



## Planning and Zoning Commission Agenda

The following agenda will be considered by the Planning and Zoning Commission of the City of Las Cruces, New Mexico, at a public hearing held on November 28, 2023, beginning at 6:00 p.m. in Council Chambers at City Hall, 700 N. Main Street, Las Cruces, New Mexico.

1. Call To Order
2. Conflict Of Interest
3. Approval Of Minutes

Documents:

[10-24-23 PNZ MINUTES.PDF](#)

4. Postponements
  5. Acceptance Of The Agenda
  6. Public Participation
  7. Consent Agenda
- 7.1. Case No. 23CS0500113  
A request to approve a non-administrative replat known as Majestic Hills Subdivision No. 1 Replat No. 4. The proposed subdivision encompasses 1.9754 ± acres in size, zoned R-3 (Multi-Dwelling Medium Density) and located at 2969 Claude Dove Drive. The subdivision proposes to subdivide one existing lot and a portion of another existing lot into two new lots that are 0.443 ± and 1.531 ± acres in size. Submitted by Bohannan Huston, representative. Council District 2.
- 7.2. Case No. 23VO0500088  
A variance to the maximum height, square footage, and number of freestanding signs for a property located at 901 Avenida de Mesilla. The property encompasses 4.825 ± acres in size and zoned C-3 (Commercial High Intensity) within the Avenida de Mesilla Gateway District Overlay. Submitted by Austin Cope, representative. Council District 4.
- 7.3. Case No. 23ZO0500140  
A zone change request from M-1/M-2 (Industrial Standard) to C-3 (Commercial High Intensity) for a property encompassing 8.25 + acres in size and located at 4201 Del Rey Boulevard. Submitted by New Republic Design Co., Representative. Council District 5.

7.4. Case No. 23ZO1000122

A request for a Special Use Permit (SUP) to allow a group childcare home not to exceed 12 children on a property Zoned R-1a (Single-Family Medium Density). The subject property is located at 4703 Big Springs St. and encompassing 0.13 ± acres. Submitted by Roxanna Sanchez representative. City Council District 5.

7.5. Case No. 23ZO1000133

A request for a Special Use Permit (SUP) to allow a group childcare home for up to twelve (12) children within a single-family residence located at 1236 Antelope Pass Drive. The subject property is currently zoned R-1a (Single-Family Medium Density) and encompasses ± 0.11 acres. Submitted by Chavelita's Place LLC, business owner. Council District 5.

8. Old Business

9. New Business

9.1. Case No. 22ZO0500153

A zone change request for properties primarily within and immediately adjacent to the existing Heather Hills Master Plan generally located south of University Meadows Subdivision and west of Stern Drive, a.k.a. 5150 Stern Drive. The zone change basically involves three lots and a portion of platted roadway adjacent to the current master plan boundary for a total of ± 23.23 acres. The proposed zone change is as follows:

- Lot 1, University Meadows Subdivision
  - Tract D – A zone change from R-1aC (Single-Family Medium Density-Conditional) to R-1a (Single-Family Medium Density) for ± 4.88 acre
  - Tract G – A zone change from R-1a (Single-Family Medium Density) to R-1a (Single-Family Medium Density) for ± 0.69 acres.
- Tract E, University Meadows Subdivision
  - Tract E – A zone change from R-1aC (Single-Family Medium Density-Conditional) to R-1a (Single-Family Medium Density) for ± 0.52 acre
  - Tract H – A zone change from R-1a (Single-Family Medium Density) to R-1a (Single-Family Medium Density) for ± 0.95 acres
- Lot 2, MVCS Summary Subdivision No. 1
  - Tract B - A zone change from R-1aC (Single-Family Medium Density-Conditional) to R-1a (Single-Family Medium Density) for ± 6.30 acres.

- Lot 2-2A, University Meadows Subdivision
  - Tract A - A zone change from R-1aC (Single-Family Medium Density-Conditional) to R-1a (Single-Family Medium Density) for ± 0.68 acres.
  - Tract F - A zone change from R-1a (Single-Family Medium Density) to R-1a (Single-Family Medium Density) for ± 8.94 acres
  
- Portion of platted road (EBL&T Sub. B)
  - Tract C - A zone change from R-1aC (Single-Family Medium Density-Conditional) to R-1a (Single-Family Medium Density) for ± 0.17 acres.
  - Tract I - A zone change from R-1a (Single-Family Medium Density) to R-1a (Single-Family Medium Density) for ± 0.10 acres.

Submitted by Libbin Underwood Engineering & Surveying, representative.  
Council District 2.

#### 9.2. Case No. 23CS0500134

A request for approval of a Major Amendment, known as Heather Hills Master Plan Amendment No. 3. The existing Heather Hills Master Plan boundary includes three parcels (Lot 1 and Lot 2-2A of the University Meadows Subdivision and Lot 2 of the MVCS Summary Subdivision No. 1. This master plan encompasses ± 21.48 acres and is generally located south of University Meadows Subdivision and west of Stern Drive, a.k.a. 5150 Stern Drive.

Properties within the boundary are zoned R-1a (Single-Family Medium Density) and R-1aC (Single-Family Medium Density – Conditional). In terms of the amendment, consider the following:

- The proposed amendment will add ± 0.078 acres (Existing ROW from within the University Meadows Master Plan boundary and more specifically ROW from the easternmost Silverado Loop cul-de-sac). A portion of a platted roadway (EBL&T Subdivision 'B') will also be added to the Heather Hills Master Plan boundary making the total acreage ± 21.83 acres. The additional acreage will be incorporated into a proposed drainage tract and proposed residential lots.
- ± 4.96 acres of Lot 1, Lot 2 in its entirety, and ± 0.69 acres of Lot 2-2A will convert from the designated Institutional land use to Single-Family Medium Density.
- ± .271 acres of a platted road (EBL&T Sub. B) will convert from a platted road to Single-Family Medium Density.
- 80 residential lots are proposed.

Submitted by Libbin Underwood Engineering and Surveying, representative.  
Council District 2.

9.3. Case No. 23ZO0500120

A proposed zone change request from R-3 (High Density Residential District from the South Mesquite Overlay) to C-1 (Neighborhood Commercial District from the South Mesquite Overlay). The subject property is encompassing 0.233 ± acres and is located at 541 S. Campo St. The zone change is to allow for the future development of a commercial business on the subject property.

Submitted by Libbin Underwood Engineering and Surveying, representative.  
City Council District 1.

9.4. Case No. 23VO0500128

A variance request to deviate fifteen (15) feet to the required twenty (20) foot side yard setbacks for construction of a new shade structure located at 480 N. Seventeenth Street. The property encompasses 2.715 ± acres and is zoned M-1/M-2 (Industrial Standard). Submitted by Libbin Underwood Engineering and Surveying, representative. Council District 4.

10. Staff Announcements

11. Discussion

12. Adjournment

The City of Las Cruces does not discriminate on the basis of race, religion, sex, sexual orientation, gender identity, color, ancestry, serious medical condition, national origin, age, or disability in the provision of services. The City of Las Cruces will make reasonable accommodations for a qualified individual who wishes to attend this meeting. Please notify the City Community Development Department at least 72 hours before the meeting by calling 528-3043 (voice) or 1-800-659-8331 (TTY) if accommodations are necessary. This document can be made available in alternative formats by calling the same numbers listed above.

Posted 11/9/2023



# CITY OF LAS CRUCES

**PLANNING AND ZONING COMMISSION  
FOR THE  
CITY OF LAS CRUCES  
City Council Chambers  
October 24, 2023 at 6:00 p.m.**

**BOARD MEMBERS PRESENT:**

- Scott Kaiser, Chair
- Enrico Smith, Vice-Chair
- James Bennett, Secretary
- Joaquin Acosta, Member
- Connor Murray, Member
- Vanessa Porter, Member

**STAFF PRESENT:**

- David Weir, Deputy Director Community Planning
- Adam Ochoa, Senior Planner/Building Inspection Supervisor
- Sara Gonzales, Senior Planner
- Vincent Banegas, Interim Planner
- John Castillo, Planner
- Brad Douglas, Deputy City Attorney
- Becky Baum, Recording Secretary, RC Creations, LLC

**1. CALL TO ORDER (6:00)**

Kaiser: All right. Good evening, folks. It is 6:00 p.m. on October 24th. We'll go ahead and call this meeting of the Planning and Zoning Commission to order.

**2. CONFLICT OF INTEREST**

Kaiser: Do we have any conflicts of interest from the Commissioners tonight? All right. Seeing none.

**3. APPROVAL OF MINUTES – September 26, 2023**

Kaiser: Are there any comments on the minutes from the September 26th meeting? None. Can I get a motion to approve?

Bennett: I make a motion to approve the September 26th meeting.

Smith: I second.

1 Baum: Board Member Smith.  
2  
3 Smith: Yes.  
4  
5 Baum: Board Member Murray.  
6  
7 Murray: Yes.  
8  
9 Baum: Board Member Porter.  
10  
11 Murray: Abstain.  
12  
13 Baum: Board Member Bennett.  
14  
15 Bennett: Yes.  
16  
17 Baum: Chair Kaiser.  
18  
19 Kaiser: Yes.  
20  
21 Baum: Passes.

22  
23 **4. POSTPONEMENTS**

24  
25 Kaiser: Okay. I don't think there's any postponements tonight. Is that correct?  
26  
27 Ochoa: No, sir. None tonight.  
28  
29 Kaiser: All right.

30  
31 **5. ACCEPTANCE OF THE AGENDA**

32  
33 Kaiser: So before we go to the acceptance of the agenda, I'd like to pull item 7.1  
34 and 7.2 from the consent agenda tonight for discussion. So we will make  
35 those our first order of business. So with that change can I get a motion to  
36 accept the agenda?  
37  
38 Bennett: I make a motion to accept the agenda.  
39  
40 Smith: I second.  
41  
42 Baum: Board Member Smith.  
43  
44 Smith: Yes.  
45  
46 Baum: Board Member Murray.

1  
2 Murray: Yes.  
3  
4 Baum: Board Member Porter.  
5  
6 Murray: Yes.  
7  
8 Baum: Board Member Bennett.  
9  
10 Bennett: Yes.  
11  
12 Baum: Chair Kaiser.  
13  
14 Kaiser: Yes.  
15  
16 Baum: Passes.

17  
18 **6. PUBLIC PARTICIPATION**  
19

20 Kaiser: Okay. Going to public participation. Is there anybody in the audience  
21 tonight who wishes to speak on an item that is not on tonight's agenda  
22 please raise your hand? Okay. Seeing none.  
23  
24 We'll go ahead and move forward. So there's no additional items of the  
25 consent agenda so we will go ahead and start.  
26

27 **7. OLD BUSINESS**  
28

29 Kaiser: And there's also no old business.  
30

31 **8. CONSENT AGENDA**  
32

33 **7.1 Case # 23CS0500158: Moved to New Business.**  
34

35 Kaiser: So we'll go ahead and start with item 7.1. And if staff has a presentation,  
36 I'll be happy to entertain that.  
37

38 Castillo: Good evening, Commission. Staff has created a presentation. If you guys  
39 want to hear it, we can. If you would just like to ask any questions about  
40 the development, we can also do that as well.  
41

42 Kaiser: I think I'd prefer a presentation mainly because some of the attachments  
43 made it really difficult to sort of reconcile what was in the staff report versus  
44 what's on those attachments so a presentation would be great.  
45

1 Castillo: Sounds good. So this is John Castillo for the record. Tonight, we have all  
2 the Organ Mountain Plaza master plan. It's currently located on the  
3 northwest corner of Bataan Memorial West and McGuffey Street. The  
4 address is 4299 Bataan Memorial West. It's located within Council District  
5 5. It encompasses 9.525 acres. The current zoning designation is a  
6 stacked zoning of M-1, M-2 and C-3, which is our industrial standard and  
7 commercial high intensity.

8  
9 As the property sits right now, it's currently a vacant, undeveloped parcel of  
10 land. As you can see from the aerial image, the highlighted part is what  
11 we're looking at right now. Here is the zoning of the tract of land and these  
12 are some street views. It is quite a stretch of land so it was hard to get a lot  
13 of pictures in there.

14  
15 So the master plan proposes a multiphase, nonresidential development. It's  
16 going to propose anywhere between 20 to 30 lots for commercial and  
17 industrial land uses. The subject property is to be developed in phases  
18 utilizing either the alternate summary subdivision process or the preliminary  
19 plat process. If the developer wishes to use alternate summary subdivision  
20 process, the 9.525 acre parcel will get divided into various lot sizes, meeting  
21 either the C-3 development standards or the M-1/M-2 development  
22 standards. If they wish to go through forward with the preliminary plat, he  
23 can develop in phases either as one single lot or individual lots. Here's an  
24 image of the proposed master plan. The item down here at the bottom is  
25 what we're looking at.

26  
27 Public input was sent to all relevant agencies and departments. All of them  
28 supported the proposed master plan. Notice was sent to surrounding  
29 properties within 500 feet. Staff did receive a couple of phone calls  
30 regarding development on the master planned area and just general  
31 questions regarding the property as a whole as well as the master planned  
32 area.

33  
34 This went before our Development Review Committee or DRC, which was  
35 conducting a meeting on October 4th. The DRC reviews subdivisions from  
36 an infrastructure, utilities, and improvement standpoint. There was  
37 discussion regarding the proposed access points along Bataan Memorial  
38 West and NMDOT's approval of those access points. Based on that  
39 discussion staff gave a unanimous approval as a recommendation.

40  
41 Today staff recommends approval as well as DRC recommending approval  
42 based on the following findings. The proposed master plan meets the  
43 objectives of a master plan as required by the subdivision code based on  
44 relevant City staff review. The proposed master plan complies with all  
45 requirements of the 2001 Zoning Code as amended as well as the City of  
46 Las Cruces' designs standards. The proposed master plan also fulfills the



1 intent and purpose of Elevate Las Cruces Comprehensive Plan. It also  
2 meets the purpose and intent requirements of Section 38-2 of the Zoning  
3 Code as well as the Section 2-382 of the Las Cruces Municipal Code. And  
4 DRC also gave their recommendation of approval on October 4th.  
5

6 Today your options are to vote "yes" to approve, "no" to deny, vote to  
7 amend, or vote to table.  
8

9 Kaiser: Thank you. I certainly have some questions but I'll turn to my colleagues  
10 first. Does anyone have any questions or comments? So I think my first  
11 question is I think you kind of alluded to it just now but it was in the staff  
12 report. It says there's 20, the development would allow for 20 to 30 lots in  
13 phases but that does not appear to be shown anywhere in the I guess  
14 proposed master plan in attachment three, so I'm just wondering if you could  
15 clarify what that is? And what that looks like?  
16

17 Castillo: Mr. Chair, Commission. Speaking with the developer they would be  
18 utilizing, like I said before, either the alternate summary subdivision. So  
19 based on land uses that would go in, they would parcel out the tract of land  
20 into various sized lot sizes which could range anywhere between 20 to 30  
21 lots on the property based on land uses and what the proposed use is going  
22 to require.  
23

24 Kaiser: Okay. So I guess I'm confused as to what is the plan. What are we, I mean  
25 I see one giant tract of land that you're saying could be split up in an infinite  
26 number of ways depending on what the developer chooses to do in the  
27 future, but we're being asked to approve a master plan. What's the plan?  
28

29 Castillo: Mr. Chair, Commission. So the master plan for the property is to look at the  
30 overall utility infrastructure that would be on the property as well as propose  
31 any type of infrastructure regarding roadways. They are going to be using  
32 shared access points between all of it. I'm going to let Sara speak real  
33 quick.  
34

35 Gonzales: Mr. Chair and Commission. Sara Gonzales with Community Development.  
36 The process for a master plan is basically used for developers in order to  
37 create an administrative process for subdividing the land. Property is  
38 already zoned, it just allows the applicant to come forth and utilize basically  
39 the alternate summary process to say this person may need an acre in size.  
40

41 If we go and develop each piece, they would have to come back to P&Z  
42 every time they cut out a portion. So the master plan is used in order to  
43 alleviate that process because it already meets the intent of the code and it  
44 meets the zoning. So this process is just allowing them to have it zoned  
45 and master planned in a way to where they can come in and now utilize the  
46 administrative process.

1  
2 Kaiser: Okay. Thank you for that clarification. I guess along those lines there, let's  
3 see. Let me find it on my page here. Yes, here we go. So the purpose of  
4 a master plan process is to advance the goals and objectives of the City's  
5 Comprehensive Plan and to address a variety of environmental and social  
6 issues that are being proposed in the development. So could you speak to  
7 what some of those issues might be? And how this master plan addresses  
8 them?  
9

10 Castillo: Mr. Chair, Commission. Keeping in line with Elevate Las Cruces, the  
11 southern half of Bataan Memorial East is considered a regional commercial  
12 zone. I don't believe it's a part of a mixed use corridor but it is a major  
13 thoroughfare within our City. So keeping with that this would enhance that  
14 regional commercial corridor moving forward to the north creating a buffer  
15 between any type of residential development.  
16  
17 It also provides once again depending on the type of use that goes in, it can  
18 fill the need for any type of food desert that maybe there or provide some  
19 other kind of amenity to the neighborhood.  
20

21 Kaiser: Okay. Thank you. All right. I don't have any further questions. I'm just sort  
22 of struggling with we're being asked to approve a master plan but there's no  
23 plan. But I don't know if that's a flaw in the process or the requirements in  
24 the code but it's one lot. We're saying that they can develop it you know 50  
25 different ways to Sunday but we don't what. We're just giving them the go  
26 ahead to go ahead and do that. And as long as it adheres to the master  
27 plan then they're good to go but I just don't know what the plan is. So I don't  
28 know what we can do about it here tonight but that's just a concern I have,  
29 so I appreciate it. Thank you.  
30

31 Are there any other questions or comments from the Commission? No. All  
32 right. Going to the public. Is there anybody in the public who wishes to  
33 comment on this item? All right. Seeing none. I'll come back to the  
34 Commission. If there's no other comments or questions looking for a motion  
35 to approve.  
36

37 Bennett: I make a motion to approve 7.1.  
38

39 Smith: I second.  
40

41 Baum: Board Member Acosta.  
42

43 Acosta: I vote yes based on staff recommendation and Elevate Las Cruces.  
44

45 Baum: Board Member Smith.  
46

1 Smith: I vote yes based on staff recommendation.  
2  
3 Baum: Board Member Murray.  
4  
5 Murray: Yes, based on staff recommendation.  
6  
7 Baum: Board Member Porter.  
8  
9 Porter: I vote yes based on staff recommendations and Elevate Las Cruces.  
10  
11 Baum: Board Member Bennett.  
12  
13 Bennett: I vote to approve based on staff recommendation and DRC  
14 recommendation.  
15  
16 Baum: Chair Kaiser.  
17  
18 Kaiser: No, based on the fact that I just I don't have enough information. I don't  
19 know what I'm approving as part of this master plan.  
20  
21 Baum: Passes five to one.  
22

23 **7.2 Case # 23ZO0500124: Moved to New Business**  
24

25 Kaiser: Okay. Moving onto item 7.2. This is a zone change request from R-4 to C-  
26 2 at 6281 Reynolds Drive. Go ahead, staff. If you have a presentation.  
27  
28 Ochoa: Good evening, Commission. Adam Ochoa with Community Development.  
29 I'm actually covering this case for another staff that couldn't make it tonight  
30 unfortunately. So bear with me when I go through this for you all and I'll try  
31 to answer as many questions as I can to clarify for you all.  
32  
33 So currently the property is zoned R-4 which stands for multi dwelling, high  
34 density and limited retail and office. The property encompasses roughly  
35 0.812 acres and is currently undeveloped. Surrounding area which is kind  
36 of, we go a little forward first, the southern portion if you will, of Bataan  
37 Memorial here between I believe what is Dunn and Porter to the west. It's  
38 surrounded commercial properties to the west which are owned by the City  
39 to be utilized for the East Mesa campus that's to be developed in the future.  
40 Religious institutions, single-family uses, multifamily uses as well. And then  
41 vacant multifamily development as well right along that area of Reynolds.  
42  
43 This area is categorized by Elevate Las Cruces and it is suburban place  
44 type which actually does encourage that variety of uses, multifamily, single-  
45 family, and different ranges of densities. Commercial nodes, if you will, to  
46 support those and multifamily zoning as well.

1  
2 Again, you're showing here the subject property here. Right next to what is  
3 that vacant commercial area that is currently zoned by the City of Las  
4 Cruces. A little further west you can see the East Mesa Complex there.  
5 Highlighted property here, religious institution to the east, multifamily,  
6 vacant commercial property that's all City owned, and just a sea of what is  
7 large lots, single-family residential lots to the south.  
8

9 The applicant is proposing to rezone the subject property to C-2 which is  
10 commercial medium intensity property. It only requires a C-2 zone  
11 designation because it doesn't require a C-3 commercial high intensity  
12 because the lot isn't large enough to require that. It will allow for the  
13 development of either a commercial shopping center as what the applicant  
14 is really trying to propose or possibly a ministorage unit facility as well. A  
15 zone change will not eliminate the existing multifamily land use as we all  
16 know commercial does allow for multifamily and allows that flexibility if that  
17 is wanted in the future at a higher density as well. Here's just a quick site  
18 plan of that vacant piece of property. Bataan Memorial to the north.  
19 Reynolds to the south.  
20

21 So when staff analyzed the proposed zone change, we did see no real  
22 health, safety, or welfare issues associated with the zone change. The  
23 proposed zoning district would provide the capability for, I guess the  
24 surrounding area kind of utilize actual commercial area. I don't know if you  
25 all had a chance to drive it out there. There's really limited commercial uses,  
26 service uses, in this area. So staff saw that this is something that is  
27 supported by Elevate Las Cruces and the suburban place type adding this  
28 additional commercial property on the actual commercial zoning on the  
29 property.  
30

31 Showing here kind of what I reiterated. To get to any services in the area,  
32 it's a limited access highway as we all know. The State of New Mexico, we  
33 love our limited access highways. So to get to any type of services, there  
34 is a small commercial node here or commercial use, if you will, gas station  
35 right on the corner on the north side. But then you'd have to come all the  
36 way down to Mesa Grande to really reach any other type of services of  
37 commercial land uses for this area. Really everything to the south is either  
38 single-family zoning designations or rural single-family zoning designations  
39 so just a large cluster of it in this area.  
40

41 With that staff does recommend approval for the proposed zone change.  
42 We believe that it does meet the intent of the 2001 Zoning Code. A zone  
43 change will allow for a multitude of commercial land uses on the subject  
44 property. It is located along a minor arterial roadway and a local roadway  
45 to the south, but would allow additional commercial uses in the area. And  
46 the proposed zone change is supported by Elevate Las Cruces

1 Comprehensive Plan and meets the purpose and intent of Section 38-2 of  
2 the 2001 Zoning Code.

3  
4 Let's see here. City of Las Cruces staff, we did send required public notice  
5 to all surrounding properties. We did receive no input from anybody around  
6 the area.

7  
8 With that, ladies and gentlemen, your options tonight is one, vote "yes" to  
9 approve the proposal or recommend approval for the proposed zone  
10 change to City Council. Two, to vote "no" and deny, recommend denial for  
11 the proposal and change. Of course, reminder, any denial - staff findings  
12 are for approval, so any vote for a denial will require new findings of fact.  
13 Three, to vote "yes" and amend the proposal and change. And four, table  
14 or postpone and direct staff accordingly.

15  
16 The applicant is here if you have any questions for them. And I stand for  
17 questions as well.

18  
19 Kaiser: Thank you. Before I ask my questions, anyone on the Commission have  
20 questions or comments? Commissioner Smith.

21  
22 Smith: I just want a clarification. So basically, this is just giving them an option to  
23 maintain a residential zone and also the opportunity to develop as a  
24 commercial zone also?

25  
26 Ochoa: Commissioner Smith, Chairman Kaiser. Correct. It kind of gives them a  
27 little step up in the ability to develop this property. As you know, R-4 you're  
28 allowed multifamily high density which basically it's the same density that is  
29 allowed also in the proposed C-2 zoning. But on top of that R-4 allows  
30 limited office and retail. Very limited office and retail on the property. And  
31 it requires certain types of development to occur on there, limited uses. But  
32 the C-2 would allow a lot more potential commercial land uses as well. So  
33 just opens the options for this property to be developed more than what its  
34 current zoning designation allows.

35  
36 Smith: All right. Thank you.

37  
38 Ochoa: Yes, sir.

39  
40 Kaiser: Any other Commissioners have questions? Go ahead.

41  
42 Porter: I wanted to know so we're approving basically either a storage unit or a  
43 shopping center, right, basically, that's kind of what he's requesting, right?  
44 I know that he's saying that there's not really any other like shopping centers  
45 unless you go around to Mesa Grande and this will put this one at Reynolds.  
46 But how would we know what we're approving if we're approving a storage

1 unit or if we're approving another shopping center which would benefit the  
2 community on that spot because that's what the presentation is coming off  
3 to me. When would we, like that's no clarification to me right now as in if  
4 it's a storage unit or if it's going to actually be something that will be able to  
5 provide a little bit more for the residents in that area.  
6

7 Ochoa: Sure. Commissioner Porter, Chairman Kaiser. Those two uses are just  
8 what the applicant is currently looking at potentially developing the property  
9 for. But really, it's any C-2 use would be allowed on the property. Anywhere  
10 from, like I said before, multifamily to that shopping center, the storage unit  
11 facility, and a plethora of other things as well. A standalone restaurant could  
12 go there. Offices can go there. Even mixed use development can occur  
13 over there as well as long as densities and heights and all other  
14 development standards will be met. So those are just two examples of what  
15 they're thinking of developing, but it's not really set in stone yet.  
16

17 Porter: Okay. Thank you.

18 Ochoa: Yes.

19 Kaiser: So I have very similar concerns as my colleagues up here. I think my  
20 biggest concern is that we're not guaranteed residential units under a C-2  
21 zone, right. I mean the applicant is indicating that that's not their intent. And  
22 I have serious reservations about that because we already have limited  
23 opportunities to develop something other than single-family residential units  
24 in this City.  
25  
26

27  
28 We've got housing affordability issues and you know this is one, I think it's  
29 what, less than an acre in size? So we can sit here and say well it's not that  
30 big of a deal, it's less than an acre. But the problem in my mind is that  
31 everyone of these is just another chip off the block that we no longer have  
32 the opportunity to go develop that into residential units. And so, I'm very  
33 concerned that we're going to approve this tonight and they're going to go  
34 develop a ministorage unit. That's hugely problematic to me.  
35

36 Even if they decide to do a commercial center, I still have reservations  
37 because under the R-4, you're saying that there is limited retail opportunity  
38 there. So my question would be what is the applicant not able to get out of  
39 that R-4 zone as far as retail or commercial? I mean could they not get or  
40 put in a market that would actually serve the residents of this community?  
41

42 Ochoa: Mr. Chair. The actual list of permitted commercial are service uses under  
43 the R-4 is extremely limited. Top of that it is also limited on square footage  
44 as well. So it would extremely restrict how much that property can be  
45 developed for any type of commercial use. So even if an office went in there  
46 or let's say like you stated like a grocery store, the square footage of it would

1 be extremely limited than just if we went with the C-2 zoning designation.  
2 That's the major difference just extreme constraints. And for instance, we  
3 currently had ...

4  
5 Kaiser: Do you have your code by any chance?

6  
7 Ochoa: Let me get those exact numbers for you. If you give me one minute, sir.

8  
9 Kaiser: Yes. And while we're waiting. I guess I understand the constraints part and  
10 I think that's the whole point, right, is we're trying to get the residential units.  
11 We're trying to require that. So I understand that there's constraints on the  
12 commercial because what we want to see with R-4 zone is residential. You  
13 know, I'd be curious to know you know what the applicants thoughts are as  
14 far as the R-4 and what may or may not be possible.

15  
16 The other concern I have is this is next to the west of it, there's already I  
17 think there's a C-3 parcel. So I mean there's opportunity already right there  
18 to develop a commercial development. Yes. And I think it was earlier in  
19 your presentation you had the zoning on it. Yes, there you go. So it is a  
20 C-3 already. So I mean there's opportunity there. So I'm concerned that  
21 we would be giving up residential opportunities here.

22  
23 And then also the location next to the park. I mean it just doesn't make  
24 sense to me that we would put in a ministorage unit next to a park. I mean  
25 that's a perfect opportunity for residential development. So I have a lot of  
26 concerns and I think that pretty much covers the extent for me.

27  
28 From the use perspective while you're looking. I would mainly be curious  
29 about the retail pieces of it, like what they could do?

30  
31 Ochoa: Mr. Chair. To answer your question. So for instance, retail it's even more  
32 limited. It's really just services that would be allowed there. Offices use is  
33 what would be allowed there. Accountant's office, professional offices so  
34 on and so forth. Limiting maximum of either 35% coverage of the property  
35 or 1,500 square feet max of the entire property would be allowed for  
36 commercial or I guess really office use, if you will.

37  
38 On top of that though, I did want to clarify that piece of property to the left is  
39 owned by the City of Las Cruces, the vacant commercial property, and that's  
40 for the future continued growth of what is the East Mesa Complex out there,  
41 sir.

42  
43 Kaiser: Okay. So our plan to do future park improvements expansions is that ...

44  
45 Ochoa: I believe that's still in the plan. Yes, sir.

46

1 Kaiser: Okay. So it would be right next door to a park that's expanding. I mean  
2 that seems like a great place to have an apartment complex or some other  
3 multifamily development. Any other questions or comments from the  
4 Commission? All right. Go ahead and go to public comments. Is there  
5 anybody in the audience who wishes to speak on this item tonight? Okay.  
6 Seeing none. Coming back to the Commission. If there's no additional  
7 comments or questions, looking for a motion to approve.  
8

9 Bennett: I make a motion to approve 7.2.

10  
11 Smith: I second.

12  
13 Baum: Board Member Acosta.

14  
15 Acosta: I vote yes to approve based on staff recommendation and Elevate Las  
16 Cruces.

17  
18 Baum: Board Member Smith.

19  
20 Smith: I vote yes to approve based on staff recommendation and this is consistent  
21 with the purpose and intent of the zoning ordinance.  
22

23 Baum: Board Member Murray.

24  
25 Murray: I vote yes based on Elevate Las Cruces and staff recommendation.  
26

27 Baum: Board Member Porter.

28  
29 Porter: I vote no due to recent findings.  
30

31 Baum: Board Member Bennett.

32  
33 Bennett: I vote to approve based on staff recommendation.  
34

35 Baum: Chair Kaiser.

36  
37 Kaiser: No. Based on the potential impact of affordable housing in this community  
38 and the inconsistency with policies of Las Cruces.  
39

40 Baum: Passes four to two.  
41

42 **9.1 Case No. 23ZO0500091:** A request to approve a Special Use Permit (SUP)  
43 to allow a cannabis-based business less than the required 300-foot buffer  
44 distance from another cannabis-based business. The subject property is  
45 located at 1760 W. Hadley Avenue, encompassing 1.02 ± acres and is



1 zoned M-1/M-2 (Industrial Standard). Submitted by Martin Camarena,  
2 representative. Council District 4.

3  
4 Kaiser: Okay. Moving onto item 9.1, a request to approve a Special Use Permit to  
5 allow a cannabis-based business within the 300-foot buffer distance at 1760  
6 West Hadley Avenue.

7  
8 Castillo: Good evening Commission. Once again, this is John Castillo for the record.  
9 Today, we have a Special Use Permit located at 1760 West Hadley. This  
10 will be a cannabis microbusiness. The current conditions of the property,  
11 it's zoned M-1/M-2 which is our industrial standard. It was originally  
12 developed as a warehouse storage facility in 1975. And it has had various  
13 commercial and industrial land uses go in and out of the property. The  
14 property is located 1760 West Hadley and it's approximately 1.02 acres in  
15 size.

16  
17 The surrounding neighborhood contains similar uses to what is being  
18 proposed. There are other larger cannabis grow facilities in the area as well  
19 as some other microbusinesses within the area. The zoning map here  
20 shows the subject property that's highlighted. It's all M-1/M-2, then you  
21 have some commercial development within the area as well. The aerial  
22 map as you can see once again the highlighted area, we have some  
23 commercial buffering, a mobile home park, an already existing RV and I  
24 believe mobile home park in the area, as well as a small public park.

25  
26 So the proposal is to allow a SUP for a grow and manufacturing cannabis  
27 that doesn't exceed 200 mature plants. The buffer distance between the  
28 cannabis microbusiness area permit or closest cannabis microbusiness  
29 area permit boundary is approximately 80 feet which does not meet our 300  
30 foot required buffer. However, this does meet all over buffer distances such  
31 as single-family zoning districts and school/daycare properties. They will  
32 also follow all of the City of Las Cruces and State of New Mexico regulations  
33 governing cannabis and related retail activity.

34  
35 As you can see, the subject business is going to be located at the far end  
36 of this facility right here. And this is just a street view of what we see it  
37 looking from Hadley. This is the proposed business right here. This is an  
38 existing cannabis microbusiness as well. The two closest points together  
39 are approximately 80 feet. I think it's like 78 point something.

40  
41 All relevant City staff reviewed the application and had no comments  
42 regarding the proposed establishment. Notice was sent out to all  
43 surrounding properties within 500 feet. Staff did receive a phone call  
44 regarding general information of the business that was going in, not so  
45 much about the Special Use Permit itself just the business.

1 Today, staff recommends a conditional approval. The condition being that  
2 the business will be required to bring the property into compliance with all  
3 development standards as outlined in the 2001 Zoning Code. This includes  
4 everything from parking, landscaping, and whatever other building code  
5 requirements that may be needed if they make any improvements to the  
6 building.

7  
8 The findings for approval are the subject property meets the distance  
9 separation requirements from any school, nursery, daycare, and single-  
10 family residential district. It already exists and is surrounded by commercial  
11 and industrial uses in the area. The subject parcel is compatible with  
12 several other nonresidential properties along Hadley Avenue. Meets the  
13 purpose and intent of Section 38-2 and it will meet all requirements outlined  
14 in the Zoning Code and those stipulated by the State of New Mexico. Meets  
15 the intent and purpose of Elevate Las Cruces Comprehensive Plan as it's  
16 located adjacent to a mixed use corridor and it's also found within the  
17 business park and industrial place type.

18  
19 Today, your options are to vote "yes" to approve, vote "no" deny, vote to  
20 amend, or vote to table.

21  
22 Kaiser: Thank you. Can you go back? So this is conditional approval, that's staff's  
23 recommendation where the, okay. So it's just the compliance bit. You  
24 mentioned something somewhere about the 200-plant capacity. Is that also  
25 part of the condition?

26  
27 Castillo: No. That is as part of the definition of our microbusiness. They're only  
28 allowed to grow up to 200 mature plants.

29  
30 Kaiser: Got it. Okay. Thank you. Any questions or comments from the  
31 Commission? All right. Seeing none. We'll go ahead and open it for public  
32 comment. Can I get a show of hands of anyone who wishes to speak on  
33 this item tonight? Okay. I see one from this gentleman here. Go ahead  
34 and come forward, sir. I'll give you three minutes.

35  
36 Hoban: Good evening.

37  
38 Kaiser: And before you get started, sir. Can I have you state your name so I can  
39 swear you in?

40  
41 Hoban: Kevin Hoban.

42  
43 Kaiser: And do you swear or affirm that the testimony you're about to give is the  
44 truth and nothing but the truth under penalty of law?

45  
46 Hoban: So help me God.

1  
2 Kaiser: Go ahead.  
3  
4 Hoban: I am diametrically opposed to allowing for a Special Use Permits waivering  
5 the 300-foot separation of cannabis related facilities. The buffer was put in  
6 for a reason and I notice there are several agenda items requesting the  
7 same Special Use Permit and exemption. And I feel that it does not meet  
8 the intent of having that 300-foot buffer in the first place. And I believe it's  
9 a slippery slope that we go down when we start making the exceptions  
10 become the rule.  
11  
12 I'm not a big fan of cannabis having recovered from several things during  
13 my lifetime. But you know the State of New Mexico has decided to do that.  
14 They came up with a fairly comprehensive way to do it adopted by our local  
15 governments, and I think we should continue to follow those  
16 recommendations and not necessarily make exceptions just to fill space.  
17 Thank you very much.  
18  
19 Kaiser: Thank you. All right. Is there anybody else in the audience that wishes to  
20 speak on this item? All right. Seeing none. I will come back to the  
21 Commission. Any final comments or questions? All right. Seeing none.  
22 Go ahead, Commissioner Smith.  
23  
24 Smith: I would just like to address the gentleman who just came up. I know that  
25 you know we previously voted to approve a deviation from the 300-foot  
26 buffer. And I know that this Commission, we've been very careful as far as  
27 making sure that if we do approve and when we have approved those  
28 deviations has been based on you know proximity to schools and daycare  
29 centers and places of that type.  
30  
31 I know as I look at this one, it's close to another cannabis business and  
32 they're requesting quite a, you know deviation from that, approximately 80  
33 feet. In this situation, I look at where this place is located. It's an industrial  
34 area. It's not near any schools or residences. And I kind of take the  
35 approach of a bar/restaurant. You know you go downtown and you know  
36 there's a bar beside a bar and a restaurant beside a restaurant. And you  
37 know they're in a warehouse type environment. You know I mean it's  
38 competition. I know they're close to each other.  
39  
40 So I think on a case-by-case basis we look at these and I definitely agree  
41 with you as far as you know we have to look closely at how often we approve  
42 the deviations. And that's what we attempt to do very carefully in this  
43 Commission.  
44  
45 Kaiser: Thanks, Commission Smith. And I'll just clarify too, the code allows for an  
46 applicant to come forward and ask for this relief under the Special Use

1 Permit. So these aren't exceptions. The code allows an applicant to come  
2 forward. And if they fall within 300 feet of a residential neighborhood or  
3 another cannabis establishment, they can seek a Special Use Permit on  
4 their existing code. So I just wanted to clarify that point. If there's no other  
5 comments, looking for a motion to approve, and keep in mind there's that  
6 one condition.  
7

8 Bennett: I make a motion to approve 9.1 with the condition stipulated in the staff  
9 report.  
10

11 Smith: I second.  
12

13 Baum: Board Member Acosta.  
14

15 Acosta: I vote yes to approve with conditions based on staff recommendation and  
16 just based on the supply and demand of the industry there as you're looking  
17 at actually growing and producing that product there. The industry is still  
18 very, very behind in a big industrial complex like that. The more competition  
19 the merrier. They still have an uphill battle from there. It's definitely not a  
20 golden ticket to a million bucks by any means. So we do still need the  
21 medicine out there.  
22

23 Baum: Board Member Smith.  
24

25 Smith: I vote yes based on staff recommendation for the conditional approval.  
26

27 Baum: Board Member Murray.  
28

29 Murray: I vote yes based on staff recommendation and the industrial area that it's  
30 located in.  
31

32 Baum: Board Member Porter.  
33

34 Porter: I vote yes based on staff recommendations with conditions.  
35

36 Baum: Board Member Bennett.  
37

38 Bennett: I vote to approve based on staff recommendation. This also meets the  
39 purpose and intent of the code and the criteria for decisions.  
40

41 Baum: Chair Kaiser.  
42

43 Kaiser: Yes, based on staff recommendation and consistency with Elevate Las  
44 Cruces.  
45

46 Baum: Motion passes.

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**9.2 Case No. 23ZO1000109:** A request to approve a Special Use Permit (SUP) to allow a cannabis-based business less than the required 300-foot buffer distance from another cannabis-based business and single-family residential zoning district. The subject property is located at 750 S. Solano Drive, zoned C-2 (Commercial Medium Intensity), and encompasses 1.41 ± acres. Submitted by Alter Ego Holdings, LLC, representative. Council District 3.

Kaiser: Okay. Moving onto item 9.2. This is another request to approve a Special Use Permit to allow a cannabis-based business within the 300-foot buffer. This is at 750 South Solano Drive.

Gonzales: Chair and Commission. Sara Gonzales with Community Development. As stated, this is a Special Use Permit for 750 South Solano. The property is located on the northwest corner of Solano Drive and Colorado Avenue. It's approximately 1.41 acres in size. It is zoned C-2 which is commercial medium intensity, and currently has storage units as well as an additional business located on the property but does have underutilized commercial retail space still available.

Under the code requirements of Chapter 38, the applicants must come forth for a Special Use Permit if they do not meet the requirements of the 300-foot buffer from schools or daycares, residential zoning districts, or retailers or microbusinesses that are currently in operation.

The applicant is proposing a drive-through retail cannabis only. So this will only be for drive-through. There will be no walk-in. There will be no parking on site. So this is just to basically pick up and receive their retail services and then leave the site. They'll be utilizing 600 square feet of the existing building, and they will meet all the requirements for the State of New Mexico regulations as far as cannabis-related retail goes.

The buffer distance in which is in question is we do have another case that will be presented after mine. So we have two cannabis retailers that will be about 262 feet separation from an existing cannabis retailer and 170 feet from another one that is going to be proposed this evening. They also have a buffer requirement of 181 feet from a single-family residential zoning district.

As you can see on the zoning map, you can see that there's commercial properties along Solano Drive, that is one of our mixed use corridors. Colorado is mixed uses which is multifamily, single-family, and then has also some commercial located on the south side. This is essentially the aerial map of the subject property and its current location as to where it would be to the other cannabis retailers and the residential district. As you

1 can see, there is 170 feet from the current cannabis retailer that is in  
2 operation. The proposed one that is coming forth after this will be 262 feet  
3 away. And you have 181 feet to the residential zoning district. We go to  
4 the zoning district boundary line not to the residential property line because  
5 district lines are different, they run to the middle of the street.  
6

7 One thing to note that I did notice within the applications as they were  
8 submitted. The property located on this corner was submitted on May 8th.  
9 The current application that is being reviewed right now in front of Planning  
10 and Zoning Commission was May 9th and the one just after is on May 15th.  
11 So all of these applications came in at the same timeframe. So at any point  
12 in time, these Special Use Permits would have come forth to the  
13 Commission for consideration.  
14

15 Here is a site plan of the subject property. As you can see, this is the  
16 existing storage unit facility. Their customers will be coming in through  
17 Solano, going through their drive-through window and then exiting out onto  
18 Colorado Avenue. Once again, it is just for drive-through purposes only.  
19 Here is some images of the subject property as well as along Solano. So  
20 you would have Solano here. This is currently where the retail space that  
21 is used for the storage units. There's also another business inside this  
22 building and then their business would be on the very end in order to meet  
23 that 100-foot stacking lane that's required for any drive-throughs within Las  
24 Cruces.  
25

26 This is if you're looking at the property. This would be where they're located  
27 on the corner. Across the street is where the current cannabis business is  
28 located. This is on the south side where you see the other commercial  
29 services being provided. With this, the applicant has justified the Special  
30 Use Permit because it is just a strictly drive-through establishment. You will  
31 not see as many cars parking. You will not have as increased traffic as  
32 anybody who is coming by to pick up their services or their retail and leave.  
33

34 It is also providing a 24-hour service which then in turn will provide security  
35 for the existing property. The owner at this time has a chain link fence  
36 around the property and its storage units, and so there are several damages  
37 taking place. So this now puts someone on site to actually do security for  
38 that site as well as generating the GRT for the City.  
39

40 So with this, staff did not find any health, safety, or welfare issues identified.  
41 This is a retail establishment that is often similar to the ones we do see  
42 currently being utilized and approved throughout the City of your coffee  
43 shops, your gas stations, you generally see multiple in similar locations.  
44 And it's utilizing an additional portion of a building that can generate the  
45 GRT for City.  
46

1 So with this, these are the findings that were found within your staff report.  
2 It does meet the distance and requirements for any schools or nurseries  
3 and daycares. It is compatible with the surrounding area and land uses as  
4 far as it is a commercial retail service. And so along Solano is where we  
5 continue to see our commercial that is being restored as far as vacant  
6 buildings being utilized.

7  
8 The site does attract vehicle traffic but it's coming from Solano which is our  
9 designated minor arterial as opposed from the local streets. All of that traffic  
10 will be coming off of a roadway that's already designated to handle that  
11 impact. It meets the purpose and intent of the 2001 Zoning Code and it  
12 meets all of the requirements that are outlined as far as the State of New  
13 Mexico has indicated with the Special Use process.

14  
15 Staff did send out notification to the surrounding property owners. We did  
16 receive seven letters in support. You also received two additional in front  
17 of you this evening that were printed and provided. With that you have three  
18 renters that are renting around this location as well as six property owners.  
19 We did receive one phone call that was not in support with the concerns of  
20 there may be increased traffic along Colorado Avenue due to the hours of  
21 operation and that it may take away business from the existing cannabis  
22 location now.

23  
24 So with that your options are to vote "yes" and approve, vote "no" and deny.  
25 Once again, if you choose to vote to deny, please provide alternate findings  
26 of fact that were not found within your staff report. Vote "yes" with  
27 conditions, and vote to table. I stand for any questions and the applicant is  
28 here as well.

29  
30 Kaiser: Thank you. Any questions or comments? I have just a couple of minor  
31 questions. So the drive-through element, it looks like this is one-way traffic.  
32 Is there going to be a need for signage to control that at all, or is it self-  
33 explanatory when you pull up?

34  
35 Gonzales: Mr. Chair and Commissioner. The applicant will be required to update the  
36 site in order to provide the proper signage to locate. And then also as his  
37 customers come in, give that information as they tend to purchase. If they  
38 have the availability, all of these will be detoured so that way you can  
39 understand which way to get into the site for that drive-through.

40  
41 Kaiser: Okay. Is it a drive-through strictly or could somebody walk up to this window  
42 as well?

43  
44 Gonzales: Mr. Chair and Commission. It is drive-through strictly. There are no  
45 windows to walk up to and there are no doors in order to open it and actually  
46 access the retail services.

1  
2 Kaiser: But somebody could walk up to the drive-through window and purchase a  
3 product? They have to be in a vehicle?  
4  
5 Gonzales: Mr. Chair. Let me ask the applicant. Mr. Chair. The applicant has stated it  
6 has to be in a vehicle. That the customer has to be in a vehicle.  
7  
8 Kaiser: Okay. And then I guess when they exit the property, it looks like a building  
9 or I guess two buildings directly across the street on Colorado. One looks  
10 like a residential structure. The other, I can't really tell. Would the potential  
11 hours of operation have an impact on that residence perhaps? I don't know  
12 if there's going to be restrictions on that hours of operation, I'm just thinking  
13 24-hour drive-through, you know headlights coming into a bedroom at 2:00  
14 a.m. would be pretty obnoxious.  
15  
16 Gonzales: Mr. Chair and Commission. Based on the aerial if you can see this would  
17 be the drive entrance right now. Currently, you would be coming out. This  
18 is the commercial property. This would be the residential property. So I  
19 think by the time you'd actually turn there is that possibility of lights. But I  
20 think we see that regardless in most commercial and residential areas.  
21 You're going to see some type of light that may come out. The driveway is  
22 located over here so it should not impact at least the access coming in for  
23 that residential property, but it would be more just to these streets right here  
24 do not have as many on street parking for vehicles because they are  
25 commercial related, so you don't have that extra traffic at night.  
26  
27 Kaiser: Okay. And then I'm assuming there's no limitations on hours of operation?  
28 This is 24 hours. Yes. Okay.  
29  
30 Gonzales: Mr. Chair. Correct. It would be a 24-hour service.  
31  
32 Kaiser: Okay. Thank you. Any other questions, comments from the Commission?  
33 Okay. Looking to the public. Is there anybody who wishes to speak on this  
34 item tonight? Please raise your hand. I see three individuals. I'm going to  
35 start with this gentleman here in the front row. Please come forward and I'll  
36 give you all three minutes each. Please state your name for the record.  
37  
38 Cortner: John Cortner.  
39  
40 Kaiser: And do you swear or affirm that the testimony you're about to give is the  
41 truth and nothing but the truth under penalty of law?  
42  
43 Cortner: Yes.  
44  
45 Kaiser: Go ahead.  
46



1 Cortner: So my name is John Cortner and I'm the CEO and one of the cofounder of  
2 Casa Verde Cannabis. We're actually the cannabis dispensary that's  
3 already there supplying to both these. I did bring my sales data. I don't  
4 know if you guys want to see any data. I just have some information.  
5  
6 Kaiser: Yes. Bring it up.  
7  
8 Cortner: That's our sales to date. The main reason why we're here is we are, us  
9 three, we're small business owners here. We've been just recently  
10 established you know just for about six weeks. We do not feel that having  
11 two dispensaries open up within 300 feet of us is going to be good for us.  
12 Honestly, it's going to kill a small business. If there's one you know maybe  
13 that's okay, but having two open up within 300 feet, honestly, it's going to  
14 be really tough for us.  
15  
16 Also, I don't feel that having a drive-through coming down Solano where it  
17 turns from two lane to a one lane. I think it's going to impede traffic pretty  
18 badly right there. So I think it's going to make Solano kind of like back up  
19 right there. But the biggest focal point of this is going to be we are a small  
20 business. We're trying to survive here and bringing two dispensaries that  
21 close to us is not going to be good for us.  
22  
23 Kaiser: Thank you.  
24  
25 Cortner: That's it for me. Thank you.  
26  
27 Kaiser: Do you want your data back or ...  
28  
29 Cortner: It applies for the second one too so.  
30  
31 Kaiser: Okay. We'll hold onto it for now. Thank you. And then the gentleman in  
32 the back please come forward. Please state your name for the record.  
33  
34 Escobar: Jason Escobar.  
35  
36 Kaiser: And do you swear or affirm that the testimony you're about to give is the  
37 truth and nothing but the truth under penalty of law?  
38  
39 Escobar: Yes, sir.  
40  
41 Kaiser: Go ahead.  
42  
43 Escobar: Good evening. First off, I would like to thank the Planning and Zoning for  
44 making this possible today. My name is Jason Escobar, owner and operator  
45 of Alter Ego Cultivation, a dispensary here in Las Cruces. My family that  
46 consists of my parents, Francisco and Jenny, and my two siblings, Brandon

1 and Ariana, moved here from Arizona in April of 2022 with one goal in mind,  
2 to bring in an amazing seed to sale experience to the Las Cruces  
3 community. Every day we strive towards this goal working with the great  
4 people we've met along the journey.  
5

6 We're ready to serve the community of Las Cruces seven days a week with  
7 a 24 hours a day with a knowledgeable and friendly staff. As a drive-through  
8 only dispensary, we offer a unique and divergent experience to our City's  
9 cannabis enthusiasts giving opportunity to those who may not be seeking  
10 the traditional cannabis experience. I'm sorry, the traditional dispensary  
11 experience. We are very pleased to become a part of the cannabis  
12 community that Las Cruces has created. We thank you for supporting our  
13 small business and making our dreams come true. Thank you for your time  
14 today and have a great day.  
15

16 Kaiser: Thank you.

17  
18 Escobar: I also have some sales reports here as well from the whole of Solano. From  
19 all the way up to Lohman back down to the 750 Solano location.  
20

21 Kaiser: All right. Thank you very much.  
22

23 Escobar: Thank you for hearing me. That will be all.  
24

25 Kaiser: Please come forward and you can just restate your name for the record and  
26 go ahead.  
27

28 Hoban: Because I understand I'm still sworn in. Kevin Hoban. Besides my previous  
29 comments on the other issue. I work with a facility here in the south Solano  
30 area. Looking at three applications within five blocks and we're in the 1100  
31 block, 1135. And next door we have a cannabis retail space and I'm just  
32 wondering if creating a high-density cannabis or any other business, liquor  
33 stores or anything like that that's not designed that way like an  
34 entertainment district, is a wise thing to do especially since Solano is  
35 surrounded mostly by a residential area.  
36

37 So again, I would ask you to preferably consider making these, they are  
38 exceptions, I mean you can call it anything you want, but they are  
39 exceptions to a recommendation to create buffers between these  
40 businesses. Okay. And also, the cannabis was referred to as medicine. It  
41 is medicine for some people but the proliferation of these shops came about  
42 when recreational cannabis was legalized in the State of New Mexico. So  
43 let's not fool ourselves into thinking that these are just delivering medicine  
44 to people. Thank you.  
45

1 Kaiser: Thank you. Is there anybody? Yes, sir. Please come on down. Please  
2 state your name for the record.  
3

4 Barber: Good evening, ladies and gentlemen. My name is Jordan Barber.  
5

6 Kaiser: And do you swear or affirm that the testimony you're about to give is the  
7 truth and nothing but the truth under penalty of law?  
8

9 Barber: I do.  
10

11 Kaiser: Go ahead.  
12

13 Barber: So yes, I represent the 725 South Solano Drive location. We're with Round  
14 House Reserve. We currently have a storefront off of Lohman and Solano,  
15 200 South Solano Drive, in which we also a location out in Sunland Park,  
16 New Mexico.  
17

18 I just want to clarify. We are submitting for a Special Use Permit in regard  
19 to being able to retail. However, that is not the main purpose of what we  
20 are looking to do here. The property that we are putting to use is going to  
21 primarily be for manufacturing because we're located in a C-2 zoning  
22 cottage district. We're also located in an Infill District in which this building  
23 has been vacant, an eyesore, land of the free to the homeless population in  
24 that area. And we know the landlord personally.  
25

26 We also are looking towards bringing in a testing facility in which we've  
27 spoken to Carolina Barrera which is the Deputy Director of CCD to southern  
28 New Mexico. So our primary use of the 725 South Solano Drive is not going  
29 to be retail even though we will be offering retail. So I just want to clarify  
30 that. And we're not opposed to this drive-through taking place because we  
31 believe in collaboration over competition. And as said before, there's not  
32 enough manufacturers, producers. And we have zero testing in this area.  
33 That will conclude what I have to say.  
34

35 Kaiser: Thank you.  
36

37 Barber: Thank you.  
38

39 Kaiser: Okay, final show of hands. Anybody else who wishes to speak on this item  
40 tonight? All right. Seeing none. I will come back to the Commission. Any  
41 final comments or questions? Commissioner Smith.  
42

43 Smith: I have a question for staff. What is the current number of cannabis  
44 businesses in Las Cruces that are licensed and operating at this time? The  
45 last I heard it was 68 but that was about two months ago.  
46

1 Gonzales: Mr. Chair, Commissioner. That is correct. We are still at that number. We  
2 are still within 60 at this point, 60 to 70.  
3

4 Smith: I just want to make a comment. I live very close to El Paseo and Wyatt and  
5 there are a number of cannabis businesses there. As a matter of fact, I  
6 jokingly call it cannabis corner. There are about five, possibly six, cannabis  
7 businesses in that area that are pretty close to each other. So you know  
8 once again to address the gentleman in the back there.  
9

10 I know that you know there's this fear that we're going to have like this you  
11 know area that's just like a strip of cannabis businesses, but you know I go  
12 back to the fact that they're competing with each other as far as business.  
13 It's capitalism. It's business. And you know it's going to be the best  
14 business wins. People have choice you know. You can go to a number of  
15 different places to shop, eat, and it's going to be no different with the  
16 cannabis business.  
17

18 So you know when you enter a business, I was in business for a long, long  
19 time. I ran a fitness business. I competed with gyms and other personal  
20 you know training facilities. And I just took that risk and went out there and  
21 competed for 12 years. So you know these people who are here making  
22 this application at this point are basically in the same situation where they  
23 have to establish a business and compete to do well.  
24

25 Kaiser: All right. Looking for a motion to approve.  
26

27 Bennett: I make a motion to approve 9.2.  
28

29 Smith: I second.  
30

31 Baum: Board Member Acosta.  
32

33 Acosta: I vote yes to approve based on staff recommendation and Elevate Las  
34 Cruces free market where it will (*inaudible*) the top. New Mexico is in a  
35 unique situation. We have no cap on licensing. So again, people will be  
36 able to fizz it out eventually.  
37

38 Baum: Board Member Smith.  
39

40 Smith: Yes, based on site visit and staff recommendation.  
41

42 Baum: Board Member Murray.  
43

44 Murray: Yes, based on staff recommendation.  
45

46 Baum: Board Member Porter.

1  
2 Porter: Yes, based on staff recommendations.  
3  
4 Baum: Board Member Bennett.  
5  
6 Bennett: I vote to approve based on staff recommendation, this meets the 2001  
7 Zoning Code and Elevate Las Cruces.  
8  
9 Baum: Chair Kaiser.  
10  
11 Kaiser: Yes, based on the staff recommendation and consistency with Elevate Las  
12 Cruces.  
13  
14 **9.3 Case No. 23ZO1000118:** A request to approve a Special Use Permit (SUP)  
15 to allow a cannabis related business less than the required 300-foot buffer  
16 distance from another cannabis related business. The subject property is  
17 located at 725 S. Solano Drive, zoned C-2 (Commercial Medium Intensity),  
18 and encompasses 0.225 ± acres. Submitted by Jordan Andrew Barber,  
19 representative. Council District 3.  
20  
21 Kaiser: Okay. Item 9.3., another request to approve a Special Use Permit to allow  
22 a cannabis related business within the 300-foot buffer. This time at 725  
23 South Solano Drive.  
24  
25 Ochoa: Good evening again, Commission. Adam Ochoa for the record again. So  
26 can I just say ditto. My apologies. A bad joke. So 725 South Solano, it is a  
27 proposed Special Use Permit for the subject property. The property is  
28 located on the east side of Solano Drive, roughly about 165 feet north of its  
29 interaction with the Colorado Avenue.  
30  
31 The property encompasses roughly 2.25 acres in size and is zoned C-2  
32 commercial medium intensity. The property is a developed, vacant, and  
33 badly deteriorating commercial property as it currently exists. It has been  
34 vacant for a number of years.  
35  
36 What we're looking at here under Section 30-3, the conditional uses under  
37 the 2001 Zoning Code is not meeting one of the buffer requirements which  
38 is retail to macro business distance requirements of 300 feet. This one is a  
39 little bit more of a different proposal. This is, I believe the applicant for this  
40 one spoke before. This is retail but it's also a cottage industry so it's more  
41 of a microbusiness where they'll be manufacturing as well. So essentially,  
42 you're looking at like a third different type of cannabis related business on  
43 Solano.  
44  
45 So as the applicant calls it out, it is a cannabis fully vertical licensure with  
46 retail and associated cottage entry uses. Buffer distances that we're looking

1 at is the 262 feet that's from the drive-through that was just currently  
2 approved, and 177 feet from the one directly south at, I believe 795 South  
3 Solano who are both just strictly cannabis retailers.  
4

5 With an SUP, staff does examine the potential impacts in the surrounding  
6 area and just the existing conditions. And just on top of that we do look and  
7 make sure that it meets all other requirements of the City of Las Cruces and  
8 the State of New Mexico regulations for governing cannabis related retail  
9 activity.  
10

11 Here you're looking at the zoning map. Subject property located here.  
12 Actually, it encompasses two properties but from building a building. Here's  
13 the one that was barely approved and the other one located right now on  
14 Colorado. As you can see, Solano and unfortunately, I don't have a wider  
15 shot, but Solano is a commercial corridor. It is what El Paseo is just a strictly  
16 commercial corridor. It eventually gets into residential basically, when you  
17 get past Missouri is when you finally get some residential in that area.  
18

19 Showing here the distances again. About 262 feet from the one that was  
20 just recently approved, and roughly about 177 feet from the existing  
21 cannabis retailer located here. And just for clarification, you do see some  
22 homes located near this but they are not zoned for single-family. So only  
23 the one Special Use Permit is required. One variance or SUP is required  
24 for this one from cannabis to cannabis related business.  
25

26 Here are some pictures of the subject property. As you can see, they've  
27 already been doing some work with it. Some light demolition work.  
28 Cleaning it out. When we did a site visit, I turned around and we did see  
29 some vagrants on the property so vacant property that will now be utilized  
30 on Solano is the big push for this one. Which during our analysis staff did  
31 see no health, safety, and welfare issues identified with the proposed  
32 Special Use Permit.  
33

34 And as I stated before, it would allow for the redevelopment for a vacant  
35 commercial property. And really also to bring it into compliance as well.  
36 The property as you can see was two separate properties so a replat will be  
37 required. Parking will have to be updated. Landscaping will have to be  
38 updated so on and so forth. And the whole property will be utilized  
39 whenever they bring in their testing site as well, so that's definitely a plus.  
40

41 So again, this is an area where commercial properties have a history of high  
42 vacancy rates. Business will trigger nonconformities as I stated before and  
43 it is supported by several comprehensive plan goals, policies, and actions.  
44

45 With that staff does recommend approval for the proposed Special Use  
46 Permit with the findings shown there. That it does meet all other distance

1 requirements from daycares and schools and single-family residential  
2 zoning districts. It's an area of large variety of compatible uses in zoning,  
3 located along a designated minor arterial roadway where these types of  
4 uses are encouraged. It is supported by the 2001 Zoning Code and also  
5 the Elevate Las Cruces Comprehensive Plan.  
6

7 Staff did send out a public notice to surrounding properties. For this case  
8 stat did not receive any public input to date, minus what we heard tonight  
9 from the adjacent property owner.  
10

11 These are your options tonight, one to vote "yes" and approve the Special  
12 Use Permit as recommended by staff. Two, to vote "no" and deny. Of  
13 course, new findings of fact will be required if you vote that way. Three, to  
14 vote "yes" with any conditions are deemed appropriate by the Commission.  
15 And four, vote to table to postpone and direct staff and the applicant  
16 accordingly. You have heard from the applicant previously. He's here for  
17 any additional questions you might have for him. And I stand for questions  
18 as well.  
19

20 Kaiser: Thank you. Any comments or questions?  
21

22 Smith: I have a question for the applicant, Mr. Barber. You stated that primarily  
23 your goal for your business is to grow and produce. That's your initial  
24 primary goal as far as establishing your business and then the retail will  
25 possibly come later. Because I know that you did state that you know that  
26 you want to really become a producer.  
27

28 Barber: So I'll be completely transparent. Retail is not our primary use. We don't  
29 aim to take care of the retail as the primary priority, part of the phasing.  
30 However, we do have a couple of code requirements and things that  
31 necessary adjustments that need to be made to the property to bring it up  
32 to speed, which we're very close to achieving.  
33

34 However, you know rent still needs to be paid. So if retail does end up being  
35 phase one then that maybe the direction. However, what I will say is it is  
36 going to be very small scale. We will be manufacturing so it's more of a  
37 place for us to service other cannabis businesses. So our first cannabis  
38 business in Las Cruces is located on 200 South Solano Drive. It's two rock  
39 throws away from this building.  
40

41 You know so for us to put another retail cannabis business there is kind of  
42 crazy. But what we're looking to do for testing and manufacturing and  
43 assisting producers with processing you know their material; we're looking  
44 to inevitably break into the market that is underserved and go that route.  
45

1 Smith: Okay. Yes. I kind of see it as in some way you will be helping other  
2 cannabis businesses also.  
3  
4 Barber: A 100%. That's the goal here.  
5  
6 Smith: All right. Thank you.  
7  
8 Barber: Thank you.  
9  
10 Kaiser: Any other questions, comments? No. Go ahead and turn it to the public.  
11 Is there anybody in the audience who wishes to speak on this item this  
12 evening? Please raise your hand. Yes, sir. Come on down. Just restate  
13 your name for the record and then you can go ahead.  
14  
15 Escobar: Jason Escobar. Yes, sir. I was just wanting to say that we absolutely  
16 support the approval of this SUP and it couldn't go to a better person.  
17 Jordan is a great person. Round House as a company is a great company  
18 and I can't wait for the things that they're going to do for the community.  
19 Thank you.  
20  
21 Kaiser: Thank you. All right. Anybody else who wishes to speak? All right. Seeing  
22 none. I'm going to come back to the Commission. If there's no additional  
23 ... Commissioner Smith.  
24  
25 Smith: I just have one comment. I had a site visit at that building location and you  
26 know I live near that area so I drive down Solano quite often. And that  
27 particular building has been quite an eyesore for I don't know how many  
28 years but quite a while. Just seeing what they've done so far, I mean this  
29 is a type of you know renewal in existing businesses that will elevate Las  
30 Cruces, the comprehensive plan attempts to do. The businesses don't  
31 matter. It's the fact that you know we're helping to utilize buildings that have  
32 been sitting you know empty for a long, long time. And you know this is part  
33 of what we want to do in the City to help it to grow.  
34  
35 Kaiser: All right. Looking for a motion to approve.  
36  
37 Bennett: I make a motion to approve 9.3.  
38  
39 Murray: I second.  
40  
41 Baum: Board Member Acosta.  
42  
43 Acosta: I vote yes based off staff recommendation and Elevate Las Cruces.  
44  
45 Baum: Board Member Smith.  
46



1 Smith: I vote yes based on site visit and staff recommendation.  
2  
3 Baum: Board Member Murray.  
4  
5 Murray: Yes, based on staff recommendation and utilizing a vacant building.  
6  
7 Baum: Board Member Porter.  
8  
9 Porter: I vote yes based on staff recommendations, Elevate Las Cruces, and site  
10 visit.  
11  
12 Baum: Board Member Bennett.  
13  
14 Bennett: I vote to approve based on staff recommendation.  
15  
16 Baum: Chair Kaiser.  
17  
18 Kaiser: Yes, based on staff recommendation and consistency with Elevate Las  
19 Cruces.  
20  
21 Baum: Motion passes.  
22  
23 **9.4 Case No. 23ZO0500105:** An Infill Development Process request to allow  
24 for site deviations for the redevelopment of a commercial property located  
25 at 1325 El Paseo Road. The subject property is zoned C-2 (Commercial  
26 Medium Intensity) and encompasses 0.60 ± acres. Submitted by Express  
27 Trade LLC, property owner. Council District 3.  
28  
29 Kaiser: Okay. Moving onto item 9.4. This is an Infill Development Process request  
30 to allow for site deviations for redevelopment project at 1325 El Paseo  
31 Road.  
32  
33 Banegas: Mr. Chairman, Commissioners. Vincent Banegas, Interim Planner for the  
34 record presenting this evening's case regarding the Infill Development  
35 request at 1325 El Paseo Road. Current conditions are as follows; the  
36 property is currently C-2 which is our commercial medium intensity district.  
37 It is 0.68 acres in size plus or minus. Our zoning atlas shows the property  
38 as two lots but I think in the assessor's office there's multiple smaller lots  
39 that make up or comprise the property in question.  
40  
41 They are in the process of replatting those properties into one and staff is  
42 awaiting further feedback and/or input from the surveyor in order to proceed  
43 with that process, but they're close.  
44  
45 The property was originally developed in 1978 making it fall under our 1969  
46 Zoning Code back in the day. And I talked to that issue because it was

1 developed as Dunkin' Donuts and then later was used as Style America and  
2 then sat vacant for about three years or so. While it was a Dunkin' Donuts,  
3 I'm kind of going back and reflecting back as a teenager, going there to have  
4 a donut, etc., I believe there was a window, a service window drive-through  
5 window at that time.  
6

7 Our code back then did not speak to drive-through windows. It didn't have  
8 any provisions for them. So staff feels that at some point in time the window  
9 was put in and we have no record of when that was or how that occurred.  
10 But that was the reason for bringing that point up.  
11

12 Due to the vacancy period that I spoke to, there's a need to comply with the  
13 current code requirements for this property. The property is within the Infill  
14 Development area or overlay and we refer to that as either the IDO or IDP  
15 depending on what you want to use. It's also within the El Paseo blueprint  
16 study area and falls within the urban neighborhood place type as part of our  
17 Elevate Las Cruces Comprehensive Plan.  
18

19 The surrounding neighborhood is largely commercial service. You have  
20 office and there is some residential uses in the vicinity. C-2 and C-3 largely  
21 make up the zoning along El Paseo Road both north and south. And then  
22 R-1a, R-2, R-3, and R-4 represents the residential uses southeast and east  
23 of the subject property.  
24

25 Here's a zoning map showing the properties in question outlined in red. You  
26 can see either the pink or the light red if you will showing the C-2, C-3 zoning  
27 and then your residential off to the southeast and east of the subject  
28 property. An aerial map showing the same location and some of the  
29 buildings in proximity to the site. You have Arby's located here. Wendy's  
30 here. And Grandy's, I believe they're called located here.  
31

32 This was a case that came before you all for rezoning. It's now C-3. It went  
33 to City Council with your recommendation of approval and City Council  
34 approved that.  
35

36 You have El Paseo Road along this portion of the image here. Idaho  
37 Avenue on the north side. You have Durazno Street here and then Foster  
38 Road on the south. So the proposal being presented through the IDP is for  
39 a pharmacy with drive-through service. There are two deviations or  
40 flexibility requests that are part of the proposal.  
41

42 The first is to use the sole legal route for egress as part of the proposed  
43 drive-through stacking line. In our code, our stacking lanes are required to  
44 be 10-foot wide. They can go down to nine feet at the service window.  
45 Driving aisles for egress purposes when there's no parallel parking on either  
46 side or parking on either side can be 12 feet. So you combine those two

1 together, 22 feet is a requirement. Ten feet exists at the narrowest segment  
2 of that route.

3  
4 The second deviation talks to landscaping. Our design standards call for  
5 50 percent of the landscape area to be within the front of the property and  
6 that's between the building and the front property line. They're proposing  
7 862 square feet of the 3,400 roughly square feet to require to be placed in  
8 the front. In exchange, they're providing 41 additional square feet of  
9 landscape area and their plant material quantities will satisfy code  
10 requirements. Staff has less concern with item number two as opposed to  
11 item number one.

12  
13 This is an image of the site plan that was submitted for consideration. The  
14 top image, and I apologize, there's a lot going on with this but the top one  
15 is primarily showing the entire site, again both parcels as part of our zoning  
16 atlas. The bottom left is a blowup of the front portion of the lot. And then  
17 this one on the bottom right is a blowup showing the back portion of the lot.  
18 So with this site plan you have parking, there's 19 stalls that are provided  
19 on site pursuant to this site plan. A vast majority of them are located in this  
20 area here. All 90-degree stalls meeting code and 27 feet back-up aisles  
21 meets code, etc. You also have two ADA stalls here. Those are great  
22 pursuant to code. They satisfy the ADA requirements. And you have a few  
23 stalls located here. And then you have this 45-angle parking stall coming  
24 right off of El Paseo onto the property in this area here.

25  
26 The shaded image or portion of the image at this location is a ped access,  
27 pedestrian access from the sidewalk to the front door of the business, the  
28 existing building. Ingress comes from here. You have a fairly wide access  
29 aisle or curb cut. This area in here separates the ingress portion from the  
30 egress portion. And so you'd come into the property along this route and  
31 then either park at this location or take a left right here which begins the  
32 stacking aisle or stacking lane for the service window, the drive-up window.

33  
34 The length of the stacking lane is 100 feet, that meets code. But where staff  
35 has considerable concern is in the width of the stacking lane/driving aisle  
36 for egress purposes. They have 10 feet from property line to the building  
37 wall. Presently there's two feet of concrete or concrete ribbon along the  
38 building primarily I think to separate cars from the building. And they are  
39 willing to make accommodations to either raise the level of the asphalt or  
40 get rid of that concrete ribbon to make a full 10-foot width. But right now,  
41 there's eight foot passable.

42  
43 The window is located right here in this vicinity of the building. So they  
44 would then, after conducting business, exit at this location and out onto El  
45 Paseo Road. The concern is that with the width of the stacking aisle and  
46 driving aisle being 10 feet at the best-case scenario there could be an

1 instance as we probably all been through it where you get to the window  
2 and your prescription isn't ready or there's a problem with insurance  
3 covering the prescription. And there's quite a lengthy discussion between  
4 pharmacist and the customer. And in this case, if that does occur then you  
5 have a cuing problem. You have people wanting to get off or out of the  
6 property through the only egress that exists. So you'll have cars cuing up  
7 and staff kind of foresees one of four scenarios taking place and that is after  
8 the recommended or I should say the intended business practice has been  
9 implemented. The applicant has indicated that there's less of a concern for  
10 that cuing issue for a variety of reasons, a couple of reasons I should say.  
11 One is they don't anticipate a lot of vehicles here coming on site to conduct  
12 their business. The code, I believe, if I'm not mistaken requires five stalls.  
13 They provided 19. So I'm not quite sure whether there's an intended  
14 business at this location that will require more stalls than what the code  
15 seeks to provide as a minimum or what the situation is there. But  
16 nonetheless, with 19 cars it's very likely that there will be a cuing situation.

17  
18 The applicant and representative have indicated that another business  
19 practice that would be implemented should there be a delay at the window  
20 is to ask the customer to leave the window and return for additional time in  
21 order to carry out the necessary business. Staff sees one of four scenarios  
22 taking place. Either the customer is not going to want to leave, the cuing  
23 will continue to get worse and either cause a conflict between customers.  
24 That's scenario one.

25  
26 Scenario two is they will agree to leave and they will try to take an immediate  
27 left on this egress aisle, driving aisle, onto this one-way lane that goes  
28 northbound. There's no southbound direction here for this drive-in aisle that  
29 serves this 45-degree stall. So you may have conflict with cars backing up  
30 here and going against the direction of the intended drive-in aisle at this  
31 location looping back around and then trying to resolve the business. That's  
32 scenario two.

33  
34 Scenario three is they agree to leave and they may try to be rather quick  
35 about it but take an immediate left and enter onto El Paseo back into the  
36 ingress property not realizing there's a median that separates northbound  
37 traffic from southbound traffic. And that's a concern staff has in terms of  
38 health, safety, welfare of the transportation system and the users of that  
39 system.

40  
41 Another scenario is likely to have the customer leave the site, in which case  
42 they're going to take the wide loop. They're going to take a right on El Paseo  
43 and go east on Idaho, go south on Durazno, west of Foster and then back  
44 up and into the property. Either way, I think staff believes the business  
45 practice is an unreasonable one to think would work in this scenario. It's  
46 unrealistic and we think it's dangerous for users of our transportation

1 network. It also provides a scenario where people leaving the property to  
2 adjacent properties could cause some traffic issues on those properties.  
3 The Arby's drive-through, for instance, isn't too far off from the property line  
4 that separates the two. So you might have cars causing conflicts there and  
5 elsewhere. So those are some of the concerns we have with that driving  
6 aisle.  
7

8 The only other concern staff has is with this 45-degree stall. Cars come in  
9 off of El Paseo taking a right may not negotiate the geometry that's  
10 presented here successfully enough. You have this area here that is a  
11 planter for landscape purposes. You've got an area there that's a planter  
12 for landscape purposes. And then you have that ped access right off of the  
13 sidewalk right adjacent to the 45-degree angle. So not only would you have  
14 potential delay of cars moving into the lot causing backup onto El Paseo but  
15 when they left, and this is an ADA stall, when they left at a 45-degree angle  
16 sometimes people overestimate, underestimate, I guess how far back they  
17 are, and which case they could conflict with pedestrians on the sidewalk  
18 and then have trouble navigating the geometry here to come out on the  
19 egress portion and then head northbound on El Paseo.  
20

21 Staff had recommended that there be some consideration given for the  
22 removal of this stall. And in so doing, they could either increase the  
23 landscaping. Or another option is to create the possibility for a two-way  
24 driving aisle that might allow cars to leave the window, come back around,  
25 etc., and also go the other direction. That's still a little dicey but nonetheless  
26 a little better if this goes away. So that is kind of our concern in a nutshell.  
27

28 The one thing we all must consider is that there's no formal shared access  
29 agreement at this time with any of the adjacent properties. The applicant  
30 has tried. I don't believe Wendy's have responded in any way, shape, or  
31 form. Arby's told them no based on applicant information. And the property  
32 that was recently rezoned, I think they've approached them but I don't know  
33 if they've heard back at this point in time.  
34

35 This is the landscape plan part of which I've discussed already. Again,  
36 showing the planters adjacent to the ped access and the 45 stall. The bulk  
37 of the landscaping will be here on the north side of the property and south  
38 side of the property. Their drainage is intended to go here at this location.  
39

40 A couple of photos showing the property in question. It is presently boarded  
41 up but you have a front view of the property. Off to your right is the ingress  
42 and off to the left is the egress. And this is the width that you're actually  
43 dealing with for both stacking lane and egress purposes. A better shot kind  
44 of going in reverse showing the ingress lane. The back of the property. Just  
45 one thing to note is they'll have to comply with other requirements of the

1 code, so there will be a need for dumpster enclosure. Right now, it's just  
2 set out on the side. Improvement of the parking lot, striping, etc.

3  
4 This is a shot just looking east on the property. You do have between  
5 Wendy's here and the subject property a little concrete ribbon that over time  
6 cars have traversed back and forth and some of the dirt has filled up. So  
7 even though there's curbing there, it's not much of a deterrent for cross  
8 traffic. This is an alley, at least it's treated as an alley in the back of that  
9 one building that was recently rezoned.

10  
11 Looking north towards Arby's, I mentioned the drive-through not being too  
12 far from the side property line. And this is showing the recently rezoned C-3  
13 property, and perhaps one of the most promising areas in which to secure  
14 a shared access agreement in my opinion. This is just looking north on El  
15 Paseo. South on El Paseo. There's that median that I mentioned that  
16 separates northbound, southbound traffic.

17  
18 In terms of analysis, staff has no problem with the pharmacy. We think a  
19 pharmacy would be a very valid, very good use given the mixed use  
20 corridor, given the place type that the area falls within in terms of  
21 Comprehensive Plan. Where staff feels the proposal runs afoul is in the site  
22 design features that are being promoted or proposed. We just feel that  
23 there's a lot of health, safety, and general welfare type issues that would  
24 affect users of the transportation system. And again, the angled parking,  
25 the shared stacking lane, egress type issues.

26  
27 We also feel that those same site design elements have anticipated impacts  
28 and safety concerns for adjoining properties. Again, through unauthorized  
29 or unintended vehicular access. I mentioned the shared access agreement  
30 does not exist. But if one was secured, I might add, if one was secured that  
31 would open up a significant opportunity for the property to be developed  
32 beyond what I'm presenting here because we could kind of balance the  
33 egress with alternative egress. Allow other opportunities for other uses  
34 perhaps on the property, which was originally submitted earlier. And this is  
35 the ultimate plan that has come out of this whole review process.

36  
37 I mentioned that staff could support the landscape deviation. We have no  
38 problem with that. And I also mentioned that other provisions onsite will  
39 have to comply with code. And some of those are the curb cut type issues  
40 they'll have to get with our engineer to deal with, either a variance, a  
41 deviation to those standards given the nature of the curb cuts that exist,  
42 provide dumpster enclosure, etc.

43  
44 Because of those site design impacts, it subjects the proposal to goals, both  
45 policies, and actions that don't necessarily support the overall request. And  
46 the same can be said for the purpose and intent of our Zoning Code.

1  
2 Public notice was sent out in accordance to code and we received no input  
3 one way or the other from property owners in the area. Staff, based on my  
4 presentation in the packet. are recommending denial based on the findings.  
5 The property has been vacant for several years triggering compliance need  
6 with current code. The property falls within the Infill Development which  
7 affords flexibility but we think in this case it's a bit much, at least for those  
8 two issues.  
9

10 The proposed land use is consistent with our urban neighborhood place  
11 type in terms of what it promotes. Again, but those site design elements  
12 kind of throw a wrench into that and make it run afoul. It's within a mixed  
13 use corridor. It's part of the El Paseo Community Blueprint. And the  
14 applicant proposed a method for resolving some of those conflicts at the  
15 service window; we just don't feel are very reasonable or practical and we  
16 feel that's dangerous to a large degree.  
17

18 Keep in mind that alternative recommendations were provided by staff.  
19 Staff did request that they consider eliminating the drive-up window. If that  
20 was the case, we felt that we could support a two foot deviation to the  
21 12-foot driving aisle that the code would otherwise require. But the  
22 applicant didn't feel that was warranted for business purposes and they  
23 wanted to keep that as an item for their business intentions there.  
24

25 The parking stall as well. We talked about a possibility of eliminating that  
26 and either adding landscaping or doing something else and they wanted to  
27 hold onto that as well. So given those issues again, there's the issues with  
28 our goals, policies, and actions - a lot of those speak to transportation  
29 related matters and the users of our transportation system and the safety  
30 for that.  
31

32 And that concludes that presentation. I do have the options here. And I  
33 want to indicate and clarify that the vote "yes" to approve in this case  
34 because my presentation packet speak to denial, would require new  
35 information or findings of fact that I have not provided. You could vote "no"  
36 and deny it, that would be consistent with staff's recommendation. You can  
37 vote "yes" and amend with conditions, or vote to table. The property owner  
38 and the design representative are in attendance and can speak to this  
39 matter as well. So that concludes that presentation.  
40

41 Kaiser: Thank you. And would the applicant or applicant representative wish to  
42 speak? Yes, sir. Please come forward. And if you could state your name  
43 for the record, I'll swear you in.  
44

45 Atieh: My name is Yazid Atieh.  
46

1 Kaiser: And do you swear or affirm that the testimony you're about to give is the  
2 truth and nothing but the truth under penalty of law?  
3

4 Atieh: Correct.  
5

6 Kaiser: Please go ahead.  
7

8 Atieh: Okay. So the property, the main idea is ...  
9

10 Kaiser: Excuse me. Can you speak closer to the mike?  
11

12 Atieh: Sure.  
13

14 Kaiser: Thank you.  
15

16 Atieh: So the property is an existing property since long time. And it's vacant since  
17 few years. Bringing it to the new code might be like whoever designed it  
18 back in the day was compliant. It was operational and it was safe. Now,  
19 what's happening is every while the City cannot improve the code in order  
20 to comply and be more you know more of any kind of modern or any kind  
21 of up to date, let's say. So it was before it existed.  
22

23 So what we're seeking is to do a pharmacy which is really a good  
24 importance there. This is going to do a good competition like we mentioned  
25 but a competition is really good just to serve the people with the best  
26 service. A drug store will be very nice there.  
27

28 Now the safety and stacking of, whoever goes to our pharmacy. Everyone  
29 of you goes to our pharmacy. And sometimes, they are asked to leave.  
30 And I haven't seen anybody, like I'm a pharmacist and I own Healthcare  
31 Pharmacy on Lohman. The Healthcare Pharmacy on Lohman is an  
32 established pharmacy and it's newer than this building. So it complies with  
33 the code for that building.  
34

35 Now, being vacant for two years, it brings it up all the way like 20 years later.  
36 It's not very much practical in life. Here's like you're moving and your  
37 moving a decade or two decades actually in the code. It's an existing  
38 building and it used to be safe. There is shared access that is already  
39 accessible like you see in the plan here. There is shared access right here.  
40 There is already in the images for this area that already exists and  
41 established. So it's established access that nobody obligated about.  
42

43 A lot of businesses in town have showed accesses and they never know  
44 each other and they don't have to get a solid information. Because like what  
45 happens is that I ask Arby's and Arby's will not give me that because they  
46 have no mutual benefit and they have their parking lot and they're happy.



1 So I mean they're happy with that. Now, when I ask that it's not of their  
2 concern to access my parking lot. It's my concern because the City is  
3 asking me unrealistic demands. And these demands can over and over and  
4 over demands that was not realistic at all and not practical.  
5

6 So the help I'm seeking from the Committee is to approve the Infill process  
7 where actually you're saying that the Wendy's next store, the inside going  
8 this way is actually the same width of going backway from Wendy's. And  
9 then this way, I measured it myself, and it's actually nine foot here and it's  
10 actually 10 foot here. There is a designed window here. So I'm not sure  
11 about this stacking of cars.  
12

13 Now, there's a couple of things. If you go - I'm going to give you an example.  
14 If you go to Si Senior on Lohman and see how it's blocking in Lohman at  
15 the evening at 8:00 when they want to just grab a sandwich and food and  
16 they want to make it and go. So what we're suggesting is if a stacking will  
17 start happening, we'll have to have them move. And they have actually the  
18 option to turn around here and it's not unsafe. He's actually presenting the  
19 case like if you're in a gage here. And if you're in a gage here then you  
20 can't exit from here because you're blocked right here and you're blocked  
21 from that. And the stacking of these are one, two, three. The car is six feet.  
22 So there's one, two, three, four, five. I'm sorry, six cars here which are going  
23 to be busier than Walgreen's and busier than CVS that way. And that's not  
24 reasonable.  
25

26 So given an opportunity for a pharmacy to develop in here is great for  
27 people. It's a good alternative and we have services that are different from  
28 Walgreens and other chain and big box companies. We have services that  
29 are different. You're going to find it in an individual pharmacy. You're not  
30 going to find it in a chain pharmacy.  
31

32 Now, we're already operating a Healthcare Pharmacy on Lohman and we  
33 don't have a drive-through and we feel that's an obstacle because the  
34 drive-through will be convenient much more for people because you're  
35 driving your car will be convenient for people. I don't see what is the safety  
36 issue arises from. There's no safety issue. They should access a very  
37 established since years here. And it shared access to that corner one.  
38

39 And by the way the code doesn't require by lecture or by any kind of  
40 statement to get a shared access and grant signed from each neighbor or  
41 from one of the neighbors in order to guarantee access because I don't see  
42 that reasonable. There's three neighbors. So if this one was mean to me  
43 and said, I'm going to block all this. I'm going to build here or something  
44 then this will still be open and this will still be open. I don't see where is the  
45 reasonable being like this will be mean and block, and this will be mean  
46 unblock me, this will be mean unblock me. The cars will be stopped here

1 and it's unsafe because they're waiting on a prescription and the pharmacist  
2 is right here discussing why this controlled substance is going to be due  
3 after two days. And the patient doesn't want to go.  
4

5 So all these scenarios are not reasonable at all. And back in here, the  
6 parking lot here where is the walkway for the public is right here. There is  
7 some kind of parking for, we agreed. They've been taking parking lot one  
8 by one and making it very much uncomfortable to do this project which we  
9 feel that it's kind of intentional or obnoxious, I don't know how. But I'm just  
10 saying here this thing if you're back right here. I did back several times and  
11 I have a truck also. So if you back right here and if you don't know how to  
12 drive, you don't have to drive a car. If you know how to drive then you drive  
13 a car.  
14

15 Because you put in scenarios that it's going to be like right here is, one  
16 scenario is going to be like here and then you're going to go like right here  
17 which is against the drive. This is going to be against the law to drive  
18 against the street. So the street goes this way. How come he's going to  
19 come here and go like this? So if this happens this person needs to get a  
20 ticket but it has nothing to do with the pharmacy. It has nothing to do with  
21 the pharmacy design. It has nothing to do.  
22

23 So my main concern is it's an existing building. We wish to have this  
24 granted as a pharmacy. It will be really nice to have a drive-through for  
25 people to be more comfortable. You know, because otherwise if we  
26 eliminate the drive-through what we're going to do is we're going to still do  
27 it because we think in our mind, back of my head, I think that's intentional  
28 the reason they put in so much obstacles at the City. But I don't know for  
29 real because I can't read people's mind. Like I can say here, we're going to  
30 put right here behind the building where the people can park right here and  
31 we can come to a fence after they can rest like Sonic. In that way we can  
32 just go out through the fence and hand them their prescriptions because it's  
33 convenient. You know what I mean?  
34

35 I don't see any dangers. I don't see any dangers. The stacking lane back  
36 here is like two cars or three cars. So you're by McDonalds and I saw a  
37 couple of examples and I did show them to several people. If you're by  
38 McDonalds, okay and you want to get your sandwich, it's either you stay in  
39 the line or go to the other line and go. And there's a way to go like right  
40 here, right here. There's a way to go right here. The stacking is in the  
41 corners. The stacking right here is in the corners. And there will be stacking  
42 in the corners here but it's too long to stack that much. It's probably stacking  
43 cars, let's say, three or four. So the stacking will be by the corners. Right  
44 here they can back and go to anywhere if you know how to drive.  
45

1 But if you have you know a big car you still need to know how to drive in  
2 order for you to drive. But honestly, we got to do this curb. So we're going  
3 to go with the project and get it hopefully like as a apply for permit separately  
4 if that doesn't get approved. But I wish from the Committee, and I do respect  
5 all your input today and it was wonderful. But I think that it's a pharmacy.  
6 It's a very necessary to have a diversity in town and to have a variety of  
7 pharmacies. And then it's necessary to have a drive-through. It's  
8 comfortable. Because if you're tired by after your working, you need to  
9 maybe sit down and have your juice and just pick up your prescription. And  
10 if the pharmacist asks you to leave and come back in 15, 20 minutes either  
11 you come the next day. It's like any other pharmacy.  
12

13 It's not going to be the magical pharmacy. So you get good all the scenarios  
14 in the world that are not reasonable. We're going to be a pharmacy like  
15 other pharmacies. We might be better than them but we're not the magical  
16 pharmacy that you can put any scenario in the world. It's bringing all  
17 scenarios and I do apologize for just presenting everything because that's  
18 what's been happening to me. That's what I've been important to me. And  
19 thank you so much.  
20

21 Kaiser: Thank you and don't go far because I'm sure there will be questions for you.  
22 But I do want to make sure that you can get to resolution tonight.  
23

24 Atieh: Thank you.  
25

26 Kaiser: So coming to the Commission. Are there any initial thoughts or comments?  
27 Yes, Commissioner Acosta.  
28

29 Acosta: So I think probably you and I are probably the two guys in this room who  
30 have successfully opened pharmacies without drive-throughs before. You  
31 obviously have enough you know to expand. Congratulations. I'm very  
32 happy to see expansion and more independence.  
33

34 Atieh: Thank you.  
35

36 Acosta: What I do see is a really big parking lot. I see a big mess right there by El  
37 Paseo. I think you might get a little busier than you even anticipate. And  
38 that drive-through where you have you know disabled people and all kinds  
39 of people trying to not only walk and drive in a very clustered situation.  
40

41 I really would just employ you to maybe consider either replanning that  
42 drive-through completely or you know eliminating it so you can get your  
43 pharmacy started because this drive-through does create a lot of situations  
44 there that are just kind of a mess just based off of, yes. Based off of the  
45 way that the property got put in the '70s, sure. So it was our downtown  
46 location. There's not much we can do about that. You can't put a drive-

1 through there unless you coridored it out did a whole mess. Like it just  
2 didn't work. So I would just employ you to think to try to do it without that  
3 drive-through.  
4

5 Atieh: I actually definitely if I can answer? Would I be able to answer?  
6

7 Kaiser: Let's just hold on for a second. Let's see if there's other Commissioners  
8 who have specific questions for you and then we'll give you a chance to  
9 respond. Commissioner Smith.  
10

11 Smith: I have several questions. The first one is for staff. The User Access  
12 Agreement, I know the applicant said that there is nothing that says the  
13 Access Agreement has to be in place; is that correct?  
14

15 Banegas: Mr. Chairman, Commissioner Smith. The Las Cruces design standards  
16 encourages Shared Access Agreements between properties to help with  
17 the congestion on those adjacent roadways, etc. But there's no requirement  
18 for it, I guess.  
19

20 Smith: And I have comments also if I may take that time now. Once again, I'm very  
21 familiar with that corridor at El Paseo, Idaho. I live near there. I've been  
22 living in that area for 25 years and it has grown significantly over the years.  
23 One area, one location business that hasn't really been talked about is that  
24 right on that corner there is a gas station. extremely busy gas station. They  
25 compete with a gas station across the street. Prices go up and down. I see  
26 it all the time. There's a grocery store there, Albertsons, and also a little bit  
27 further away. But the number of cars over there on a daily basis, it's already  
28 highly congested.  
29

30 I have done a site visit on your location. As Commissioner Acosta has said,  
31 you can drive-through and drive around but with the amount of traffic that's  
32 there, there will be congestion, even if there's no stacking there will be  
33 congestion just you know for accessing and also for egress.  
34

35 Atieh: It's the same like next door? I mean why don't you just take Wendy's as an  
36 example?  
37

38 Kaiser: Please let Commissioner Smith finish his thought. Thank you.  
39

40 Smith: And I'm sympathetic for that. I mean you drive around town. I mean like  
41 Chick-fil-A, you know, I mean you know on Lohman, I mean they have just  
42 cars you know coming in. But they've come up with a system. They've  
43 managed a way to address the stacking. I mean you know you see you  
44 know employees standing out there taking orders. And so, it happens all  
45 the time. Starbucks, you know. I mean if you're going to go through a drive-  
46 through because I am not a drive-through person. I have people tell me it's

1 faster to sit in your car wasting gas and go through a drive-through than it  
2 is to walk in, order something, get it and walk out. I never use drive-through  
3 just because of time and it's wasting my fuel in my car.  
4

5 So you know but I see drive-through all over town. You being the business  
6 that has a drive-through window, they will be stacking. But in this situation,  
7 just the congestion and there are some risk factors. I would assume that a  
8 number of your clients are going to be elderly. They're going to be driving  
9 around the back of a building. It's narrow unless that brush gets cleared. I  
10 mean that's still going to be an issue. And then coming out onto El Paseo  
11 with the amount of traffic that's there. I know you're licensed to drive. If  
12 you're licensed to drive, you should be able to operate your vehicle safely  
13 but as a City, we have to look at the possibility of the risk that could occur if  
14 you operate a business where there's so much traffic and congestion.  
15

16 That's something that you as a business owner really should take into  
17 consideration because if your customers, your potential customers, have  
18 issues getting in and out, you won't have customers.  
19

20 Atieh: I don't think so.  
21

22 Smith: You know I'm just giving you know my opinion. I know as a business owner,  
23 you want it to operate itself.  
24

25 Kaiser: Sir, please let us get through our questions and answers. And I will give  
26 you a chance to respond, I promise. But I want to make sure that we can  
27 get to a decision.  
28

29 Atieh: If I answer one by one it will be better, before we move on and the thing  
30 comes like really forgotten, you know.  
31

32 Kaiser: I understand it and some of us are going to have comments. And some of  
33 us are going to have very specific questions. And I'll give you a chance to  
34 respond when we're done with our questions. And some of these are not  
35 going to necessarily be questions directly to you. So just be patient with us  
36 so that we can get to a resolution. Thank you.  
37

38 Smith: I'm just throwing these out there because these are, if I am having these  
39 thoughts, I would think that some of the other Commissioners are having  
40 some of the same thoughts. So you know I'm throwing out some of these  
41 issues that are popping up in my head. I just want you know be prepared  
42 to have those you know issues you know be answered. And so, that's why  
43 I'm just bringing them up. You know, I'm just bringing up the ones that I  
44 have, but I'm just one Commissioner. And we have others that are about  
45 to speak.  
46

1 Kaiser: And I can echo just briefly that some of our comments probably will be  
2 consistent. So I'll give you a chance to respond to that.  
3

4 Murray: I have two questions for staff. I can't read dimensions well, but I'm assuming  
5 that the one-way drive aisle is less than the required 27 feet needed for the  
6 two-way.  
7

8 Banegas: Mr. Chairman, Commissioner Murray. The one-way driving aisle basically  
9 serves as your drive-in aisle for that 45. And this line that is very lightly  
10 shown is your 15-foot building setback that they are showing. So yes, it is  
11 less than 20. If it were to be a two-way, it'd require 24 feet.  
12

13 Murray: Okay. And then what about the drive aisle line to the back parking?  
14

15 Banegas: So this is I believe roughly 16 feet wide and in similar, if there was no  
16 stacking lane on this side, 12 feet. It would be allowed for egress purposes.  
17 And the same holds true here of 12 feet. So they exceed the 12 foot  
18 requirement on the ingress side.  
19

20 Murray: Okay. And then say we deny this based on the current plan, are they  
21 allowed to take the comments that you've given, that we've given, and  
22 rework the site plan and then resubmit?  
23

24 Banegas: Mr. Chairman, Commissioner Murray. The applicant, let's assume that you  
25 did oppose and recommend or decide to deny the case this evening. The  
26 applicant could, for instance, do away with the stacking lane for the drive-  
27 up window. They could do away with that 45-degree stall and then submit  
28 for a permit just like any other business would. And we would consider  
29 those issues.  
30

31 The one thing that would have to be recognized is the landscaping  
32 deviation, that would be something if you separated those issues out then  
33 they could proceed with the permit given support for the landscaping by this  
34 Commission.  
35

36 Murray: Okay. Perfect. That is all my questions but I just do want to give you a  
37 comment. I am not an architect but I work at Desert Peak Architects  
38 downtown. So I have gone through numerous projects with the City. It all  
39 depends on how much time you want to lay out. I recommend that you  
40 would do away with the drive-through and you would get rid of the 45-  
41 degree park spot.  
42

43 I think based on site constrictions, there's no way that you're going to be  
44 able to get the required 50 percent of the landscaping in the front. And the  
45 City is going to recognize that and they won't be able to approve that as  
46 such. But if you continue to go on the path where you have the drive aisle,

1 you have the 45-degree parking spot, you're just going to run into problems  
2 when you go to the permitting process and your architect may be able to  
3 give you this information too. But you'll go, you'll just go through numerous  
4 rounds of permitting.

5  
6 And the permitting process, you have to do the preapplication which is going  
7 to take you two weeks. And then if there are any comments that you need  
8 to fix from that, you'll then have to do the first round of permitting which is  
9 another two weeks and so forth.

10  
11 Banegas: Mr. Chairman, Commissioner Murray. Just to clarify my answer. If this  
12 Commission denies the request as presented, the applicant also has an  
13 opportunity to appeal to City Council. So they could either vote in line with  
14 this Commission or contrary to it, but that is another option afforded the  
15 applicant.

16  
17 Kaiser: All right. Any other questions or comments? So I've got I think I guess one  
18 question and then a few comments. But my question to staff if we could go  
19 back or go to the landscaping slide? Yes. So based on the landscaping  
20 plan, you're blocking your access. Like you were talking about to the site to  
21 the, I guess that's the north and south.

22  
23 So you really don't have that access as you were speaking to earlier  
24 because you're going to be landscaping it. And we obviously wouldn't be  
25 wanting drivers to just drive through your landscaping. So the reality is  
26 based on the site plan, which you would be required to comply with when  
27 you go to your site improvements. You basically have one option for  
28 ingress/egress and that's what's being presented here tonight. So I just  
29 wanted to clarify that in my own mind but also point that out. So thanks for  
30 going back to that slide.

31  
32 I love the pharmacy idea. I think it's a great location. I think it would do a  
33 great service to the neighborhood. The drive-through element, it's a square  
34 peg in a round hole. It just doesn't work. No matter how hard you try to  
35 squeeze this out, there's tremendous safety risk to other users who may be  
36 passing by your site, who may be trying to access your site. Not everybody  
37 has a car. Not everybody drives a car all the time. And the way that this is  
38 laid out even with that driving aisle right on the back of the sidewalk as a  
39 pedestrian, you've got cars flying by you on El Paseo. And suddenly, you've  
40 got cars that could potentially hit you from the other side of the sidewalk.

41  
42 Atieh: There's no pedestrians.

43  
44 Kaiser: I mean there's no pedestrians because we made it pretty much impossible  
45 for pedestrians to exist in that space. The El Paseo Community Blueprint  
46 is specifically trying to reverse course, make this less of an automobile

1 dependent environment. Make it more accommodating for other road  
2 users. They do exist. Cars are expensive to operate. They're expensive  
3 to buy. I mean I had to unfortunately buy a new car recently and it's insane  
4 how expensive they are.

5  
6 So I mean there's other factors. There's other people out in the world that  
7 don't sit in a car and drive through the drive-through at every business  
8 establishment. So the way that this is laid out, in my opinion, it just doesn't  
9 work. There's too much at risk and I understand that the scenarios that  
10 were presented to us tonight, you're right, 99% of the time you may have  
11 no issues, but that one percent could be bad. I mean just trying to get out  
12 of that driving aisle, that angle alone you're requiring the driver to essentially  
13 turn their heads all the way, 180 degrees, to see oncoming traffic.

14  
15 And then you've got pedestrians potentially walking towards them on the  
16 sidewalk. I mean there's just too much there to make this feasible. I mean  
17 it just doesn't work. And I encourage you to look at whether or not you can  
18 do away with the drive-through because I think that what you're proposing  
19 is fantastic, but the drive-through, it just doesn't work. It doesn't work.

20  
21 So those are my comments. I will give you two minutes on the timer to  
22 respond to us and then we'll open it up for public comment.

23  
24 Atieh: Sure. So based on this, there's a little curb right here. And this curb is we  
25 are agreeing to make it only a drivable curb which makes the distance  
26 around 10 feet and here nine feet. And I measured it personally, and  
27 somebody can go and measure it though. And the angle here, it's taking in  
28 the angle, if you decide yourself anywhere, I'm not sure why I'm on an odd  
29 situation myself, but I mean if you decide to go this way then you need to  
30 wait until you get out.

31  
32 But we're saying we're going to try our best not to have this car wait more  
33 than five minutes then everybody else should clear up faster. But if you  
34 decide to go here just like if you had a Cane's, Cane's is a new  
35 establishment of a restaurant and they have a curb, and between the curb  
36 is a restaurant. And if you get in there, if you get into Si Senior, if you get in  
37 there you stop. You need to wait until you're gone. Why is everybody can  
38 wait and then in this situation there's a one percent chance of having a  
39 pedestrian coming through. A one percent chance of having somebody  
40 want to back off after they decide to go there so they can wait. We can  
41 make it faster, as fast as possible.

42  
43 Now driving in that aisle is still will leave some space to the right and left.  
44 We're not going to allow trucks. So it's going to be a left and there will be  
45 height and there will be width is allowable. And there will be lanes that are



1 going. I don't see no reason of the rejections that's been happening here.  
2 I don't see that.  
3  
4 I mean the shared access if you're saying there is some landscaping, the  
5 shared access is not required. And we found out that, okay. They're telling  
6 us get shared access and if it's by law. And then we found out today that  
7 this shared access doesn't exist and it's not required. So this shared access  
8 now will make the opportunity of this to be approved. But now, the shared  
9 access is not required so why is it not approved?  
10  
11 Kaiser: That was the end of your two minutes. We had the timer going.  
12  
13 Atieh: There's ways of going here and here or over here. That's taken all the time.  
14  
15 Kaiser: I understand. Yes. Thank you.  
16  
17 Atieh: Thank you so much.  
18  
19 Kaiser: Okay. I'm going to go to the public now. Is there anybody in the audience?  
20 I see one, two individuals. So I'll go this gentleman first and then you.  
21 Please state your name for the record.  
22  
23 Oroyinyin: My name is Waheed Oroyinyin and I'm the architect on this project.  
24  
25 Kaiser: And do you swear or affirm that the testimony you're about to give is the  
26 truth and nothing but the truth under penalty of law?  
27  
28 Oroyinyin: Yes. I do.  
29  
30 Kaiser: I'll give you three minutes. Go ahead.  
31  
32 Oroyinyin: Okay. Anyway, talking to the staff and what we're trying to do really is be  
33 able to bring, if you look at the drawing there's only one access to come in.  
34 And there's only one access to go out. So the stacking lane that Mr.  
35 Banegas was talking about, whether I would do the stacking lane or not,  
36 that is the only exit to come out. So all the traffic, you know the safety that  
37 Mr. Banegas is talking about is you're going to have it because that's the  
38 only access to get out of that side is on the north side.  
39  
40 And as far as Mr. Banegas request that put out as stacking lane and a  
41 drive-by lane. Well, the stacking lane doesn't affect anybody except people  
42 on the site. There is no car that is going to come all the way from the  
43 stacking lane on the north side of the building that's going to come all the  
44 other way around to affect anybody. So all the cars is going to be, I mean  
45 they're going to go through the stacking lane you know are going to be on  
46 the side. They don't affect the traffic. You know and like I said right now

1 the existing parking spaces in the front of the building you know is the way  
2 it's run. You know, I mean and we are providing more landscaping in the  
3 front of the building you know so at least that meets the requirements that  
4 Mr. Banegas wants.

5  
6 You know so to me as far as we're concerned there is no safety issue  
7 regarding people coming out of the site because no matter what we do, a  
8 stacking lane or no stacking lane, that's the only exits from that building. So  
9 the stacking lane doesn't affect any safety that Mr. Banegas is talking about.  
10 You know, so as far as I'm concerned that's not an issue that we need to  
11 worry about.

12  
13 Now, again, I know Mr. Banegas is talking about landscaping. There is no  
14 way to provide a landscape to meet the requirements. It's an existing  
15 building. You know everything is fixed. There's no way you can add to it.  
16 There's nothing you can do to it. You can't add to the, I mean the width of  
17 the landscape. I mean the width of the access to come in and the width of  
18 the access to get out. Everything is fixed.

19  
20 You know, so to me really there's nothing that has to do with the safety issue  
21 yet. You know because like I said no matter what you do you have to get  
22 out that site from the same area. You know there is no other way to get out.  
23 You know the stacking lane, the access to the window for the drive-through,  
24 it doesn't affect anything. You know people can line up through the whole  
25 parking lot, they're not going to be coming out to the street, no.

26  
27 Kaiser: Okay. Thank you very much. Unfortunately, that's time.

28  
29 Oroyinyin: Okay.

30  
31 Kaiser: Thank you. All right. This gentleman please come forward. State your  
32 name for the record and you may begin.

33  
34 Hoban: Kevin Hoban. Owner of the property at 515 Foster which is a daycare  
35 Montessori school. I appreciate the work that staff has done in looking at  
36 the traffic issues because it is a real problem. There's already a barrier  
37 between the gas station and that proposed drive-through that exists. So I  
38 don't think that shared use is an option there either.

39  
40 Additionally, the traffic on El Paseo going north is a mess. They constantly  
41 are cutting through the gas station in order to avoid traffic at the traffic light  
42 and I can see by Mr. Smith's head nodding that he has observed that too  
43 because that is my neighborhood as well. So these are just additional  
44 problems of traffic behavior that creates a problem here. I would love to  
45 see this pharmacy there. We could use some competition in that area but  
46 that drive-through is just a mess. It was better when it was a Dunkin' Donuts

1            though. I used to take my ambulance over there but that's not going to  
2            happen.  
3  
4            And then as far as I don't know if you all were going to mention, but as far  
5            as the issues of code compliance. Any time you change these in my  
6            experience with codes, any times you change occupancy the building has  
7            to be brought to current code, okay. Whether it's electrical, water, whatever  
8            like that. And that's the example that you're setting here as well, okay. And  
9            I appreciate that.  
10  
11           So you know with that being said, I'd love to see the pharmacy there and  
12           address the you know maybe curbside delivery rather than drive-through in  
13           that back parking lot might be a good option. Don't know what the pharmacy  
14           rules are on that but I appreciate it. Thank you very much.  
15  
16   Kaiser:    Thank you. All right. Anybody else in the audience wish to speak on this  
17            item tonight? Okay. Seeing none. I will come back to the Commission for  
18            any Commissioners. Yes.  
19  
20   Smith:    I have just one question for the applicant. You stated that you currently  
21            have a pharmacy on Lohman?  
22  
23   Atieh:     Correct.  
24  
25   Smith:    And that location you do not have a drive-in window? And you're doing,  
26            your business is doing well at that location?  
27  
28   Atieh:     Not much.  
29  
30   Smith:    Okay. I mean but it's operating --  
31  
32   Atieh:     It's doing fine. It's doing fine.  
33  
34   Smith:    It's operating. So the reason why I asked those questions is that I mean  
35            this drive-in window that you want to put in is definitely has some issues  
36            with it. And I just ...  
37  
38   Atieh:     Again, I accommodated with drawings. We can accommodate it with signs.  
39            We can accommodate it with lines. We can do whatever but ...  
40  
41   Smith:    Right. But my question is ...  
42  
43   Atieh:     It's easier or more convenient with a drive-through definitely.  
44  
45   Smith:    But my question is you know you could open it; we welcome having you  
46            know a local independent pharmacy at that location to compete with

1 Walgreens. And it appears that you're willing to keep fighting for that drive-  
2 in window when you could actually not have that window right now and open  
3 your business and have your second location because people will drive  
4 through, I mean drive in, park and go inside and access you know your  
5 pharmacy just like they do at Lohman. Just like you know in the other  
6 location that doesn't have drive-through.

7  
8 So I just you know this entire Commission, we just feel that we welcome  
9 your business. We support you but we feel that you should really take some  
10 time to think about how important that drive-in through window is for you at  
11 this time because it seems like it's going to hinder your ability to move  
12 forward with this project.

13  
14 Atieh: We can if you would let me answer?

15  
16 Kaiser: Yes. I'll give you 30 seconds.

17  
18 Atieh: Okay. We can actually eliminate the drive-through here which actually gives  
19 a great comfortability for people. I don't see a lot of reasons of this is being  
20 stacking too much. That's not an issue. But we can do like at curbside  
21 pickup here with a fence. That's what we were planning to do. I don't see  
22 why, are we voting on getting, are you guys voting onto approving the drive-  
23 through or, because this is a remodel. So it needs to be remodeled into a  
24 pharmacy. Are you approving the drive-through? Or if I eliminate the drive-  
25 through then you'll approve it as it is or not? Because I don't want to run  
26 into different problems because there's shared access here. So I don't have  
27 to have somebody come again and say, I need a signature here, I need a  
28 signature here, I need a signature here.

29  
30 Kaiser: So I'll let staff answer that question but before you do I was going to ask a  
31 similar question. So if they were to eliminate the drive-through component  
32 of this. Presumably you no longer need, I don't have a mouse but on the El  
33 Paseo, that driving aisle, yes, so would that be required? And then could  
34 you get more landscaping in the front? I guess what is the purpose of that  
35 aisle.

36  
37 Banegas: Well, Mr. Chairman, Commissioners. As I understand it the sole purpose  
38 of this 45-degree angle stall was just to have an ADA stall at the front of the  
39 building. Keep in mind, they do have two others back here.

40  
41 This driving aisle is just to allow the backup of this vehicle in this 45-degree  
42 stall to exit one way onto El Paseo. Again, just to reiterate, the geometry of  
43 that seems difficult for me anyway to kind of wrap my head around in terms  
44 of navigating successfully. But it's also a concern in that the backup could  
45 end up encroaching into the sidewalk, could end up encroaching into that

1 ped access there. But it is intended to answer your question specifically to  
2 allow egress from this stall out onto El Paseo.  
3  
4 Kaiser: Okay. And presumably current code gives them flexibility in the location of  
5 that stall?  
6  
7 Banegas: Yes. In fact, they don't need it, Mr. Chairman. They've got two back here  
8 that satisfies code requirements. So they could eliminate that.  
9  
10 Kaiser: And then if they did they probably could get all their landscaping  
11 requirement in the front?  
12  
13 Banegas: That's correct. At least a good portion of it in the front. And correct me if  
14 I'm wrong because what I heard the applicant say is they might be willing to  
15 forego the drive-up window, is that correct?  
16  
17 Atieh: Yes. I can take off the drive-up window.  
18  
19 Weir: Mr. Chair.  
20  
21 Kaiser: Yes. Please go ahead.  
22  
23 Weir: This is David Weir in Community Development Department. Just what I  
24 heard you say in the conversation that has taken place. If they were to  
25 eliminate the pickup window, they would then have an entry way or egress  
26 to the property that would have met code. They would then have an exiting  
27 that would meet code. If they eliminated the parking in front, they would  
28 provide additional landscaping. And then based on the Commission's  
29 comments this evening, staff could entertain and would approve a flex for  
30 that reduction of landscape in the first part. And all that could be done  
31 administratively and there's not a need for an Infill approval by the Planning  
32 and Zoning Commission. So I think that's what you were kind of asking.  
33  
34 Kaiser: Yes. That's exactly where I was headed with that. So I mean if the applicant  
35 is willing to go that route, I'm not sure what our big postpone indefinitely.  
36 Would that be our ...  
37  
38 Banegas: Mr. Chairman, Commissioners. What you could do is just approve the  
39 request but make it subject to elimination of the drive-through window and  
40 the elimination of that 45-degree stall. And then you could approve it.  
41 Would have to come up with findings. There's a lot of findings in Elevate  
42 that talk to economic development, jobs, housing, balance, etc.  
43  
44 Kaiser: Okay. So we could recommend approval with the condition that the drive-  
45 through be eliminated, the handicap stall at the front of the property be  
46 removed and replaced by landscaping. Correct? Okay.

1  
2 Weir: Mr. Chair. You could also approve that as part of the Infill, the reduction in  
3 landscaping.  
4  
5 Banegas: Correct.  
6  
7 Kaiser: Okay. I'll just speak for myself but if we're going to eliminate that space, I'd  
8 rather that eliminates the need to have that additional aisle. And I would  
9 prefer to see some landscaping up there. So I'm seeing head nods from  
10 the Commission. If someone remembered all that and wishes to make a  
11 motion.  
12  
13 Murray: I make a motion to approve, what is it, 9.5 with the conditions that the drive  
14 aisle be removed. 9.4, my apologies. The drive aisle be removed, the  
15 45-degree parking spot and drive aisle in the front be removed, and  
16 landscaping with most likely reduction of the 50 percent of it being the front.  
17  
18 Banegas: Mr. Chairman, Commissioners. Just a point of clarification. You meant with  
19 the elimination of the drive-up window, correct?  
20  
21 Murray: Window, yes.  
22  
23 Acosta: I second.  
24  
25 Baum: Board Member Acosta.  
26  
27 Acosta: So yes, I vote to approve based on the conditions that we outlined with the  
28 findings from Elevate Las Cruces such as spurring economic development,  
29 increasing our El Paseo corridor with obviously everything that we want as  
30 well.  
31  
32 Baum: Board Member Smith.  
33  
34 Smith: I vote yes to approve based on the conditions that have been brought forth.  
35 And also, that it would meet the zoning decision criteria in this case.  
36  
37 Baum: Board Member Murray.  
38  
39 Murray: Yes, to approve with conditions based on Elevate Las Cruces and bringing  
40 competition to other businesses.  
41  
42 Baum: Board Member Porter.  
43  
44 Porter: I vote yes with conditions based on Elevate Las Cruces and recent findings.  
45 And as well as bringing some good local business here.  
46

1 Baum: Board Member Bennett.  
2  
3 Bennett: I vote to approve. This will spur economic development.  
4  
5 Baum: Chair Kaiser.  
6  
7 Kaiser: Yes, based on consistency with Elevate Las Cruces and the need for Infill  
8 Development on the El Paseo corridor.  
9  
10 Baum: Motion passes.  
11  
12 Kaiser: Thank you, sir. I appreciate it. Thanks for coming down tonight. Good luck.  
13  
14 **9.5 Case No. 23ZO0500085:** A zone change request from C-1 (Commercial  
15 Low Intensity) and R-3 (Multi Dwelling Medium Density) to C-3 (Commercial  
16 High Intensity). The subject property is encompassing 1.436 ± acres and  
17 located at 2460 Missouri Avenue. The request will bring the property into  
18 compliance with the 2001 Zoning Code, as amended for future  
19 development. Submitted by Oscar Luevano, representative. Council District  
20 2.  
21  
22 Kaiser: Okay. I think we've got one more on the docket tonight. So this is item 9.5,  
23 a zone change request at 2460 Missouri Avenue.  
24  
25 Castillo: Good evening Commission. I'll try to make this as quick as possible. Once  
26 again, it's John Castillo for the record. We have a zone change request  
27 today from C-1 and R-3. The C-1 being our commercial light intensity and  
28 the R-3 being multiple dwelling, medium density, to C-3 which is our  
29 commercial high intensity at 2460 Missouri Avenue.  
30  
31 So the property is located at the corner of Missouri and Triviz. The address  
32 is once again 2460 Missouri. It's a developed and vacant undeveloped lot  
33 that encompasses 1.427 acres. It is a split zoned designated property. It  
34 contains C-1 which is a commercial low intensity and R-3 the multi-dwelling  
35 medium density.  
36  
37 It's located along a commercial corridor that is acting as a buffer to various  
38 types of residential housing such as multifamily housing, single-family  
39 housing. It also fronts two arterial roadways that being Missouri and Triviz.  
40  
41 As you can see from the zoning map, the R-3 portion is this south end of  
42 the property. It has been sitting vacant for many years. The C-1 is going  
43 to be over here. There's a couple of businesses already on the property.  
44 That side of the property has been developed for many years. Here we go.  
45 We have the aerial image. These are the two businesses that are on the  
46 property. Once again, this is the vacant property. As you can see, there's

1 commercial. Here's a church. Some multifamily, single-family residential,  
2 or single-family housing, I believe it's zoned multifamily as well.

3  
4 On the other side of the highway, we have some more commercial. I guess  
5 I'll swap out those pictures. Sorry about that. So the proposal today is to  
6 rezone the property from C-1 and R-3 to C-3. This is to realign existing  
7 uses to fit today's current 2001 Las Cruces Zoning Code as amended,  
8 eliminating the nonconformities on the property. The C-1 zoning has a  
9 maximum gross floor area square footage of 2,500 square feet. Both  
10 buildings on the property as they exist exceed that square footage.

11  
12 The C-3 zoning designation that they're proposing is the most compatible  
13 for the subject property and the neighborhood. This would also increase  
14 the attraction for future development as well as retain current businesses  
15 on the property.

16  
17 Here's the replat that the property underwent over time to what we see it as  
18 today. Public notice and input was sent to all relevant agencies. All  
19 supported the proposed zone change request. Notice was sent to all  
20 surrounding properties within 500 feet. Staff did receive two phone calls  
21 regarding it. The first one being general questions of the zone change and  
22 the existing cannabis business that was on the property. The second one  
23 was in regards to how the zone change is going to affect the neighborhood  
24 as far as property values. Is it going to bring any changes to what may  
25 happen on the property?

26  
27 So the staff recommendation today is to provide an approval of the zone  
28 change request. It will allow for the attraction and retention of businesses  
29 at the location through the expansion of potential uses while keeping with  
30 the C-3 zoning districts. The expanded uses allowed by this zone change  
31 are consistent with existing uses in proximity to the subject property.

32  
33 It's located along a minor arterial roadway which is recommended for  
34 commercial land uses. The proposed zone change request is supported by  
35 the Elevate Las Cruces Comprehensive Plan and meets the purpose and  
36 intent of the 2001 Zoning Code.

37  
38 And today your options are to vote "yes" to approve, vote "no" to deny, vote  
39 to amend, or vote to table.

40  
41 Kaiser: Thank you. Any questions, comments from the Commission? I just have  
42 one about the C-3. So you've got R-3 and then is the rest of the commercial  
43 that's C-1? So we're going to have R-3, C-1, and then C-3? Is that going  
44 to be a problem?



1 Castillo: So the C-1 and the R-3 are going to get eliminated and it's all going to  
2 become a C-3 property.  
3

4 Kaiser: But the surrounding uses are - there's no other C-3 on Triviz, correct?  
5

6 Castillo: No. There is no other C-3 on Triviz. There maybe some a bit further down,  
7 but outside of the range of what we see here. The map extent I should say.  
8 But most of this has been previously zoned prior to the Zoning Code as of  
9 1981 if not before then. The R-3 as stated in our staff report, not presented  
10 in this presentation, but the R-3 has been there prior to the '81 Zoning  
11 District. The same thing for the C-1. Through time over subdivision  
12 processes the C-1 was actually three lots spanning from John Street all the  
13 way to Missouri, then it was R-3. And over time, it's just either gone through  
14 a zone change or through various code updates it's been changed through  
15 map amendments.  
16

17 Weir: Mr. Chair. I just might add to information that John provided you. The  
18 primary difference between the C-1, C-2, and C-3 is lot size. And so, when  
19 you have a lot greater than an acre, it has to be a C-3 not to create a  
20 nonconformity situation. The land uses are primarily the same. There is  
21 some building size but the primary reason they had to request a C-3 was  
22 because it's greater than an acre in size. From a technical  
23 standpoint, we would not consider that a spot zone because there's  
24 adjacent commercial zoning and uses in that area.  
25

26 Kaiser: Okay. Thank you. That was my only question. Any other comments? All  
27 right. We'll go to the public. Is there anyone in the audience who wishes to  
28 speak on this item tonight? All right. Seeing no show of hands. So I'll come  
29 back to the Commission. Looking for a motion to approve.  
30

31 Bennett: I make a motion to approve 9.5.  
32

33 Smith: I second.  
34

35 Baum: Board Member Acosta.  
36

37 Acosta: I vote yes based on staff recommendation.  
38

39 Baum: Board Member Smith.  
40

41 Smith: I vote yes based on staff recommendation and that lot has been empty for  
42 a long time. I was always wondering why it hadn't been developed over the  
43 years.  
44

45 Baum: Board Member Murray.  
46

1 Murray: Yes, based on staff recommendation.  
2  
3 Baum: Board Member Porter.  
4  
5 Porter: Yes, based on staff recommendations.  
6  
7 Baum: Board Member Bennett.  
8  
9 Bennett: I vote to approve based on staff recommendations.  
10  
11 Baum: Chair Kaiser.  
12  
13 Kaiser: Yes, based on staff recommendations and consistency of Elevate Las  
14 Cruces.  
15  
16 Baum: Motion passes.  
17

18 **9. DISCUSSION AND STAFF ANNOUNCEMENTS**  
19

20 Kaiser: All right. Any other discussion or staff announcements before we adjourn  
21 tonight?  
22  
23 Gonzales: Mr. Chair, Commission. Staff does not have any additional  
24 announcements.  
25  
26 Kaiser: Sounds good.  
27

28 **10. ADJOURNMENT (8:27)**  
29

30 Kaiser: Looking for a motion to adjourn.  
31  
32 Bennett: I make a motion to adjourn.  
33  
34 Smith: I second.  
35  
36 Kaiser: All in favor.  
37

38 MOTION PASSES UNANIMOUSLY.  
39

40 Kaiser: Thank everyone for coming out tonight.  
41  
42  
43  
44

45 \_\_\_\_\_  
46 Chairperson