with the applicant to  
23 state all his, all his conditions as prohibitions, if we could state it as a, no  
24 development of the, development of the property is prohibited until such  
25 time that a developer brings forward a final site plan for final review and  
26 approval by the Planning and Zoning Commission.  
27  
28 Gordon: Well that's fine also. That's, that's, that ...  
29  
30 Gordon: That agrees with what this gentleman here wants to do. So in other words  
31 we would, we could grant the zoning change and also put a condition that  
32 no development will take place until the site plan is presented back to this  
33 Commission for, for review and approval.  
34  
35 Ochoa: Mr. Chairman. Yes sir this would be a motion. Mr. Chairman,  
36 Commissioner Gordon, excuse me. So your motion would be recommend  
37 approval with the conditions as, as stipulated in Attachment Number Four  
38 and that additional condition of prohibiting development of the property  
39 until such time that a developer brings a final site plan forward for final  
40 approval by the P&Z.  
41  
42 Gordon: Okay. That's fine.  
43  
44 Crane: Is there a second for that?  
45  
46 Ferrary: I'll second.

1  
2 Crane: Ms. Ferrary. Okay. Let's start with you Mr. Gordon. Your vote and you  
3 can use the City's points as a, a reason for your vote if you're approving.  
4  
5 Gordon: Okay. Based on findings, discussion, and the additional condition as  
6 proposed by Mr. Ochoa I vote yes.  
7  
8 Crane: Mr. Stowe.  
9  
10 Stowe: I vote, I vote yes based on the discussions this evening.  
11  
12 Crane: Ms. Ferrary.  
13  
14 Ferrary: I vote yes based on site visit, findings, discussion, and additional  
15 condition.  
16  
17 Crane: And the Chair votes yes based on findings, discussion, and site visit.  
18 Thank you. Passes four/nothing.  
19

20 MOTION PASSES UNANIMOUSLY.

- 21  
22 5. **Case ZCA-15-03:** An application by the City of Las Cruces to amend Article  
23 IV, Section 38-33 and Article Visual inspection reveals, Section 38-58 E 3 & 6  
24 of the 2001 Zoning Code, as amended, to eliminate the maximum automobile  
25 parking space requirement and to amend Article V, Section 38-44 G 2 and  
26 Section 38-49.3 J 1 of the 2001 Zoning Code, as amended, to change the  
27 word "ranges" to "requirements."  
28

29 Crane: And finally we have Case ZCA-15-03: Application by the City to amend  
30 the Zoning Code to change word "ranges" to "requirements" in Article IV,  
31 Section 38-44 G 2 and 38-49.3 J 1.  
32

33 H-Rogers: Good evening Members of the Commission, Mr. Chair. Staff is bringing  
34 before you, shall we wait until everyone exits the room?  
35

36 Crane: I'm sorry.  
37

38 H-Rogers: Shall we wait till everyone exits the room as it is somewhat noisy. I, I can  
39 keep going but I just ...  
40

41 Crane: Yes. Go ahead.  
42

43 H-Rogers: Okay. Basically what staff is bringing before you is the elimination of the  
44 maximum parking requirements as outlined in the Zoning Code. What's  
45 occurred is we, we've had these for a good part of the, a decade where we  
46 have a, a minimum requirement for parking and a maximum requirement

1 for parking. The reason that that was integrated into the Code was so that  
2 we could limit, for example a sea of parking such as the old K-Mart  
3 building, I'm sure you all are familiar with that on El Paseo. That was one  
4 of the reasons those, those limits were, were added so that we didn't have  
5 the heat island effect, the massive blacktop parking lots, drainage issues  
6 associated with that. But we have seen that over the last decade, decade  
7 there's several uses where those maximums just simply don't work. We'll  
8 have flex requests, that's one way to deal with it or variances come  
9 through. I think recently you may remember the VA Clinic had to come in  
10 for one of those requests and as such the development community has  
11 made the request that we consider eliminating those maximums. Now of  
12 course, this would aid staff in, in limiting some resources and staff time  
13 that, that we have to apply in terms of, of dealing with these requests but  
14 in, in the same, at the same time we have to consider that there may be  
15 some issues associated with, with eliminating those maximums. For  
16 example we don't have any way to again limit that heat island effect. A, an  
17 alternate way of dealing with that is increase landscaping, trees in the  
18 parking lot, items of that nature and currently our landscaping codes aren't  
19 robust enough to require that in parking lots unless you have over 100  
20 spaces and even the new Wal-Mart doesn't have over 100 spaces. So  
21 that's just something to consider in, in, in terms of context of how big that  
22 really is.

23 So staff has presented you with, with a couple of options that you  
24 might consider as part of this. Of course you could do nothing and we  
25 could keep it as is. You could direct staff to just look at those problem  
26 areas and rectify that by increasing those maximums. We could look at  
27 adding some conditions such as coming back with some more robust  
28 landscaping requirements for parking lots. Any of those items may be  
29 something that you could consider tonight and I would be glad to answer  
30 any additional questions or expand upon any of the information that was  
31 provided to you in the memo and of course the attachments.

32  
33 Crane: It's, it seems to me there's a vast amount of data here that we've just had  
34 put in, I can't say just had put in front of us but I wonder personally if it isn't  
35 possible to postpone this issue till we've had a chance to look at it in more  
36 detail or maybe I'm worrying too much. Mr. Gordon.

37  
38 Gordon: Yeah, I just have a question. Out of curiosity is there anything in the, in  
39 the, in code or the law or whatever that says that a parking space has to  
40 be X number of feet wide?

41  
42 H-Rogers: Yes. Members of the Commission, Commissioner Gordon. Yes we have  
43 some requirements. A typical parking space without an angle is supposed  
44 to be nine feet wide, 18 feet long.

45  
46 Gordon: I mean I've gone into parking lots where you know when you go between

1 two cars you're lucky if you can open the doors because they're so small.  
2 So I mean to me I, I, I've always, listen. I happen to agree with you,  
3 there's a tremendous amount of data here which I looked at and hardly  
4 had to really dig into it. But I, I, I would always be concerned if anything  
5 about minimum parking spaces. You know you need so many places to  
6 park your cars for, depending upon the size of the building and how many  
7 people are going to be in it or a store for that matter. But maximum, I, I  
8 don't think I could, doesn't bother me, let as many parking spaces as  
9 somebody wants to put in. I mean it's just pretty costly to build a big  
10 parking lot to just use land for that purpose but if it's necessary. But I've  
11 always wondered, how do you, you have to call Code Enforcement, tell  
12 them to reline your parking lots?  
13

14 H-Rogers: Members of the Commission, Commissioner Gordon. We have a lot of  
15 parking lots that are essentially grandfathered in the City. Any new  
16 parking lot however has to meet our requirements in terms ...  
17

18 Gordon: Yeah.

19  
20 H-Rogers: Of, of the spacing which is a little bit more generous than perhaps you  
21 know 30 years ago.  
22

23 Gordon: Thank you.

24  
25 H-Rogers: You're welcome.  
26

27 Crane: It could be that rather than deferring this so that we have time to study it,  
28 we could just say we trust you, not just implicitly but explicitly that this is  
29 good advice and we will rubber-stamp it. How do you feel about that?  
30

31 H-Rogers: I would like to point out staff is not making a recommendation on this this  
32 evening.  
33

34 Crane: You, you're not making a recommendation?  
35

36 Gordon: *(Inaudible)*  
37

38 H-Rogers: No. We're not making a recommendation on this.  
39

40 Crane: So it's come down to us, isn't it?  
41

42 H-Rogers: We are, we are pointing out perhaps the advantages and some of the  
43 disadvantages to eliminating these maximums. I'm happy to have this  
44 tabled and provide you additional information if you have any concerns  
45 about any of the, any of the items that I brought to you.  
46

1 Crane: Does anybody on the commission not want to vote on this tonight? You  
2 do not. Okay so we'd prefer to table it.  
3  
4 Gordon: Yes.  
5  
6 Crane: Yes? Okay. Three say table and I'll go along with them so let's, do we  
7 take a, do we have the right to do that?  
8  
9 H-Rogers: You absolutely have a right to do it. However I, I think at this point in time  
10 I think staff would like some direction in terms of the type of information  
11 that you would like for a subsequent meeting.  
12  
13 Crane: Well I think we, personally I, I suspect we have all the information we need  
14 right here but we just need some more time to digest it. I frankly didn't pay  
15 much attention to this because I thought all our effort was going to go into  
16 these other things and this was just a rubber-stamp issue but it clearly is  
17 not. So do I hear a motion that ...  
18  
19 Gordon: Who, who put this together then? Wasn't it staff?  
20  
21 H-Rogers: We, we were directed to, to put this together at basically the request of  
22 the, the development community.  
23  
24 Gordon: So you must have put it together with the intent of offering us something  
25 that should be acceptable. I mean I, we done, certainly are not, have,  
26 have not put in the time and effort and the thought of developing this as  
27 you people had in putting it together.  
28  
29 Crane: I can't imagine that as, after we've all studied this, given it two or three  
30 hours of personal attention that we'll find anything to object to. Maybe we  
31 should just bite the bullet and vote on the darn thing.  
32  
33 Ferrary: I disagree. I think we should wait for staff to present to us the, the pros  
34 and cons of this and make sure that we're making a good decision.  
35  
36 Crane: Do I hear a motion to that effect?  
37  
38 Gordon: How can there, excuse me but how can there be any cons? If they went  
39 to the trouble to put this together why would they put something in here  
40 that they wouldn't think would be acceptable?  
41  
42 Crane: Well I mean Ms. Ferrary's right. We'd like to see a little more reasoning.  
43  
44 Gordon: That, that, that's okay too but I would think that whatever they propose is  
45 something they think is what we should have.  
46

1 Crane: No doubt. They, they never propose anything to us that they don't believe  
2 in.  
3  
4 Ferrary: I, from what I understand though staff is not making a recommendation.  
5  
6 H-Rogers: If I may interject, no staff is not making a recommendation. The purpose  
7 of the memo was to outline what we felt were perhaps some concerns if  
8 those maximums were eliminated, specifically the fact that there would,  
9 the potential for increased heat island effect, the potential for aesthetic  
10 issues in terms of expanding those parking lots, in terms of runoff and the  
11 negative effects from, environmental effects from the increased runoff that  
12 larger parking lots can have, those are some of the issues that were  
13 highlighted in this memo that staff just wanted to bring to your attention. I  
14 would like to point out that it's very, very common throughout the United  
15 States just to have those minimum parking requirements. However  
16 recently some, some other communities have added the range, the  
17 maximums as a, an innovative way of, of dealing with over-parked  
18 properties, San Antonio being one of them. Again we just wanted to  
19 present to you essentially what we could do and then some of the, the  
20 issues that staff has identified as, as part of eliminating those.  
21  
22 Gordon: I think I, I think I would need a little more time like you would to have to  
23 look at this.  
24  
25 Crane: All right.  
26  
27 Gordon: Want us to keep this or you going to give us something again?  
28  
29 H-Rogers: I, I would be glad for you to keep this. If I had some information in terms  
30 of how much more information, what sort of information you're looking for  
31 to, to help you make a decision, I would be glad to do that.  
32  
33 Crane: I imagine you'd have that information available already. We just don't  
34 know what questions to ask but we'll have some questions ready perhaps  
35 next time, and how urgent is this? Does the future of the City depend on  
36 it?  
37  
38 H-Rogers: The future of the City is not dependent on it but we were requested to, to  
39 bring it to you relatively quickly for your consideration and, and we did so.  
40 And ...  
41  
42 Crane: Well maybe we'll be able to vote on it next time.  
43  
44 Gordon: Could one more month be a difference?  
45  
46 H-Rogers: I think one more month is, is perfectly fine.

1  
2 Gordon: Okay.  
3  
4 Crane: Do you need a motion on this or ...  
5  
6 H-Rogers: Yes. We would need a motion to table it and then direct staff to provide  
7 perhaps additional information to assist in, in your decision-making.  
8  
9 Crane: Would somebody like to move to that effect?  
10  
11 Gordon: I'll do it.  
12  
13 Crane: Mr. Gordon.  
14  
15 Gordon: I'd like to make a motion that we table this item and have staff provide us  
16 with additional information and I think that this item should be returned to  
17 us in 30 days.  
18  
19 Crane: Second?  
20  
21 Gordon: Or at the next meeting.  
22  
23 Crane: Mr. Stowe are you seconding the motion?  
24  
25 Stowe: I, I second the motion.  
26  
27 Crane: Mr. Stowe seconds. I don't think we have to do roll call here. All in favor,  
28 "aye."  
29  
30 **MOTION PASSES UNANIMOUSLY.**  
31  
32 Crane: Opposed? None. Passes four/nothing.  
33  
34 H-Rogers: Thank you.  
35  
36 Crane: Thank you.  
37  
38 **VII. OTHER BUSINESS - NONE**  
39  
40 Crane: There is an item of other business I would like to bring up. I've been  
41 giving it some thought and you and I had a brief chat about this. There  
42 was time until recently that we were polled a few days before a meeting  
43 was scheduled to find out whether we were going to attend or not. A  
44 couple of times lately we've gotten close to not having a quorum and it  
45 would be, particularly when I see a lot of members of the public out there  
46 pretty darn bad if we all met here, three of us met here and four of us

1 didn't and we had to close the meeting. The, it's not a way to treat the  
2 public let alone ourselves so I'd like to request that the City reinstate that  
3 quick poll so we could find out if we're in trouble.  
4

5 H-Rogers: We would be happy to do that.

6  
7 Crane: Thank you.

8  
9 H-Rogers: I would ...

10  
11 Gordon: And I, excuse me but I think there's only one other thing that we should  
12 mention too. The gentlemen announced the fact that there was a wrong  
13 date on that notice and we have to be a lot more careful with that. I don't  
14 know what that does as far as a legality of affecting a decision.

15  
16 H-Rogers: Mr. Chair, Members of the Commission. It was brought to my attention  
17 during the break. We were unaware of that.

18  
19 Gordon: Yeah.

20  
21 H-Rogers: But we were glad that was brought to us. It may have been just simple  
22 human error but ultimately because we have so many venues in which we  
23 advertise and, and get the word out legally, I'm sure our, our legal counsel  
24 can speak to this. It's considered noticed. People are considered having  
25 adequate notice so ...

26  
27 Gordon: But it, but it is nice to have the right date.

28  
29 H-Rogers: I, I would agree with you and we are looking into that.

30  
31 **VIII. PUBLIC PARTICIPATION**

32  
33 - NO PUBLIC REMAINED

34  
35 **IX. STAFF ANNOUNCEMENTS**

36  
37 Crane: Let me see. Any staff announcements?

38  
39 H-Rogers: I do have some staff announcements.

40  
41 Crane: Okay.

42  
43 H-Rogers: Ultimately I know that Andy Hume during the work session told all of you  
44 about the Planning Commission training that would be offered as part of  
45 the New Mexico American Planning Association conference that's going to  
46 be held here this week. Those particular sessions will be held Friday

1 beginning at 8:30. Its two sessions and ultimately they should be done  
2 around 11:45. It is no charge to you and we would encourage that you  
3 attend.  
4

5 Crane: I would be interested in doing so but unfortunately we're away on an out-  
6 of-town trip.  
7

8 H-Rogers: That's okay.  
9

10 Crane: But I recommend my fellow Commissioners give it a try. Anything else?  
11

12 H-Rogers: No. I, I, because staff announcements are towards the end unfortunately  
13 poor Sara was up before I could actually officially introduce her but Sara's  
14 acting as an interim planner with us and she has worked with the  
15 Department for actually quite a long time in the Permitting section and so  
16 we're glad to have her and, and we look forward to her exploring the  
17 possibility of staying with us.  
18

19 Crane: Welcome and I had the impression you'd sort of done this kind of thing  
20 before. No? Oh. You spoke up very well. Look forward to seeing you.  
21

22 **X. ADJOURNMENT**  
23

24 Crane: I, we are adjourned at 9:42 p.m.  
25

26  
27  
28  
29  
30 Chairperson



A handwritten signature in cursive script, appearing to read 'J. Crane', is written over a horizontal line. The signature is positioned to the right of the printed name 'Chairperson'.



1 conflict of interest regarding any item on tonight's agenda. Commissioner  
2 Alvarado.

3  
4 Alvarado: I, I don't necessarily have a conflict but I own property pretty close to that  
5 area which in the future might be facing the same circumstances,  
6 therefore I think I need, I need to abstain because my, my views and my  
7 votes would be biased.

8  
9 Crane: Which one is that Mr. Alvarado?

10  
11 Alvarado: How's that?

12  
13 Crane: Which item is that?

14  
15 Alvarado: It's Case S-15-018W.

16  
17 Crane: Okay. Thank you. That's the only item in New Business. Thank you  
18 Commissioner. And you will be just sitting in but not participating, correct?

19  
20 Alvarado: Yes sir.

21  
22 Crane: All right.

23  
24 **III. APPROVAL OF MINUTES**

25  
26 1. September 22, 2015 - Regular Meeting

27  
28 Crane: Next item is approval of the minutes from the last meeting. Does any  
29 Commissioner have any fixes for those minutes? No one so indicates  
30 except me, the grammar nazi. I have five; page 14, line 10 I think the last  
31 word in the sentence was "petition" not "partition." Page 16 line 45 I think  
32 that's "pine tree," the last word but one. And 26 2 and 37 the same fix,  
33 need an apostrophe in the word "lights," as also 30, line 7. And finally 30,  
34 line 9 I think Mr. Stowe "a question what effect would have, would it have if  
35 we table this." Okay, anybody else have any thing? No. Then I'll  
36 entertain a motion that the minutes of the last meeting be approved as  
37 amended.

38  
39 Stowe: So moved.

40  
41 Crane: Moved by Mr. Stowe. Seconded by Mr. Gordon. All in favor "aye."

42  
43 MOTION PASSED.

44

1 Crane: All opposed, "nay." And abstentions. There will be one, two, three; Mr.  
2 Beard, Mr. Alvarado, Mr. Clifton abstain. So the minutes are accepted as  
3 amended four/nothing.  
4

5 **IV. CONSENT AGENDA**  
6

7 1. **Case Z2835:** An application of Shawn Evans and James Evans requesting a  
8 zone change from R-3C (Multi-Dwelling Medium Density-Conditional) and C-  
9 2 (Commercial Medium Intensity) to R-3 (Multi-Dwelling Medium Density) for  
10 five (505 different parcels totaling 3.76 +/- acres and located on the west side  
11 of Saturn Circle, 320 +/- feet north of its interception with Bataan Memorial  
12 West; a.k.a. 2356, 2360, 2364, 2368 and 2372 Saturn Circle; Parcel ID#:02-  
13 08146, 02-08153 02-08154, 02-08155, 02-08157. Proposed use: A multi-  
14 family apartment development. Council District 5 (Councilor Sorg).  
15 **TABLED INDEFINITELY.**  
16

17 2. **Case Z2889:** An application of Southwest Engineering, Inc., on behalf of  
18 Manuel Carnero and Ramon Carnero, property owners, requesting a zone  
19 change from R-2 (Multi-dwelling Low Density) and C-2 (Commercial Medium  
20 Intensity) to C-3 (Commercial High Intensity) for two parcels totaling 4.72 +/-  
21 acres located at 5101 Alba Rd. The property os located at the northwest  
22 corner of Alba Rd. and Bataan Memorial West, parcel numbers 02-19106 and  
23 02-41117. Proposed use: Plant Nursery and General Commercial. Council  
24 District 5 (Councilor Sorg).  
25

26 3. **Case Z2890:** An application of PDG, Inc. requesting a zone change from C-  
27 2 (Commercial Medium Intensity) to C-3 (Commercial High Intensity) for a  
28 1.93 +/- acre parcel located on the north side of Lohman Avenue, 353 +/- feet  
29 east of its intersection with Roadrunner Parkway; a.k.a. 4301 E. Lohman  
30 Avenue; Parcel ID# 02-27502. Proposed use: A medical office building.  
31 Council District 6 (Councilor Levatino).  
32

33 Crane: Next on the item is the Consent Agenda. I'll explain how we do that in a  
34 moment but let me tell you that at the request of the applicants Case  
35 Z2835 is being tabled and we do not have to take a vote on that, correct  
36 Ms. Harrison-Rogers?  
37

38 H-Rogers: I think the appropriate method is to remove it from the Consent Agenda  
39 and then vote to table it.  
40

41 Crane: We do vote to table. Okay, we are informed that the applicants have  
42 requested that this matter be tabled. Do we take the vote now or after the  
43 Consent Agenda is done Ms. Harrison-Rogers? Legal's having a  
44 conference. Do we need to pull this off the Consent Agenda to have that  
45 vote?  
46

1 H-Rogers: I'm sorry I was, I was conferring with the attorney.  
2  
3 Crane: Do we have to remove item one from the Consent Agenda to have that  
4 vote?  
5  
6 H-Rogers: You do, yes.  
7  
8 Crane: Okay. The way we handle the Consent Agenda is that these three items  
9 initially are ones considered by the Community Planning Department to be  
10 noncontroversial and we will therefore normally vote on them as a block,  
11 up or down, no discussion. However if anybody, and in this instance the  
12 applicant or a Member of the Commission or a member of the public  
13 wants to address any of these three items, that's 2835, 2889, and 2890  
14 and have a discussion on it we will take them off the Consent Agenda. Is  
15 there anybody wish to remove any of those other than 2835? Apparently  
16 not. So we will vote on removing 2835 to put it, to table it for next time.  
17 All in favor.  
18

19 MOTION PASSED UNANIMOUSLY.

20  
21 Crane: Opposed. None. Abstaining. None. So that's removed until time  
22 indefinite. They did not specify when they want to pick it up. So, on the  
23 other two items, Z2889 and Z2890 can I hear a motion that the Consent  
24 Agenda be approved.  
25

26 Beard: I move to approve the Consent Agenda; Case Z2889 and Case Z2890.

27  
28 Crane: All right, moved by Commissioner Beard.

29  
30 Clifton: Seconded.

31  
32 Crane: Seconded by Commissioner Clifton. All in favor "aye."  
33

34 MOTION PASSED UNANIMOUSLY.

35  
36 Crane: Opposed "nay." Abstentions. Passes seven/nothing.  
37

38 **V. OLD BUSINESS**

- 39  
40 1. **Case ZCA-15-03:** An application by the City of Las Cruces to amend Article  
41 IV, Section 38-33 and Article Visual inspection reveals, Section 38-58 E 3 & 6  
42 of the 2001 Zoning Code, as amended, to eliminate the maximum automobile  
43 parking space requirement and to amend Article V, Section 38-44 G 2 and  
44 Section 38.3 J 1 of the 2001 Zoning Code, as amended, to change the word  
45 "ranges" to "requirements."  
46

1 Crane: We now go to Old Business and in Old Business and New Business we  
2 handle things a little bit differently. Here it's assumed that there will be  
3 input from an applicant and possibly from the public, so what we do is  
4 have somebody from the City make a presentation. Commissioners may  
5 wish to ask that person some questions. Then we have the applicant if he  
6 wishes to make a presentation, again we may have some questions.  
7 Finally we open up the floor to members of the public item by item and we  
8 may ask some questions of them and when all of the public has spoken  
9 we close the matter to further discussion and we talk to each other and  
10 come to a vote. So Old Business and New Business are handled  
11 identically, it's simply that this particular Case ZCA-15-03 is something we  
12 looked at before and asked the City to bring back to us. So Ms. Harrison-  
13 Rogers is going to make us a presentation.

14  
15 H-Rogers: Good evening Members of the Commission. This is a, an amendment to  
16 the Zoning Code, specifically to eliminate the parking maximums that  
17 currently exist. If you recall last time this particular Commission desired  
18 that I bring this back, perhaps give a more robust presentation to provide a  
19 little bit more clarity, pros, cons, and some options. Currently the  
20 regulations specify that there's a range of parking requirements. It's  
21 based on uses. There's a minimum and a maximum requirement. So for  
22 example on here I, I show for a pharmacy one parking space per every  
23 200 to 300 basically square feet of gross floor area. So 10,000 square  
24 feet would equate to 20 to 30 spaces.

25 Prior to 2006 only the minimums were used. Ultimately in March  
26 2006 City Council adopted the ranges to, to cap it with a maximum simply  
27 to try to reduce some of the over parking that had occurred in the City. Of  
28 course over parking can cause issues having to do with impervious area  
29 and runoff, heat island effect, pollution because of the asphalt and any of  
30 the chemicals leaching out of that, and then of course the aesthetics, you  
31 know what comes to mind is the K-Mart parking lot on El Paso. Mind you  
32 we do have some landscaping requirements that would have made that  
33 perhaps look a little bit better but that's a, that's a, that's a great example  
34 of an over parked area. And here you go, here is a picture of that, of that  
35 parking lot. Of course the building was vacant at the time but it, even at  
36 the maximum peak it, it was unlikely that this would be filled, perhaps at  
37 Christmas or the Christmas holiday shopping time.

38 Currently we've been asked to consider the elimination of these  
39 maximums. We have noticed over time the last about, almost a decade  
40 that the ranges are insufficient for some uses. So for example  
41 government offices, cellular retail stores are notorious for not having  
42 enough parking, restaurants, banks with a, with a drive-thru, doctors  
43 offices, and medical clinics, non-hospital, so that would, that would be for  
44 example the VA clinic or any of those other types of clinic that serve a,  
45 a broad spectrum of customers.

1           The development community has felt that they were too restrictive  
2 and feels as though because they are essentially in the business to, to do  
3 their particular sales or office use that they know how to self determine,  
4 they know how to determine these parking requirements. The current  
5 methods to increase parking which we do have include flexible  
6 development requests. Some of you may not be familiar with those, just  
7 simply because those are administrative. Those are items that maybe  
8 make sense, have negligible impact upon surrounding neighbors, and staff  
9 has the ability to administratively approve those up to 50% for parking.  
10 We also have the variances. Those might be those types of projects that  
11 of course are requesting more than the 50% or clearly would have some  
12 sort of impact on the surrounding neighborhood, and of course you all  
13 determine whether or not those are approved. Additionally another  
14 method by which to increase parking is to have shared parking  
15 agreements with your neighbor so for example if I have a church and I  
16 simply operate on weekends or perhaps weekday nights and you're next  
17 door to an office complex, that office complex may be able to negotiate  
18 with the church to utilize their parking during the business hours, you know  
19 of course the church isn't using it.

20           So essentially what we're proposing here is to take out, just simply  
21 delete the maximums out of that land use table that also shows the  
22 automobile and parking requirements, that's Section 38-33. There are a  
23 couple of items in the off-street parking section which is Section 38-58 E 3  
24 and 6 that refer to ranges, we're just simply deleting that as well. And  
25 again there are some areas in the University Corridor Overlay regarding  
26 ranges for parking as well as the Alameda Depot Overlay and of course  
27 we're just deleting the word ranges or any mention of those ranges.

28           There are some pros and cons to eliminating them or not. Basically  
29 staff sees if we did eliminate the maximums there would be reduced staff  
30 time and resources. Of course we wouldn't be before you with those,  
31 those variances for an increase in parking. It allows greater flexibility for  
32 those particular industries that, that have done their calculations and, and  
33 know what sort of parking they need. Again there are some cons  
34 associated with things such as the aesthetics, the, the potential for  
35 pollution, the increase in pervious area and heat island effect. There are  
36 some techniques that are very common to diminish those effects, so for  
37 example increased landscaping or parking lot trees, also pedestrian  
38 features to eliminate any issues having to do with large parking lots  
39 without an appropriate place for pedestrians to have a refuge or to walk  
40 without sort of dodging cars. There's some urban design techniques that,  
41 that can assist in the aesthetic issues. And of course the adoption of  
42 green infrastructure to deal with any sort of runoff.

43           Here are just some examples of increased landscaping, trees and  
44 parking lots, and green infrastructure, just so you can sort of have a sense  
45 of what it might look like. Of course we're a desert community and I did  
46 include a picture that has drought tolerant plants that would be appropriate

1 for this location. I have included some examples of some pedestrian  
2 features that are especially beneficial in the large parking lots. You can  
3 see the stamped concrete, striping, some more striping, and of course this  
4 will be sort of the maximum type of pedestrian walkway.

5 I've provided a range of alternatives for you; you could recommend  
6 approval of the modifications without any conditions; you could  
7 recommend approval of the modifications with conditions, so for example  
8 directing staff to draft municipal code amendments to the, to add  
9 pedestrian access or to the landscaping requirements to add parking lot  
10 trees; you could recommend denial of the modifications with no direction  
11 to staff; you could recommend denial of the modifications and direct staff  
12 to draft alternate code amendments, these would be increasing the  
13 maximum parking spaces for specific uses that we've identified as  
14 problematic, increasing staffs' administrative authority to allow unlimited  
15 parking deviations, or eliminate all parking requirements, the minimums  
16 and maximums. This is not necessarily recommended by staff, but it is  
17 something that actually has been approached in other communities. And  
18 of course number five, you could table the amendments and direct staff to  
19 provide additional information. Perhaps for your assistance I've provided  
20 a little more information for you. Of course you are a recommending body  
21 to City Council, they're the ultimate authority on this. This is a legislative  
22 issue so the regular findings that you normally have aren't necessarily  
23 required in this matter. Although we're not providing a, a formal staff  
24 recommendation, we do have some professional opinions about perhaps  
25 what the best options might be and, and based on consensus amongst  
26 staff and, and the general practice of planners, alternative two or four  
27 seems to, to be where we are most comfortable. So with that I am happy  
28 to answer any questions.

29  
30 Crane: Ms. Harrison-Rogers could you put up the, oh you did. Thank you. These  
31 are the same sequences as the ones on the second page of your printed  
32 handout. I don't think they are.

33  
34 H-Rogers: *(inaudible)* SPEAKING BUT MICROPHONE NOT WORKING. I was  
35 speaking right into it. Odd. Essentially they should be in the same order  
36 but let me take a look and I will confirm whether or not they are. No it  
37 appears that they are.

38  
39 Crane: Okay this is a little more detail and, I, I see, they're arranged slightly  
40 different. Okay. So you, your professional option as a group is two or  
41 four, correct?

42  
43 H-Rogers: Correct.

44  
45 Crane: Thank you. Commissioners any questions? Mr. Gordon.

46

1 Gordon: Katherine is there any place in the code, I tried to look where it gives the  
2 minimum width of a parking space?  
3

4 H-Rogers: There is. It depends on the angle of the parking space but ultimately if  
5 you're dealing just with a, with a, with a regular forward facing parking  
6 space it's nine feet wide.  
7

8 Gordon: I know a lot of businesses will, in order to maximize the amount of parking  
9 spaces that they can get, will make it as narrow as possible to increase  
10 the amount of space that they'll have to put parking. Now I know with  
11 today's SUVs and larger vehicles you can get two or three of these next to  
12 each other and you literally sometimes don't have even hardly enough  
13 room to open your door. Maybe there should be some consideration in  
14 here not only to determine how many parking spaces you can have but  
15 maybe to increase the width a little bit.  
16

17 H-Rogers: I will, I will note that. Thank you very much Commissioner, Members of  
18 the Commission.  
19

20 Crane: Any other questions Commissioners? Commissioner Ferrary.  
21

22 Ferrary: Katherine on number four if we approve for the staff to allow unlimited  
23 parking that would be just for special occasions or special interests that  
24 normally, cause you're really not supporting having unlimited amount of  
25 parking, is that correct?  
26

27 H-Rogers: Commissioner Ferrary, Members of the Commission. Not exactly.  
28 Ultimately these are maybe some, some additional options within your  
29 options. It's, it's just something that we are throwing out there because  
30 recently we have had some news in, in the planning world of particular  
31 communities attempting this. It's more logical in a more urban setting.  
32 This means that you would have no minimums or maximums if that's the  
33 direction you, you want staff to go. Because we are not an urban setting  
34 with a lot of on-street parking, that's not necessarily a, a recommendation  
35 that we would want you to do. Number four does have some alternatives  
36 that, that staff's maybe a little bit more comfortable with. But it's an  
37 alternative with an alternative. We're not asking you to do all three, we're  
38 asking perhaps pick one or come up with, with one of your own.  
39

40 Ferrary: I see. Okay, thank you.  
41

42 Crane: Anyone else? Thank you. Thank you Ms. Harrison-Rogers.  
43

44 H-Rogers: You're welcome.  
45

1 Crane: Any member of the public wish to address this issue? Seeing no one. In  
2 that case we'll close this to further external input. Commissioners perhaps  
3 we can proceed to have somebody select one of these suggestions and  
4 put it in the form of a, of a motion. Mr. Clifton.  
5  
6 Clifton: I'll take a stab at it Mr. Chair.  
7  
8 Crane: Sir.  
9  
10 Clifton: Okay. I'd like to make a motion, of course my, before I make the motion  
11 I'd like to just let the Commission know that it, I, it's gonna include number  
12 four but I'm not so sure I, I like letter B because I don't know what  
13 provisions are in place to you know make those, that judgement at the  
14 staff level and it just seems like it's a case-by-case basis so my motion  
15 would be four, A and C.  
16  
17 Crane: All right so Mr. Clifton is suggesting we recommend denial and direct staff  
18 to draft alternative Municipal Coding amendments such as increasing the  
19 maximum parking spaces for specific uses and eliminating all parking  
20 requirements. Is that correct Mr. Clifton?  
21  
22 Clifton: Yes.  
23  
24 Crane: Okay. Is there a second for that motion? It seems sir that you're crashing  
25 in flames. The motion cannot proceed since nobody is seconding it. So  
26 can I ask for someone else to phrase a different motion that we can work  
27 on? Ms. Ferrary something gives me the impression you are thinking  
28 really hard and you're on the verge of suggesting something.  
29  
30 Ferrary: Okay, I'll make a stab at it too. I recommend that we adopt number two  
31 alternative and recommend approval of the modifications with conditions  
32 and that staff draft Municipal Code amendments to add pedestrian access  
33 requirements and more stringent landscaping requirements.  
34  
35 Crane: Commissioner Ferrary suggests alternative two, recommending approval  
36 with the condition that the staff draft Municipal Code amendments to add  
37 pedestrian access requirements and/or more stringent landscaping  
38 requirements. Is there a second for that?  
39  
40 Alvarado: I'll second.  
41  
42 Crane: Mr. Alvarado seconds. Is there any discussion of that before we proceed  
43 to a vote? Very well, let's start with Commissioner Beard.  
44  
45 Beard: I'll vote aye based on discussions and presentation.  
46

1 Crane: Okay, Commissioner Alvarado.  
2  
3 Alvarado: Aye based on discussion and staff recommendation.  
4  
5 Crane: Commissioner Ferrary.  
6  
7 Ferrary: I vote aye, based on discussion and staff recommendation.  
8  
9 Crane: Commissioner Stowe.  
10  
11 Stowe: I vote aye based on discussions and *(inaudible)*.  
12  
13 Crane: Commissioner Gordon.  
14  
15 Gordon: I vote no.  
16  
17 Crane: Commissioner Clifton.  
18  
19 Clifton: I vote no based on there are no specifics as to how this pedestrian access  
20 and landscaping requirements will be included or based in review. And  
21 additionally now is not the time to impose additional restrictions on already  
22 struggling new businesses in Las Cruces.  
23  
24 Crane: So the motion passes, oh correction I have to vote. I'm so modest. The  
25 Chair votes aye based on the findings of the, and recommendation of the  
26 Community Development Department. So this passes five to two. Thank  
27 you.  
28

## 29 VI. NEW BUSINESS

- 30  
31 1. **Case S-15-018W:** Application of Hortencia Gutierrez to waive 100% of the  
32 road improvement requirements for Mesa Drive, Sierra Vista Avenue and  
33 Jimmie Street. The proposed waiver is associated with improvements  
34 required for a proposed alternate summary subdivision known as Gutierrez  
35 Subdivision on a 2.09 +/- acre tract located on the northeast corner of Mesa  
36 Drive and Sierra Vista Avenue; 5230 Mesa Drive; Parcel ID# 02-19098.  
37 Proposed use: Two (2) new single-family residential lots. Council District 5  
38 (Councilor Sorg).  
39

40 Crane: Next item is the one item of New Business, application by Hortencia  
41 Gutierrez to waive the road improvement requirements for her lot at 5230  
42 Mesa Drive. This is Case S-15-018W. And Ms. Harrison-Rogers is going  
43 to speak to us on this.  
44

45 H-Rogers: Good evening. I am acting on behalf of Mr. Ochoa tonight. This was his  
46 project and I will be presenting. The property in question that's proposing

1 subdivision and, and the waiver to road improvements is located along  
2 Mesa Drive in between Jimmie Street and Sierra Vista Avenue. And it is  
3 not too far off Highway 70 and Bataan Memorial. You can see that its  
4 north of that area. It is zoned R-1a which means that ultimately they, they  
5 could have 5,000 square foot lots, of course that's not what they're  
6 proposing. The property's 2.09 acres and they're simply proposing to, to  
7 split it into two.

8 Again as I'd mentioned, it fronts Mesa Drive, Sierra Vista, and  
9 Jimmie Street. Currently Sierra (*Sierra was stated but the real road is*  
10 *Mesa that is paved*) Drive is approximately 24 feet, it's paved, but it does  
11 not have sidewalks, curb, or gutter. Sierra Visa Avenue is an unimproved  
12 dirt roadway and Jimmie Street is also unimproved, perhaps a little bit  
13 better than Sierra Vista Avenue. The property has never been previously  
14 subdivided. You can see the property here. Of course you can see  
15 Jimmie Street, Sierra Vista Avenue, and then Mesa Drive. And sort of far  
16 off to your, your east is actually a, a large church campus over here. Let's  
17 see. This is a, just an example of the existing roadway on Mesa Street.  
18 You can see just simply two lanes, paved with asphalt, essentially the  
19 drainage and the gravel swales on the side.

20 They are proposing to subdivide this into two new lots as I, as I'd  
21 mentioned before, both a little under an acre. The Design Standards of  
22 course require that any subdivision and subdivider are responsible for  
23 dedicating the necessary right-of-way and also for the improvements to all  
24 adjacent roadways. So in this case they'd be required to provide a half of  
25 a street section for Mesa Drive which is a collector, 42.5 feet that would  
26 include curb and gutter, and a full street section which is 50 feet, also curb  
27 and gutter, for a local roadway to Sierra Vista Avenue and Jimmy Street.  
28 They're proposing to dedicate all of the additional adjacent right-of-way, so  
29 that, that's not part of the waiver request tonight. However, they're not  
30 proposing any other roadway improvements or alternatives as part of their  
31 request to subdivide. The applicant has stated that the improvements  
32 would create a substantial financial hardship for the family. The  
33 improvements aren't warranted for simply subdividing a large single-family  
34 residential tract into two single-family residential lots and that the  
35 additional traffic of the one additional single-family wont negatively impact  
36 what's already there.

37 Here is a visual of what this subdivision will look like, what it's  
38 proposed to look like. Simply two lots. You can see this is Mesa Drive,  
39 Jimmie Street, and of course Sierra Vista right here. This just shows you  
40 what they would be paving, what they would be responsible for. Of course  
41 the half collector along this portion of Mesa Drive and of course the locals  
42 along Sierra Avenue and then Jimmie Street just adjacent to those  
43 properties. Just an example of what a minor local consists of and then  
44 what a collector consists of. You can see sidewalk, curb, gutter, lighting.  
45 Although valid, the hardships expressed by the applicant do not  
46 demonstrate the substantial hardship as outlined in our code, specifically a

1 waiver must be due to exceptional topographic, soil or other surface or  
2 subsurface conditions that would result in inhibiting the objectives of the  
3 code. Staff has received absolutely no public input on this proposed  
4 waiver request.

5 On October 7th we did have our DRC meeting. Of course they  
6 review all of these matters from a technical standpoint and after  
7 discussion the waiver request was recommended for denial. Based on  
8 our ordinance, our design standards, and the unfavorable  
9 recommendation of the DRC, staff is recommending denial on this project  
10 based on the findings outlined in the staff report. Of course you're a  
11 recommending body to City Council on this matter. And listed here are  
12 your findings or at least the findings that have been presented by staff.  
13 And I'm happy to answer any questions if you do have them. And the  
14 applicant is here and has an interpreter if, if you would like to ask her  
15 questions as well.

16  
17 Crane: Thank you Ms. Harrison-Rogers. Commissioner Beard and then  
18 Commissioner Gordon.

19  
20 Beard: Was this property bought before the land was incorporated into the City?

21  
22 H-Rogers: My understanding, yes it was. It was purchased when it was still the ETZ  
23 in that area prior to annexation. So according to ETZ regulations if you  
24 are splitting a property into two pieces that has never been subdivided,  
25 you would not be subject to road improvements.

26  
27 Beard: And the other question is, I don't see how Mesa Drive is affected, even  
28 though the code may say that it is, but I don't know how it's affected by  
29 subdividing these two pieces of property. Can you explain that?

30  
31 H-Rogers: Ultimately, Members of the Commission, Commissioner Beard. Ultimately  
32 the code was put into place not only to deal with large subdivisions, of  
33 course that you're well aware of that do have significant impacts, but also  
34 the cumulative effects that these small subdivisions have over time. And  
35 ultimately what happens is that then the taxpayer has to improve those  
36 roadways as people subdivide and get, get waivers, as opposed to putting  
37 that, that burden on the, on the people who are subdividing.

38  
39 Beard: The proper, oh, the, one of the biggest problems I have is that this  
40 property owner if she does subdivide and if she is required to pay her  
41 share of the improvements, that money may sit unused forever. I mean  
42 the rest of this road may never get paved out, guttered, sidewalked and  
43 she is not benefiting from having paid for these improvements. I, that is a  
44 bother to me. If the City would say, "Okay if you're going make these, this  
45 improvement and give us the money," then I think the City should sit down

1 and say "We will make these improvements by so and so." And, and not  
2 20 years from now. That's a comment.

3  
4 Crane: Commissioner Gordon.

5  
6 Gordon: We, we've had matters like this before us and it seems like every time I  
7 have to look at one of these things I say "Here we are trapped again." I  
8 have great empathy for people who are stuck in this situation. Mesa Drive  
9 is 1.1 miles long. The required road improvement and just that portion of  
10 Mesa Drive in front of this petitioners' residence represents one percent of  
11 the total length of Mesa Drive. Now can you imagine what this would look  
12 like if the improvement were done, you'd have Mesa Drive extending 1.1  
13 miles with a little bulge of concrete, sidewalk, and gutters representing 43  
14 feet. I mean it's ridiculous.

15 Now I sat there on Mesa Drive for about 15 minutes and I watched  
16 the traffic. What traffic? I mean if I saw five cars it was, I thought it was a  
17 lot. And if two cars had to pass each other going either way, you know  
18 opposite direction, there was certainly no way that they would ever have to  
19 move over to avoid hitting each other. Mesa Drive is certainly wide  
20 enough to handle traffic. I then rode along the length of Mesa Drive, on  
21 the east side there are about 11 residences I think I counted and on the  
22 west side there were about 15. So they're basically on this total 1.1 mile  
23 stretch of road hardly anybody lives there. I think that, this property was  
24 acquired before annexation and to comply with the current subdivision  
25 laws in, in this case would be a travesty, I just can't believe that the person  
26 would have to do this. It just doesn't make any sense and I just, we just  
27 have to do something about this and I'm gonna make a comment later that  
28 perhaps we would be able to look into this situation where people don't get  
29 stuck in the situation wherein they moved into this property 20 years ago  
30 or however long that was with the intent sometime in the future to do  
31 something and now that that time has arrived and the property has been  
32 annexed by the City, suddenly they find out that sure they can do it, but it's  
33 gonna cost you far more than these people could ever assume to have  
34 accumulated to be able to do this. So I, I mean I know that, I don't know  
35 how my fellow Commissioners think but like he just expressed I think that  
36 this is something that we have to deal with.

37  
38 Crane: It's appropriate for me to mention right now that three people in this room  
39 at the moment have something they want to read into the record after we  
40 finish this New Business item under the heading of Other Business and it  
41 pertains to whether Mr. Gordon and others of us have on our minds about  
42 this kind of situation where people get a surprise from the City when they  
43 want to do something new to their lots. So those who are interested  
44 tonight may wish to stay in the room for a few minutes after we have  
45 finished with this particular item and hear what the others have to say. Mr.

1 Beard you're next after me, cause I, I've you know short, short-term  
2 memory problems and if I forget what I say I may go home.

3 I see the City's view point that if people who have property on say  
4 Mesa Drive develop it in some respect or sell it and therefore have to have  
5 the street built out according to the specifications we have here, otherwise  
6 the taxpayers get stuck with it, that is true and I'm a taxpayer and I, it's  
7 something I'd like to think about but it's also inequitable to the people who  
8 own the property when it is brought into the City by action of the City and  
9 thereby the rules change. So Ms. Gutierrez for example as somebody  
10 presented with the requirement that she put tens of thousands of dollars  
11 into that, those roadway appearances, improvements on three sides of her  
12 lot. And also brings up a point that I've been bothered about before that  
13 when this Mesa Drive for example has been completely half paved to half  
14 its width all the way out for the 1.1 miles that Mr. Gordon measured, you'll  
15 still have a street which is ultimately gonna have to be torn up to put  
16 utilities underneath it cause right now it probably doesn't have any storm  
17 sewers, it certainly doesn't. It may not have sewers. It may not have  
18 drinking water. It may or may not have gas mains and it seems ridiculous  
19 to ask people to pave this road piecemeal if it's going to be improved up to  
20 City standards as this land gets incorporated more and more into the bulk  
21 of the City. So we have a long term and recurring problem here which I'm  
22 among those who think it should be addressed. So having said my say it's  
23 now Commissioner Beard's floor.

24  
25 Beard: We're only addressing a waiver of the, for the fees and improving the  
26 roads. We're not, we're not addressing the actual dividing of the lots.

27  
28 H-Rogers: Commissioner Beard, Members of the Commission. That's correct.  
29 You're just simply reviewing the waiver this evening, not the subdivision  
30 plat itself.

31  
32 Beard: So regardless of how we go then the applicant can go to the City and  
33 without, without a waiver and get the subdivision?

34  
35 H-Rogers: So this particular subdivision has never been subdivided before and our,  
36 our subdivision code has something called an Alternate Summary  
37 Subdivision. So if you've never subdivided before and you're only splitting  
38 it into two parcels you can utilize that process. It's administrative. So  
39 normally you wouldn't see a subdivision such as this unless they were  
40 requesting a waiver.

41  
42 Beard: Thank you.

43  
44 Crane: Commissioner Ferrary.

45

1 Ferrary: Ms. Rogers if we wanted the County Commission to direct staff to modify  
2 the code and provide additional options and, for the exemptions in cases  
3 like these, we wouldn't see these cases then, is that correct?  
4  
5 H-Rogers: Commissioner Ferrary, Members of the Commission. Ultimately if this  
6 Commission is interested in expressing their concerns over issues like this  
7 and you wanted to express that to City council and they were to actually  
8 change the policies and the rules then, no you, you probable wouldn't see  
9 small cases like this. It would only be for the larger subdivisions that, that  
10 are requesting a waiver. Money making subdivisions essentially.  
11  
12 Ferrary: And they have that option as City Council to direct staff to come up with  
13 different options, is that right?  
14  
15 H-Rogers: Correct. Commissioner Ferrary, Members of the Commission. City  
16 Council does have, have the ability to direct staff, that that's the policy  
17 direction that they want to go and, and to move forward with some  
18 amendments to the code to allow for subdivisions such as this not to have  
19 to improve the roadways,  
20  
21 Ferrary: And would you also then suggest that we talk to our City Councilors or  
22 even draft a letter to the City Council asking for this to happen?  
23  
24 H-Rogers: Commissioner Ferrary, Members of the Commission. Yes, both of those  
25 are very viable options in terms of expressing the opinion of this  
26 Commission to the Councilors so that they can at least consider it at any  
27 of their subsequent meetings and, and, and decide whether or not they  
28 want to have some policy changes and move forward with some  
29 amendments to the code.  
30  
31 Ferrary: So if we wanted to draft something formally we should maybe put that on  
32 the agenda for future meeting and then discuss that.  
33  
34 H-Rogers: Yes. Commissioner Ferrary, Members of the Commission. We could do  
35 that. Absolutely. And it could be formally adopted as essentially an  
36 opinion moving forward to, to City Council.  
37  
38 Ferrary: Thank you.  
39  
40 Crane: Commissioner Clifton.  
41  
42 Clifton: Thank you Mr. Chair. Katherine looking at the subdivision plat briefly, just  
43 doing some rough calculations it appears that there is dedicated right-of-  
44 way, like 12.5 feet for Mesa, 25 feet for Sierra Vista, and 25 feet for  
45 Jimmie.  
46

1 H-Rogers: Correct.  
2  
3 Clifton: Okay so with that said the applicant has, is already essentially giving the  
4 City approximately 0.42 acres, almost a half acre of land for future road  
5 improvements. I don't know what the land value is out here I'm not even  
6 gonna attempt to guess, but you know there is, there is a value to that and  
7 so you know maybe as a consideration, I know we used to look at things  
8 like that years ago as, in terms of amendments to the Design Standards  
9 and subdivision regulations was you know what, what's the cost of the  
10 land that you're dedicating for future road improvements as opposed to the  
11 actual cost of road improvements. So I think you know it, it clearly doesn't  
12 meet the code, it doesn't meet the law as written. It is what it is  
13 unfortunately, but the amount of land that the applicant is giving is quite a  
14 bit. I mean that's, that's three residential lots inside the City of Las Cruces  
15 in your standard subdivision. That's a lot of property that they're giving up.  
16  
17 H-Rogers: I would not disagree with that.  
18  
19 Clifton: Okay. Thank you.  
20  
21 Crane: Commissioner Beard.  
22  
23 Beard: I'd like to make one more comment. I realize that road improvements are  
24 done by subdivisions or property improvements as opposed for the City  
25 going out and improving the roads on their own. However, when the City  
26 incorporated this property all of that land up there on the East Mesa, I  
27 think it should've assumed at that time that they, that they are gonna be  
28 burdened with more expenses than property that's in the, already in the  
29 City and it's abiding by the code. So I, I believe that this property owner  
30 really does not have, has a legitimate case for a, a waiver on the road  
31 improvements, especially given that the part of the property is being given  
32 for the widening of the road.  
33  
34 Crane: Any other questions for Ms. Harrison-Rogers? Thank you ma'am. Would  
35 the applicant like to speak? For the record the applicant has an  
36 interpreter.  
37  
38 Gutierrez: SPEAKING SPANISH.  
39 Jiron: And for the record this is Magdalena Jiron interpreter certified for the State  
40 of New Mexico and interpreting for the client.  
41  
42 Crane: On, on, on the mic please.  
43  
44 Jiron: Oh, again, okay. For the record this is Magdalena Jiron interpreter  
45 certified for the State of New Mexico, the administrative office of the courts  
46 for interpreters and I am here interpreting for the client.

1  
2 Crane: This is a, lady with you is Hortencia Gutierrez.  
3  
4 Gutierrez: SPEAKING SPANISH.  
5 Jiron: Yes sir. Thank you.  
6  
7 Crane: Okay, you'll have to pass the mic between you and, oh yes I have to  
8 swear somebody in. Do you have my oath?  
9  
10 Gutierrez: SPEAKING SPANISH.  
11 Jiron: Very well.  
12  
13 Crane: Thank you this is for Ms. Gutierrez. Do you swear or affirm that the  
14 testimony you are about to give is the truth and nothing but the truth under  
15 penalty of law?  
16  
17 Gutierrez: SPEAKING SPANISH.  
18 Jiron: Yes, I swear.  
19  
20 Crane: Thank you. Go ahead please. Does she wish to talk to us?  
21  
22 Gutierrez: SPEAKING SPANISH.  
23 Jiron: First of all good afternoon.  
24  
25 Crane: Ma'am you'll, not sure how we can handle this, is there another way we  
26 get a mic up there? We don't have enough wire do we? Or perhaps they  
27 can both sit down there. For the record the applicant and her interpreter  
28 are sitting next to each other at a table instead of at the podium.  
29  
30 Gutierrez: SPEAKING SPANISH.  
31  
32 Crane: Your mic isn't on.  
33  
34 Gutierrez: SPEAKING SPANISH.  
35 Jiron: Good afternoon my name is Hortencia Gutierrez.  
36  
37 Gutierrez: SPEAKING SPANISH.  
38 Jiron: And I thank you for the attention you are putting on my case now.  
39  
40 Gutierrez: SPEAKING SPANISH.  
41 Jiron: I'm going to be brief and I would like to mention to you that unfortunately I  
42 don't have the money or the means to make things better and to make our  
43 streets better in our community the way I would like to do it.  
44  
45 Gutierrez: SPEAKING SPANISH.

1 Jiron: Okay, I, I want to say that I am willing to, to give up part of my land for  
2 those streets and as the gentleman mentioned it, I believe it's Mr. Clifton  
3 that is a lot of land and I think that that means a lot of money in land. I  
4 don't have what is, in other words I'm giving up this land from my heart  
5 and for this process and for the continuance of this.  
6  
7 Gutierrez: SPEAKING SPANISH.  
8 Jiron: And I would also as a human being I would like to ask you for the  
9 opportunity.  
10  
11 Gutierrez: SPEAKING SPANISH.  
12 Jiron: I would like to ask you for the approval to continue with this and also to  
13 have your approval to be able to do the subdivision. Oh thank you. The  
14 opportunity.  
15  
16 Crane: Thank you. Any questions for Ms. Gutierrez? Apparently not. Thank you  
17 ma'am. Any member of the public wish to address this? No one so  
18 indicates. So we will close this to further input and Commissioners, we  
19 have item S-15-018 in front of us. The proposed request for a waiver of  
20 the road improvement requirements and we have to vote on the motion  
21 expressed in an affirmative way even if we choose to vote against it.  
22 Would somebody like to move? Commissioner Beard.  
23  
24 Beard: If there's no discussion, I move to accept S-15-018W.  
25  
26 Crane: Is there a second for that?  
27  
28 Ferrary: Second.  
29  
30 Crane: Seconded by Ms. Ferrary.  
31  
32 Ferrary: Yes.  
33  
34 Crane: Any discussion between us at this point? In that case let's vote starting  
35 with Mr. Clifton.  
36  
37 Clifton: I vote yes as the applicant has already provided significant amounts of  
38 property for future road improvements.  
39  
40 Crane: Commissioner Gordon.  
41  
42 Gordon: Before I vote just to make sure I clarify correctly what I'm gonna vote, is if I  
43 vote no she does not have to put up the money, is that correct?  
44  
45 Crane: No if you vote no you are refusing the waiver. Refusing to grant the  
46 waiver. So if you want to grant the waiver you vote yes.

1  
2 Gordon: I vote no.  
3  
4 Crane: No?  
5  
6 Gordon: I'm sorry. I vote no.  
7  
8 Crane: Okay. Commissioner Stowe.  
9  
10 Stowe: I vote yes based on presentation and, and discussions.  
11  
12 Crane: Commissioner Ferrary.  
13  
14 Ferrary: I vote yes based on site visit and discussion with also that we make  
15 recommendations and, to the City Councilors about this subject.  
16  
17 Crane: Commissioner Ferrary, Alvarado.  
18  
19 Alvarado: I abstain.  
20  
21 Gordon: Oh yeah before we finish.  
22  
23 Crane: Abstain, abstaining. Commissioner Beard.  
24  
25 Beard: Commissioner Gordon did you want to change yours?  
26  
27 Gordon: Well I'm a little confused. If it says, if I vote yes and recommend approval  
28 of the waiver ...  
29  
30 Crane: Granting of the waiver, yep.  
31  
32 Gordon: That, that's what I want to do. I want to, I want to waive ...  
33  
34 Crane: You want to grant the waiver.  
35  
36 Gordon: Right so then I would've had to vote yes.  
37  
38 Beard: Yes.  
39  
40 Gordon: Yeah I'm sorry, then I change my vote to yes.  
41  
42 Crane: Okay. No problem. Commissioner Alvarado abstains. Commissioner  
43 Beard:  
44  
45 Beard: I vote yes based on discussions, site visit, and, and the, discussions.  
46

1 Crane: And the Chair votes aye based on the discussions. It passes six/zero, and  
2 one abstention. Thank you.  
3

4 **VII. OTHER BUSINESS**  
5

6 Crane: And I mentioned a little while ago we have some other business in that  
7 Commissioner Gordon has prepared something to read into the record  
8 which he will do now. We can't have any public input on it at this point  
9 because we don't have the means to, it, it is not set up that way but you  
10 might be interested to listen. I believe it's possible Commissioner Ferrary  
11 wants to add something at this point and I know that our City employee,  
12 Katherine Harrison-Rogers has something to put in, so let's go first with  
13 Mr. Gordon and then we'll see if Commissioner Ferrary wants to say  
14 something and then we'll go to Ms. Harrison-Rogers. Commissioner  
15 Gordon you have the floor.  
16

17 Gordon: Before I start Commissioner Ferrary has addressed some of this already  
18 and I am in full approval of what she has said, but I took the time to sit  
19 down and just write a few short paragraphs of how I feel about this and I'd  
20 just like to read it for the record so that hopefully maybe somewhere's  
21 down the line we can do something that we don't have this problem every  
22 time this arises.

23 I think that Community Development should be directed to look into  
24 a way to handle requests for zoning changes, variances, etc. for matters  
25 that relate to property in areas that were annexed by the City that were  
26 originally located in the County and are now covered by the current laws  
27 relating to planning and zoning by the City.

28 Properties that were required by residents prior to annexation  
29 where they had a future intent to do certain things and now are prohibited  
30 from doing so because they are subject to City laws that are in effect now  
31 and non-existent in the County prior to annexation.

32 In many cases requests that have come before the P&Z  
33 Commission have been denied based on City law, but if the properties had  
34 not been annexed, they would've been able to accomplish their original  
35 plans. I still believe that each case should be reviewed individually but  
36 decided on a different set of rules pertaining to property annexed by the  
37 City. Again property owners are trapped under a set of rules that didn't  
38 pertain to them when they originally bought the property under existing  
39 County rules. Many cases that result in denial hamper development in  
40 areas that would benefit from it and something needs to be done to correct  
41 this inequity. Thank you.  
42

43 Crane: Thank you Mr. Gordon. Ms. Ferrary do you have anything to add?  
44

45 Ferrary: Yes. I would like to request that we have this put on the next agenda or  
46 one that is appropriate, I'm not sure how soon into the future, but one in

1 which we can draft a memo from us as a group, the Planning and Zoning  
2 Commission, to consider a change in the policy and the code language.  
3 And perhaps as that's on the agenda we might get some options or ideas  
4 from planning as far as what those policies and codes might look like, or  
5 leave it to them to present to the City Council.  
6

7 Crane: Thank you. Commissioner Beard.

8  
9 Beard: I was wondering if, Commissioner Gordon, that if you only wanted to  
10 include property that was transferred from the County into the City? Since  
11 I've been on this Board we have transferred property from the State to the  
12 City, do you want to also include State property?  
13

14 Gordon: I, I think that's fine. I, I think any thing that could help ... first let's think  
15 about it, I, I, you've been out to Mesa Drive. You, you know what it looks  
16 like. Anything that this petitioner is going to do is only going to enhance  
17 the property. It would be terrible to deny her only because of some thing  
18 that is now in place that wasn't there when she originally bought the  
19 property. Now if it was a matter of State land that somehow or another got  
20 annexed by the City, that would be fine. If there was Bureau of Land  
21 Management land, Indian land, any kind of land that would be annexed by  
22 the City, somehow or another they have to figure out a way to make this  
23 equitable. I mean I, you're right when you said that money's gonna sit  
24 there for probably 25 years. I can't believe that, that Mesa Drive in the  
25 next 25 years is ever gonna be finished. There's just so much vacant land  
26 out there that it's just incomprehensible to think that it's gonna be, that she  
27 could put up this money and then everybody else is gonna move in  
28 tomorrow and the whole road will be done. It's just not gonna happen.  
29 And it's just unfair. So I do agree with what you're saying if that's what you  
30 mean.  
31

32 Crane: Commissioner Alvarado.

33  
34 Alvarado: I think we, one of the things that we didn't consider is that these people  
35 have been paying property tax to the County and part of that tax goes to  
36 the schools, part of it goes to the City, so the City has been getting money  
37 from these people for 30 years and has given them exactly nothing; no  
38 roads, no streets, no streetlights, no sewer, no water and yet these people  
39 have been paying all these years. They've been paying into, into the City  
40 for improvements so they, they might have paid, they probably haven't  
41 paid enough to do the improvement, improvements but that also needs to  
42 count towards, towards what they have done in addition to, to giving the  
43 25 feet of land to the City.  
44

45 Crane: Thank you. Ms. Harrison-Rogers you had something you wanted to say at  
46 this point I believe on behalf of the City.

1  
2 H-Rogers: Mr. Chair, Members of the Commission. Ultimately I was just going to  
3 outline perhaps the next steps if the Commission agrees that this is, this is  
4 their view, this is their feeling, and perhaps City Council needs to consider  
5 some changes. Basically what I would recommend is that we have a work  
6 session in a causal format where we push the two tables together and you  
7 all can discuss how you would like to proceed and what information you  
8 would like to provide to City Council. I encourage all of you to speak  
9 directly to the Councilors that you represent or the Mayor in terms of, of  
10 what your ideas are and then ultimately we, we could sit down and work  
11 together to, to draft an opinion that would then be presented to City  
12 Council formally.  
13  
14 Crane: Commissioner, I didn't see who came up first. Commissioner Beard.  
15  
16 Beard: I have a question. Is, is the County considering changing the codes for  
17 the ETZ to be the same as the City?  
18  
19 H-Rogers: Commissioner Beard, Members of the Commission. They're considering a  
20 unified development code for the County. Very comprehensive code.  
21 Ultimately what that means is that the rules and regulations would be a  
22 little bit more balanced in the ETZ and then outside of the ETZ within the  
23 County. The City at this time is not considering adoption of that code but  
24 in theory we could. It's been developed in such a way that, that any  
25 municipality within the County could adopt it. Additionally that particular  
26 code would turn over the administration of the ETZ entirely to the County.  
27 We would still be part of the ETZ, we would be a reviewing party. We  
28 would be a partner but the administration would go entirely to the County.  
29 Does that answer your question?  
30  
31 Beard: I'm not sure.  
32  
33 Crane: Mr. Gordon.  
34  
35 Gordon: Kath, excuse me, Katherine I don't know what the mechanics are as far as  
36 the work shops are concerned, I've never been involved in one here  
37 before but I think a matter of this importance ... first of all I don't know  
38 what percentage of the total amount of land in the City is represented by  
39 this type of, of land that we're talking about and I think that, I don't even  
40 know how many City Commissioners would be, City Councilmen, I'm  
41 sorry, would be effected by something like this, probably just a few, but I, I  
42 think maybe perhaps a joint work session if possible where both sides  
43 could sit down and discuss this problem. I think this is a major problem  
44 that has to be resolved.  
45  
46 Crane: Does anyone else have a, input on this matter as part of the Other

1 Business? Apparently not. You have something Ms. Harrison-Rogers?  
2 Yes.

3  
4 H-Rogers: Commissioner Gordon, Members of the Commission. That, that could  
5 occur. Ultimately the City Council would have to request it to have the, a  
6 joint meeting with you and of course then to discuss the matter.

7  
8 Crane: Okay well (*inaudible*).

9  
10 Gordon: (*inaudible*) do that. How do we get them to do that?

11  
12 H-Rogers: Commissioner Gordon, Members of the Commission. I would again  
13 recommend that you, you speak to the Councilor who appointed you to, to  
14 ask them if that's at all possible. Staff of course can also bring this issue  
15 to the City Manager so that he could then express that to Council to see if  
16 indeed they would like to schedule such a meeting.

17  
18 Crane: The timings a little difficult right now since the elections are coming up and  
19 we have what, three Council members and the Mayer who, well in my  
20 case District 4, my Councilman is not running for office again. The mayor  
21 is of course. But it'll work out. This is not something that has to be done  
22 overnight. Ms. Ferrary did you have your light on a moment ago? No.  
23 Okay. So anything else on this topic? All right. Thank you all for your  
24 input.

25  
26 **VIII. PUBLIC PARTICIPATION**

27  
28 Crane: Is there any public participation on any issue? Apparently not.

29  
30 **IX. STAFF ANNOUNCEMENTS**

31  
32 Crane: Staff announcements. None.

33  
34 **X. ADJOURNMENT (7:07 p.m.)**

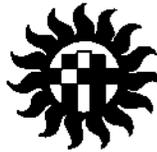
35  
36 Crane: In that case we are adjourned at 7:07. Thank you.

37  
38  
39  
40  
41  
42  
43 

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Chairperson





# City of Las Cruces®

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## Council Action and Executive Summary

Item # 8 Ordinance/Resolution# 2775

For Meeting of February 1, 2016  
(Ordinance First Reading Date)

For Meeting of February 16, 2016  
(Adoption Date)

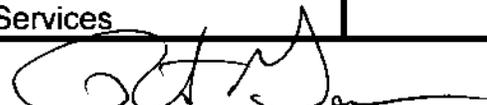
Please check box that applies to this item:

QUASI JUDICIAL       LEGISLATIVE       ADMINISTRATIVE

**TITLE:** AN ORDINANCE REPEALING CHAPTER 38, ARTICLE IV, SECTION 38-33; ARTICLE V, SECTION 38-44 G 2; ARTICLE V, SECTION 38.49.3 J 1; AND ARTICLE VI, SECTION 38-58 E 3 & 6 OF THE CITY OF LAS CRUCES MUNICIPAL CODE AND REPLACING IT IN ITS ENTIRETY IN ORDER TO ELIMINATE MAXIMUM PARKING REQUIREMENTS AND REFERENCES TO PARKING RANGES. SUBMITTED BY THE CITY OF LAS CRUCES. (CASE ZCA-15-03)

**PURPOSE(S) OF ACTION:**

Las Cruces Municipal Code (LCMC) amendment.

<b>COUNCIL DISTRICT: ALL</b>		
<b><u>Drafter/Staff Contact:</u></b> Katherine Harrison-Rogers	<b><u>Department/Section:</u></b> Community Development/ Building and Development Services	<b><u>Phone:</u></b> 528-3049
<b><u>City Manager Signature:</u></b>		

**BACKGROUND / KEY ISSUES / CONTRIBUTING FACTORS:**

The LCMC currently necessitates parking ranges, minimum to maximum, for designated land uses. Prior to approval of Ordinance 2285 on March 27, 2006, the City of Las Cruces (City) only utilized minimum parking requirements. The purpose of the addition of the maximum parking requirements was to address several issues including, but not limited to, increased impervious areas and runoff, poor drainage, heat island effect, pollution, aesthetics, and pedestrian safety.

After using these standards for almost a decade, it is apparent that some of the parking range maximums are too conservative for certain types of uses based upon recurring applicant requests for additional parking associated with particular land uses via a Variance or Flexible Development Standard. Furthermore, various companies establishing themselves in Las Cruces base their projected parking requirements on their statistical use. As such, the development community has requested these maximums be eliminated from the LCMC and City Administration recommended staff draft appropriate modifications to eliminate the maximum parking requirements. The LCMC amendment process requires that City Council take final

action on Zoning Code amendments after a recommendation from the Community Development Department and the Planning and Zoning Commission (P&Z) per Chapter 38, Article II, Section 38-13 A 6 of the LCMC.

There are currently several methods by which to increase the mandatory number of parking stalls including Infill Development proposals for those properties that are eligible, Variances, or administrative Flexible Development Standards, which are limited to no more than a 50% deviation from the minimum or maximum parking allowances. Although the elimination of maximums could reduce staff time dedicated to processing those reduction procedures, many of the issues that triggered the maximum parking regulations still remain. Improved design standards such as enhanced landscaping requirements, pedestrian friendly parking lot design, and green infrastructure could resolve said issues.

Per Chapter 38, Article II, Section 38-10 B 2 b of the LCMC, the P&Z "shall recommend to the City Council approval, denial, or modifications of all requests for Zoning Code amendments." The P&Z met to discuss the amendments on September 22, 2015. After a brief discussion, the P&Z voted to table the discussion until October 27, 2015 so that staff could provide additional information. The P&Z recommended conditional approval of the LCMC amendments eliminating the parking maximums on October 27, 2015. The condition requires staff draft LCMC amendments to add pedestrian access requirements and more stringent landscaping regulations to minimize potential adverse impacts associated with increased parking as specified earlier in this report. These amendments will be forthcoming based upon the result of this Ordinance. Most of the P&Z discussion focused upon voting alternatives and potential conditions and there was no public input regarding the amendments.

#### **SUPPORT INFORMATION:**

1. Ordinance.
2. Exhibit "A", Proposed LCMC Chapter 38, Article IV, Section 38-33; Article V, Section 38-44 G 2; Article V, Section 38.49.3 J 1; and Article VI, Section 38-58 E 3 & 6.
3. Attachment "A", Proposed LCMC Chapter 38, IV, Section 38-33; Article V, Section 38-44 G 2; Article V, Section 38.49.3 J 1; and Article VI, Section 38-58 E 3 & 6 in legislative format.
4. Attachment "B", Staff Memo to P&Z, dated September 3, 2015.
5. Attachment "C", P&Z Minutes, dated September 22, 2015.
6. Attachment "D", P&Z Minutes, dated October 27, 2015.

**SOURCE OF FUNDING:**

Is this action already budgeted?  N/A	Yes	<input type="checkbox"/>	See fund summary below
	No	<input type="checkbox"/>	If No, then check one below:
	<i>Budget Adjustment Attached</i>	<input type="checkbox"/>	Expense reallocated from:
		<input type="checkbox"/>	Proposed funding is from a new revenue source (i.e. grant; see details below)
		<input type="checkbox"/>	Proposed funding is from fund balance in the _____ Fund.
Does this action create any revenue?  N/A	Yes	<input type="checkbox"/>	Funds will be deposited into this fund: _____ in the amount of \$_____ for FY__.
	No	<input type="checkbox"/>	There is no new revenue generated by this action.

**BUDGET NARRATIVE**

N/A
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**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

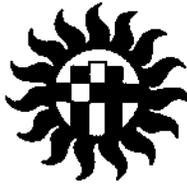
**OPTIONS / ALTERNATIVES:**

1. Vote "Yes"; this will repeal the current LCMC sections and will replace them with the updated LCMC language, eliminating parking maximums.
2. Vote "No"; this will retain the current LCMC language: no modifications will occur and the parking ranges will be retained.
3. Vote to "Amend"; this could repeal the current LCMC language, modify the LCMC language as presented, and replace the LCMC section with the modifications.
4. Vote to "Table"; this could allow City Council to direct staff to provide additional information to bring forward at a later City Council meeting.

**REFERENCE INFORMATION:**

The resolution(s) and/or ordinance(s) listed below are only for reference and are not included as attachments or exhibits.

1. Ordinance No. 2285.



# City of Las Cruces®

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10

## COUNCIL ACTION AND EXECUTIVE SUMMARY PACKET ROUTING SLIP

For Meeting of February 1, 2016  
(Ordinance First Reading Date)

For Meeting of February 16, 2016  
(Adoption Date)

TITLE:

AN ORDINANCE REPEALING CHAPTER 38, ARTICLE IV, SECTION 38-33; ARTICLE V, SECTION 38-44 G 2; ARTICLE V, SECTION 38.49.3 J 1; AND ARTICLE VI, SECTION 38-58 E 3 & 6 OF THE CITY OF LAS CRUCES MUNICIPAL CODE AND REPLACING IT IN ITS ENTIRETY IN ORDER TO ELIMINATE MAXIMUM PARKING REQUIREMENTS AND REFERENCES TO PARKING RANGES. SUBMITTED BY THE CITY OF LAS CRUCES. (CASE ZCA-15-03)

Purchasing Manager's Request to Contract (PMRC) {Required?} Yes  No

DEPARTMENT	SIGNATURE	PHONE NO.	DATE
Drafter/Staff Contact	<i>[Signature]</i>	528-3049	1-8-16
Department Director	<i>[Signature]</i>	528-3067	1-8-16
Other <b>ROBERT COLEMAN</b> <b>BUDGET &amp; FINANCE MGR</b>	<i>[Signature]</i>	541-2107	1/11/2016
Assistant City Manager /CAO Management & Budget Manager	<i>[Signature]</i>	541-2078	1/11/14
Assistant City Manager/COO	<i>[Signature]</i>		1/12/14
City Attorney	<i>[Signature]</i>	541-2128	20 JAN 2016
City Clerk	<i>[Signature]</i>	82115	1-21-16

# LAS CRUCES SUN-NEWS

## PROOF OF PUBLICATION

I, being duly sworn, Maria Del Villar deposes and says that she is the Legal Coordinator of the Las Cruces Sun-News, a newspaper published daily in the county of Dona Ana, State of New Mexico; that the 56092 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 January 31, 2016, the last publication was January 31, 2016. 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

*Maria Del Villar*

Legal Coordinator  
Official Position

STATE OF NEW MEXICO

ss.

County of Dona Ana

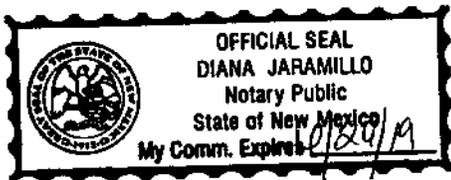
Subscribed and sworn before me this

10<sup>th</sup> day of February '16

*Diana Jaramillo*

Notary Public in and for  
Dona Ana County, New Mexico

June 24, 2019  
My Term Expires



## 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 Ordinance(s) at a City Council Meeting to be Held on February 16, 2016:

1. Council Bill No. 16-014; Ordinance No. 2773: An Ordinance Approving a Zone Change from A-2 (Rural Agricultural District from the 1981 Zoning Code) to RE (Single-Family Residential Estate) for Three (3) Different Parcels Located at 4024 Sotol Drive, 5025 Las Alturas Drive and 5035 Las Alturas Drive. Submitted by Leslie W. & Edna Gibbs, Property Owners. (Z2893)
2. Council Bill No. 16-015; Ordinance No. 2774: An Ordinance Authorizing the Issuance and Sale of up to \$9,500,000 City of Las Cruces, New Mexico Taxable Subordinate Lien State Shared Gross Receipts Tax Improvement Revenue Bonds, Series 2016A for Construction, Acquisition and Improvement of Roadways, Public Infrastructure and Drainage Projects.
3. Council Bill No. 16-016; Ordinance No. 2775: An Ordinance Repealing Chapter 38, Article IV, Section 38-33; Article V, Section 38-44 G 2; Article V, Section 38.49.3 J 1; and Article VI, Section 38-58 E 3 & 6 of the City of Las Cruces Municipal Code and Replacing it in its Entirety in Order to Eliminate Maximum Parking Requirements and References to Parking Ranges. Submitted by the City of Las Cruces. (Case ZCA-15-03)

Copies Are Available for Inspection During Working Hours at the Office of the City Clerk. Witness My Hand and

# LAS CRUCES SUN-NEWS

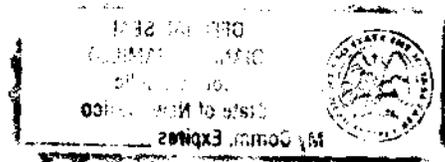
Seal of the City of Las Cruces on this  
the 26th day of January 2016.

Linda Lewis, CMC

Interim City Clerk

Pub #56092

Run Date: Jan. 31, 2016



## Order Confirmation

<u>Ad Order Number</u> 0001090335	<u>Customer</u> CITY OF LAS CRUCES	<u>Ordered By</u> linda lewis	<u>PO Number</u>
<u>Sales Rep.</u> mdeivillar	<u>Customer Address</u> PO BOX 20000,ATTN: CITY CLERK LAS CRUCES, NM, USA 88004	<u>Customer Phone #1</u> 575-541-2118	<u>Customer Phone #2</u>
<u>Order Taker</u> mdeivillar	<u>Payor Customer</u> CITY OF LAS CRUCES	<u>Customer EMail</u>	<u>Special Pricing</u> None
<u>Order Source</u> Rep		<u>Payor Account</u> 26484	

<u>Tear Sheets</u>	<u>Proofs</u>	<u>Affidavits</u>	<u>Blind Box</u>	<u>Promo Type</u>	<u>Materials</u>
1	0	0			

Invoice Text  
pub 56092 notice to intent to adopt

<u>Net Amount</u>	<u>Tax Amount</u>	<u>Total Amount</u>	<u>Payment Method</u>	<u>Payment Amount</u>	<u>Amount Due</u>
\$58.88	\$4.89	\$63.77		\$0.00	\$63.77

<u>Ad Number</u>	<u>Ad Type</u>	<u>Ad Size</u>	<u>Color</u>	<u>Production</u>	<u>Production Notes</u>
0001090335-01	CLS Legal liner	1.0 X 98 Li	<NONE>	AdBooker	

Ad Attributes  
Ad Released: No  
Pick Up

<u>Product Information</u> LC Sun-News::	<u>Placement/Classification</u> Legal	<u>Run Dates</u> 1/31/2016	<u># Inserts</u> 1	<u>Cost</u> \$59.44
<u>Run Schedule Invoice Text</u> NOTICE OF INTENT TO ADOPT The City NOTICE OF INTENT TO ADOPT THE CITY COUNCIL OF THE	<u>Sort Text</u>			
<u>Product Information</u> LC Online::	<u>Placement/Classification</u> Legal	<u>Run Dates</u> 1/31/2016	<u># Inserts</u> 1	<u>Cost</u> \$4.33
<u>Run Schedule Invoice Text</u> NOTICE OF INTENT TO ADOPT The City NOTICE OF INTENT TO ADOPT THE CITY COUNCIL OF THE	<u>Sort Text</u>			