



CITY OF LAS CRUCES

**PLANNING AND ZONING COMMISSION
FOR THE
CITY OF LAS CRUCES
City Council Chambers
June 25, 2024 at 6:00 p.m.**

BOARD MEMBERS PRESENT:

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

BOARD MEMBERS ABSENT:

- Kent Thurston, Member

STAFF PRESENT:

- Larry Nichols, Director Community Development Department
- David Weir, Deputy Director Community Planning
- Adam Ochoa, Senior Planner/Building Inspection Supervisor
- Becky Baum, Recording Secretary, RC Creations, LLC

1. CALL TO ORDER (6:00)

Kaiser: All right. Good evening ladies and gentlemen. I will go ahead and call this meeting to order. Welcome to the June 25th Planning and Zoning Commission meeting for the City of Las Cruces.

2. APPROVAL OF MINUTES – May 28, 2024

Kaiser: First order of business is approval of the minutes from last month's meeting. Before we do that, is there any comments or corrections that any Commissioner has to be made? All right, seeing none. Looking for a motion to approve minutes from last month.

Smith: I move that we approve the minutes from the last meeting.

Murray: I second.

Baum: Board Member Acosta.

Acosta: Yes.

1 Baum: Board Member Smith.

2

3 Smith: Yes.

4

5 Baum: Board Member Porter.

6

7 Porter: Yes.

8

9 Baum: Board Member Murray.

10

11 Murray: Yes.

12

13 Baum: Chair Kaiser.

14

15 Kaiser: Yes.

16

17 Baum: Motion passes.

18

19 **3. CONFLICT OF INTEREST**

20

21 Kaiser: All right. Any conflicts of interest this evening? All right, seeing none.

22

23 **4. POSTPONEMENT**

24

25 Kaiser: Any postponements? I don't believe there are. Looking at staff to confirm
26 that. No postponements. All right.

27

28 **5. ACCEPTANCE OF THE AGENDA**

29

30 Kaiser: Looking for a motion to accept tonight's agenda.

31

32 Smith: I move that we accept tonight's agenda.

33

34 Murray: I second.

35

36 Baum: Board Member Acosta.

37

38 Acosta: Yes.

39

40 Baum: Board Member Smith.

41

42 Smith: Yes.

43

44 Baum: Board Member Porter.

45

46 Porter: Yes.

1
2 Baum: Board Member Murray.

3
4 Murray: Yes.

5
6 Baum: Chair Kaiser.

7
8 Kaiser: Yes.

9
10 Baum: Motion passes.

11
12 **6. PUBLIC PARTICIPATION**

13
14 Kaiser: All right, moving on to public participation. Is there anybody in the audience
15 tonight that wishes to speak on an item that was not on tonight's agenda?
16 I see one hand. Anybody else? Nope. All right, sir please come forward.
17 And I'll give you three minutes this evening. If you could state your name
18 for the record.

19
20 Shervanick: Gregory Shervanick.

21
22 Kaiser: And do you swear or affirm that the testimony you're about to give is the
23 truth and nothing but the truth under penalty of law?

24
25 Shervanick: I do.

26
27 Kaiser: Go ahead.

28
29 Shervanick: First of all, Mr. Chair and Commissioners and staff, I want to thank you for
30 the open transparent conversation concerning Realize Las Cruces. The
31 last time I stood at the podium I spoke to you about the communication
32 between the public knowing a zoning change, the signs that we use, and
33 the distances that are in the documents. I would like to say that the public
34 communication is exceeding, it's almost 400 people have asked, and I don't
35 want to take away anybody's update report. But that's amazing for the City.
36 The rewrite has not changed the section about communication. We have
37 to establish technical current usage of the phones and equipment in our
38 pocket to allow the public greater access to the information that as I gave
39 you in the photographs last meeting is apparently not good enough. And I
40 hope that as the public comment session comes in, and that your
41 participation with City Council in the next month or so comes in, that you
42 look at that section and make sure we do it right. There's no reason that
43 somebody can't take a picture of a QR code, and that is the letter "Q" not
44 Q-U-E as in your minutes, to allow someone into a file someplace on. We're
45 asking people to move back to a pastoral type of lifestyle, walking, bicycling,
46 communicating with each other in those community centers. So why not be

1 able to use the same logic that that's asking from Realize Las Cruces and
2 update our current ability to communicate with the public. Thank you very
3 much.
4

5 Kaiser: Thank you.
6

7 **7. DISCUSSION**

8 **7.1 REALIZE LAS CRUCES STATUS REPORT**

9
10
11 Kaiser: All right, moving on to our first item this evening, which is a status update
12 report on Realize Las Cruces. So I'll turn it over to staff.
13

14 Weir: Good evening Mr. Chair and Commissioners. This is David Weir, Deputy
15 Director with the department. And I'll try to get the correct presentation up
16 for you.
17

18 Good evening, again. Yesterday, at the City Council's work session, the
19 Realize Las Cruces consultants, Freese Nichols and their subconsultants
20 gave a status report of the update to our land development codes. And so
21 they weren't able to stay in town, or at least the project lead wasn't. Karen
22 Perez, from the firm is here this evening. But I volunteered to go through
23 their presentation and then answer any questions that you have. What
24 they're going to go through is where the process, where it is taking place to
25 date, what are some of the major highlights of the project and the revisions,
26 and then go forward with next steps. And that's kind of changed from
27 yesterday's presentation to today. And then have a question and answer
28 period. Also attended the meeting, they left it a question with the City
29 Council on whether to move forward with the schedule. Like feedback that
30 was received, they kind of modified that, the order, and there's a slide that
31 will go over that for your knowledge.
32

33 The process itself, as you're aware, in 2020 the City adopted a new
34 comprehensive plan, Elevate Las Cruces. In it, it had an action plan on how
35 to implement it. And several of the tools you can see on this slide are using
36 the policies that you see in your staff reports and findings, any studies on a
37 specific topic, use for capital improvements as public infrastructure is built.
38 And the big one that really entails this project is the update of the
39 development code. And so that's the primary focus of this whole planning
40 effort.
41

42 One of the first things that Freese and Nichols did is they put together all
43 the action items in that action implementation plan of Elevate, and put them
44 out and reviewed those. And so this slide demonstrates how they initially
45 organized that and went about addressing each of those. The major areas
46 that they looked at include the zoning ordinance and the zoning map; there'll

1 be a comprehensive rezoning of the City. The subdivision code, drainage
2 standards for development, primarily private development that takes place.
3 The sign code, there was a need to catch up with some of the Supreme
4 Court findings on signage. Outdoor lighting, making sure that that met
5 today's needs. Roads and right-of-ways. Updating the landscaping
6 requirements. Addressing parks, trails and open space, tree preservation.
7 And then also the screening and buffer. As you recall, Elevate Las Cruces
8 talks a lot about neighborhood development and compatibility of uses, and
9 so that screening, fencing, and transition zone is a big area of emphasis
10 throughout the update of the codes.

11
12 As far as the timeline, the project began in March of 2021. And the first
13 phase was the diagnostic and research. So again reviewing the
14 comprehensive plan, putting out the actions, meeting with stakeholders,
15 determining what issues that they saw in the matter, and then also preparing
16 the diagnostic and how what different options can be explored to address
17 those items. So that phase has been completed. Recently completed was
18 the draft of the ordinances themselves, that's what we collectively call
19 Realize Las Cruces. That was a phase where the initial draft of that was
20 issued in March of this year. There was a public comment, public
21 engagement basically review period. From that there have been revisions
22 made, and that's also been made public. And again modifications have
23 been made.

24
25 So where we're at today is looking at the draft, going through how we need
26 to continue to refine it. And then at what stage do we take that from
27 adoption. And so that would be the first thing would be having some
28 meetings with the public, continuing to refine that. There was also a
29 workshop again with the City Council. And then if there was an agreement
30 to go forward with that it would be scheduled for a recommendation that
31 Planning and Zoning Commission, once you make that recommendation, it
32 would go to City Council for approval.

33
34 Just to give you an idea of how that public engagement and outreach is
35 taking place. When the project started, there was some of the code users,
36 some of the stakeholders, some of the design professionals were contacted
37 and interviewed. So they had 30 participants in that process. I know the
38 chair is aware of this because he was the chair of the Technical Advisory
39 Committee. But City Council put together a Technical Advisory Committee
40 to review each chapter as it was being created. That took the short of two
41 years to go through that. There were 33 meetings held, those were also all
42 advertised and open to the public, and anybody could come and attend at
43 those meetings. Again, at the beginning of the process there was a series
44 of virtual open houses, again comment was received from 30 different
45 individuals. There was an online; if you still go to the project webpage,
46 which is realizelascruces.com, there is an opportunity for any comments on

1 the drafts and any work that's been done to date to be made. And so at the
2 various stages there's been over 220 separate comments provided. And
3 then some have also been e-mailed directly to either City staff or Freese
4 and Nichols. And again, there's been over 200 comments received to date
5 on the draft and revisions.
6

7 Just again to highlight some of the major revisions that are being proposed
8 with the draft. First is we want to cover is the zoning districts. And so on
9 the left side of the slide, Elevate Las Cruces developed place types of a mix
10 of uses. And so one of the major task of Realize Las Cruces is to convert
11 those into zoning districts. And so one of the things we did to encourage
12 the mixed use and the walkability was to go from distinctive residential
13 districts to neighborhood districts that would have residential uses, some
14 neighborhoods serving commercial activities, and also would eliminate
15 single-family only zoning districts so that you would have a variety of
16 housing types within them. The other new concept that was put forward by
17 Elevate was the creation of character zones. And so you'll hear discussion
18 about rural areas, suburban areas, and urban areas. And so each of those
19 has a distinct character. And so standards were developed to encourage
20 that each of those standards for whatever type of development was being
21 proposed would take place in them. And then there were some areas that
22 have the traditional zoning districts, our industrial areas, our commercial/
23 retail, open space, those type of uses are similar to the zoning code. And
24 so another concept that was forwarded with Elevate Las Cruces was they
25 introduced some form based planning. And also, so what you have is what
26 I think most people would consider a hybrid zoning, they would have some
27 traditional zoning districts and then it would also have introduced those
28 character areas, those form based code where there's more emphasis on
29 how the site is developed itself, how the buildings interact with the street,
30 and less emphasis on the uses; that uses can be integrated throughout
31 entire neighborhood.
32

33 The second component of that was to comprehensively rezone the City.
34 And so the Elevate again, in the comprehensive plan, it has a future
35 development map. That's what we see on the left. The idea is that's the
36 vision of the City, and so on the right how you convert that into zoning
37 districts throughout the City. So this is the initial draft of the zoning. So the
38 yellows and oranges and browns are those neighborhood districts, and the
39 purples are the industrial type of uses. The reds and deeper oranges are
40 the retail type of uses. The green is more of the rural open space. The blue
41 color is a planned unit development. The most active planned unit
42 development is Metro Verde. And so the map reflects that they would still
43 develop under the PUD standards. Again, this is just a closer, you can say
44 see the actual zoning district categories that are created, and give you a
45 little idea of what's taking place.
46

1 Again, I talked earlier about the rural place types, suburban place type, and
2 urban; these are being reflected on the zoning map. They're called out as
3 a different area here, but you can see the historic downtown core is that
4 urban area, the areas adjacent to it are suburban. What you see developed
5 in the High Range, East Sonoma Ranch area and Metro Verde is that
6 suburban type development. And then as you go out towards Organ
7 Mountains you have the rural place type. And it would have those
8 neighborhood districts in them but again the density, the lot sizes are
9 different in each of these character areas.

10
11 Another component that's being forwarded through the zoning map and
12 policies that were proposed in Elevate Las Cruces, is overlay zones. These
13 are intended to encourage mixed use and provide incentives for more dense
14 or more intense uses that are along, again majority of those are in the urban
15 area and they're along some of our more busy transit corridors. And so
16 there are three type; well the map on the right is taken from Elevate Las
17 Cruces that reflects all of them. There's the town centers, there's four of
18 those; one around the university called Aggie Uptown, Memorial Medical
19 Center, The Mall, the former Country Club, the Royal. Crossing
20 Development, and then aside off 70 around Organ Mountain High School.
21 And so those are areas where it encourages mixed use, meaning a building
22 could contain services, retail, and housing. And also in that immediate area
23 kind of trying to create those centers of activities.

24
25 The corridors are ones that again, we're trying to encourage increased
26 density to utilize transit facilities, to utilize the existing infrastructure, and the
27 fact that it's close to existing parks, places of employment, and housing,
28 making that an asset for the urban core. The third type of overlay that's
29 introduced in Realize Las Cruces is a neighborhood center. That's one
30 where it's a little more intensive retail use or service uses. It's being
31 proposed as a use, as a special use permit. So if it goes into an existing
32 neighborhood, the neighborhood has an opportunity to know that that
33 intensification of use is taking place, but it does not have to go through the
34 same review and scrutiny as a zone change. The Planning and Zoning
35 Commission will be the deciding party on whether these intensified uses in
36 neighborhoods take place. So that's something I think you as a group need
37 to be aware of and provide any input you may have on an additional special
38 use permit.

39
40 I think I've talked about these; this is the way the mixed use corridors are
41 mapped out. One of the other things that we're doing with the zoning map
42 is going to parcel based. And so the irregular shape is, if a parcel was within
43 a quarter of mile of those corridors that we took the entire parcel in, so that
44 explains some of the irregular shape in those areas. Again, I talked about
45 the four town centers, this slide represents where they're located. And then
46 another thing go on to the design standards and subdivisions. Elevate Las

1 Cruces has a future thoroughfare map identifying the highways, the
2 arterials, the collector streets. And so as part of this process it's been
3 reviewed and updated the cross sections for streets. The attempt has been
4 made to make sure that there are streets appropriate for urban areas,
5 suburban areas, and rural. And so guidance was provided by Elevate Las
6 Cruces and this is a graphic that represents kind of how that's now reflected
7 in the design standards, making sure that we incorporated multimodal or
8 active transportation so that you could address pedestrian, bike, transit, and
9 auto uses. And then also introducing aesthetics, making sure that parkways
10 and medians are appropriately constructed to again make a quality
11 neighborhood.

12
13 Earlier we talked about changes or modifications to landscaping. And so
14 currently street trees are not required part of the development, that's being
15 proposed with this development. There's a little different way to approach
16 landscaping within parking areas. I don't think it changes the total amount
17 of landscaping required, but it does provide more direction and how to make
18 it more appealing and attractive for the site. We briefly talked about
19 screening and buffers, again making sure as you transition from uses that
20 you don't detract from an adjacent property owner. There's also a proposal
21 that large trees would require a permit before they would be removed. In
22 another section of the design standard chapter, I think it's Chapter 5, there's
23 also a requirement that neighborhood parks be dedicated and constructed
24 with residential development. That's a change. Now that is just covered by
25 a park impact fee or negotiation by the City. And so this would be removed
26 from the park impact fee ordinance. The desire is that those parks be
27 constructed. And as people move into that they have a place to recreate.
28 Similar to that there's also guidance and direction and standards for a trail
29 dedication and connectivity through those areas.

30
31 Briefly talked of this when I talked about form, there's more direction and
32 standards for how buildings will be placed on the lots, how they interact with
33 the streets in the public realm. And so there have been standards added
34 for a built-to zones, what type of look of the building, whether it articulates
35 you know different components put into the structure itself, glazing, the way
36 it's oriented to the streets. The neighborhood districts also provide more
37 opportunities for missing middle, meaning duplex, triplex up to you know the
38 apartments, all the housing from single-family to an apartment complex.
39 And also the neighborhood zones introduce more neighborhood services.
40 So there's an opportunity if there's something you need you don't have to
41 drive across town, there's an opportunity for it to be in your neighborhood.
42 There's also improvements or there's also direction provided to not only
43 address automobile traffic impact analysis, but also look how that impacts
44 transit, bicycles, and interaction with pedestrians. And through some of the
45 direction on the creation of neighborhoods, the orientation of streets, there's
46 more emphasis on making sure there's connectivity, so that one area is

1 connected to the other and it's easier for you to not have to get into a vehicle
2 that you could potentially walk or bike to a park or one of those
3 neighborhoods serving uses.
4

5 As I said, the draft has been online since March. And there has been one
6 series of revisions. And so Freese and Nichols highlighted what those
7 revisions were. One of them was the City, we currently have a development
8 review committee and oftentimes in your staff reports you'll see
9 recommendations from that group, it's primarily subdivisions. Realize
10 expands their role a little bit, gives them more discretion on type of things.
11 But with that discretion a comment was made that they wanted to make
12 sure that there was an appropriate level of expertise and authority in the
13 City. And so the draft has the membership or the participants be made up
14 of a director or assistant director or somebody with the equivalent level of
15 authority. There's some administrators that are within that range. Also,
16 there was a desire to add extra expertise, so the City Manager can appoint
17 two additional members. Currently, the DRC is made up of representations
18 of Community Development, Public Works, Fire Department, Parks and
19 Recreation, and the Utility Department. So this again allows the City to have
20 additional expertise on that development review committee.
21

22 Your current zoning code has flexible development standards. This is a
23 case where if it's a minor deviation or the applicant or the project that's being
24 proposed agrees to provide a public benefit. Staff can grant variances.
25 Probably the most common use of this is if there was like a three or four
26 inch deviation on a setback missed, that's something that staff can approve
27 as the de minimis type of thing, rather than require a variance coming to the
28 Planning and Zoning Commission. The use of those has been further
29 defined. And also make some more public notice or engagement for that,
30 that if it's greater than 20% variance or flexible development standard,
31 there's now a requirement proposed that adjacent property owners have an
32 opportunity to be aware of that and voice any opinions. The process is one
33 that's very similar to you in that it's a due process standpoint, if somebody
34 feels they're adversely impacted that they could appeal that decision.
35 Depending on what type of deviation it is, it will either go to the development
36 review committee, or it'll come to the department director or it will come to
37 Planning and Zoning Commission. And of course, all of their decisions can
38 be appealed also. So again, it's more of a legal due process step that's built
39 into there so that everybody's property rights are respected. It also added
40 some responsibility to development review committee that in certain
41 instances they can grant that deviation from the development codes. And
42 that always requires that the adjacent property owners been notified.
43

44 As a part of the scope, the historic preservation ordinance was reviewed.
45 There was a provision in there that when other review by the state was done
46 on historic properties that were owned by the City that they would be exempt

1 from going to the historic preservation commission. From feedback
2 received from the historic preservation commission and the general public,
3 the decision was to remove that provision and make City projects go to the
4 historic preservation commission for review and recommendations also.
5

6 There was also some comments that we received about the densities or the
7 type of housing that was allowed in the neighborhood districts.
8 Neighborhood one is your least dense and the least amount of
9 neighborhood services. Neighborhood two is kind of in the middle. And
10 then neighborhood three is one that has the highest amount of density. So
11 there was concern about differentiating between those. And so in the NH1
12 it made single-family homes, apartments, or multifamily dwellings up to four
13 units being permitted by right. And anything larger than that required a
14 special use permit, again approval by the Planning and Zoning Commission.
15 In the NH2, it would allow the single-family homes and also multifamily from
16 two to 12 units, and anything larger than that a special use permit. And then
17 the NH3 would allow any residential project by right or if you had a property
18 that could meet the setbacks, the landscaping, the drainage, the parking,
19 that could be issued administratively.
20

21 And so it may be in another slide, but also wanted to note the code allows
22 all single families to have one accessory dwelling unit by right. And so that's
23 a change. There is provisions for accessory dwelling units, but there are
24 certain standards and approvals that need to take place currently. So that
25 is a change being proposed. There was also concern about what is
26 compatible especially when you get to those service and retail type uses.
27 So there was some standards placed in there differentiating between the
28 urban and rural areas, and so that there would be more attention making
29 sure that any of those uses are compatible with the type of neighborhoods
30 that were being created. And so again, in the NH1, NH2, duplex, triplex and
31 quadplexes, it was to make them look more similar to a single-family
32 residence, look like a house type form. I will note that there was two City
33 Councilors that felt that it wasn't necessary for this provision to be in there,
34 but it is in the current draft. Again so that there's some predictability about
35 where some of the larger multifamily would go, there was some standards
36 that it either had to be located on a collector street and that there were some
37 buffering requirements that had to be met, again to make sure that there
38 was compatibility and everyone was comfortable with the project. And
39 again, as you got to into a larger multifamily project, there were additional
40 criteria, it had to be an intersection of two major streets. And again some
41 additional buffering standards that were put forward.
42

43 Something that currently is allowed in some of the zoning districts was the
44 raising of large animals. And the March 13th draft removed that. It was
45 called to staff and Freese and Nichols attention. And so that has been
46 added back in. The City has a separate ordinance on what conditions you

1 have to do to raise animals. And so basically, it calls out areas that the
2 raising of livestock and farm animals are allowed. And it requires that you
3 follow that animal control ordinance.
4

5 There was quite a bit of comment about the location of cannabis
6 businesses. And so there were modifications made to that. I think initially
7 some of the cannabis uses were permitted by right as those more service
8 areas. And so in the NH1 and NH2, and in certain conditions NH3 would
9 now require a special use permit. There's a graphic on the next slide that
10 will kind of show you the changes of that. It also changed the areas for the
11 indoor agribusiness, limited it to the NH3 and only requires a special use
12 permit for it to take place. And then some modifications to the micro
13 business, which is where there's more than one cannabis use within a
14 location. And so this graphic, you can see the red is where the initial
15 proposal, they were allowed. And so that's being proposed to be removed.
16 The open circle is when a special use permit is required. And the black is
17 where if you're in those zoning districts you can come in with a business
18 registration or a use by right.
19

20 There was also a concern about the intensity of some of the neighborhood
21 services and retail uses. And so there are modifications for that. The bar
22 and tap tasting rooms were taken out of the NH1 and NH2. And then even
23 in the NH3 that it would be required to receive a special use permit. And
24 then there was special use permit for these other 18 uses because of
25 anticipated more potential impacts to the area. And Council yesterday
26 wanted to look at some of the retail and grocery uses and felt that those
27 might be something that should and could be allowed by right to cover items
28 like food deserts or more convenience to the neighborhoods.
29

30 This gets back to the subdivision process and also the construction of public
31 improvements. The City has a City Manager policy on substantial
32 completion, that's been proposed to be codified within the subdivision
33 design standards. And so there was some clarification that when you're
34 substantially complete, could you pull building permits, could you file the
35 plat, and so there was some clarification provided for that with the revision.
36

37 In the initial draft, there was a proposal for a connectivity index. This was a
38 study that had to be taken, some calculations based on exit and entry
39 points, intersections, etc. Through the review, it was determined that
40 probably most of those were addressed by other standards that are allowed,
41 block length, perimeter, limitation on cul-de-sac use. And so it was felt by
42 staff and the consultants that that would adequately address it and it would
43 be less complex for people trying to do projects. And so it was removed
44 with the revisions to the initial draft.
45

1 The TIA section, there's been quite a bit of comment on that and the
2 process, and so the consultants and staff and the design professionals are
3 continuing to work through that. Public Works is scheduling meetings to
4 continue to refine it. I think my observation on that is the major concern is
5 making sure that that due process is clearly laid out, what takes place, that
6 it's not all the discretionary authority is put in one individual's name and just
7 tweaking the code. So the meetings that I've been a part of it looks like
8 there's a path forward, it's just that the language needs to be updated and
9 some clarification provided. So just that's something that as you go forward
10 I'm sure you'll hear about a traffic impact analysis and the process for their
11 approval and use. Again, we've kind of touched on park dedication. The
12 criteria in it is that for a park to be built it has to be a minimum of three acres
13 in size. And then you have to provide an acre for every 188 residential units
14 that you're being proposed. And as I noted earlier, it takes neighborhood
15 parks out of the calculation for park impact fees. Park impact fees will only
16 address community and regional parks. This is another area that I think in
17 concept staff and the consultants are on the same page, but there are some
18 refinement that still needs to take place in this, so this again will probably
19 still be modified by the time it comes to you for a recommendation.
20

21 There were quite a bit of public comment received on dark skies. And so
22 there was clarification on that, and some modifications that seem to be well
23 received by the dark sky advocates and also our staff that reviews the
24 lighting with projects as they take place. And this slide summarizes some
25 of those changes, it deals with the brightness, making sure that exemptions
26 for flags, they'll still be lit it just will limit the brightness of that. How
27 treatment of architectural lighting will be, and kind of the times and clarifying
28 some of the uses for nighttime lighting.
29

30 So that's the major changes that have been proposed and the revisions that
31 have been made. Next steps are the contract for this project calls for an
32 open house event. The plan is for both in person and then also virtual.
33 That's the stage where the changes, the concepts will be explained. Also,
34 the highlight, it'll give folks an opportunity to provide their additional
35 feedback and have one-on-one discussions. I would anticipate the zoning
36 map will be a big area of discussion at those type of meetings. This is the
37 change. And so in the next month, at yesterday's work session there were
38 a couple of groups that asked for meetings, the Homebuilders Association,
39 and the Historic Preservation Commission. And so we'll also looking at
40 other groups that want to have discussion to share what they think still
41 needs to be reviewed more. Staff is preparing that list for Freese and
42 Nichols to make outreach to them. The plan is after those meetings are
43 conducted and that outreach takes place, to have that actual open house
44 and get additional comment and feedback. Then in August and September,
45 to come back to City Council and P&Z to tell what further revisions have
46 been made, what comment has been received to date, and then the formal

1 adoption process to begin in September and October. So that would be,
2 they'd be placed on your agenda, that would be a public meeting where the
3 public could have an opportunity to comment and talk before you made a
4 recommendation. And then the same process will be used at City Council,
5 and they would have the authority to adopt that. Just as a reminder, the
6 ordinance itself has a six month period where once it is adopted, the old
7 ordinances can be used or the new one can take place to allow for seamless
8 transition from our development codes. And with that, I'll conclude that. If
9 there's any questions you have or any additional insights I could provide or
10 answer questions, I'd be happy to do so.

11
12 Kaiser: Thank you. Any questions or comments from the Commission?
13

14 Smith: I did have one. I think you touched on briefly on food desert. And how
15 would any type of implementation to like to encourage you know businesses
16 to be established in the areas where there's just you know a lack of
17 accessible.
18

19 Weir: Since the development codes primarily, and the zoning code in particular
20 deals with land uses, it provides additional opportunities for those all to be
21 covered. Those neighborhood zoning districts allow those types of uses to
22 be basically anywhere within a neighborhood. Also the neighborhood
23 center provides additional opportunities. And then there's also a
24 requirement for some of the smaller shops to have fresh produce. And so
25 it is a standard and again an attempt to make it more available for more
26 healthy foods to be provided throughout the City.
27

28 Smith: All right. Thank you.
29

30 Nichols: Thank you. Mr. Chair. Thank you. Appreciate the presentation David just
31 made to the audience and to the Planning and Zoning Commission. He did
32 that in about 25 minutes. And it was nearly three years of work. But the
33 point being is that this has been very well vetted to the public and to
34 technical staff, to our staff, the City staff. And in my opinion, it is a land use
35 update that deserves adoption. We look forward to that in September.
36

37 Kaiser: Thank you. Yes, just echo that. It's been a lot of work. And when you say
38 it's been over two years with the TAC, I guess time flies because I knew it
39 was long but didn't realize it was that long. Just a couple of I think
40 comments, just listening to the most recent updates. And it sounds like
41 some of this was just as recent as what came out of the discussion
42 yesterday City Council. I guess a couple of things just caught my eye or
43 ear while you were presenting. And one of them is this idea of the
44 transitions or buffers between uses. And while I'm sensitive to the nature
45 of you know you don't want certain uses necessarily sharing the same
46 property line, I do feel like it sort of undercuts this whole idea of mixed use

1 walkability. If everything has to be buffered from everything else, are we
2 not just doing the same thing that we've been doing? And so that's just a
3 concern that I expressed overall of are we getting a little too knee jerk
4 reaction here to the idea that we can possibly have you know neighborhood
5 services that are compatible with a neighborhood? Why do we need 35 foot
6 buffers, six foot masonry walls, 30 foot trees, I mean it just sort of seems
7 like it's defeating the whole concept of you know an urban community
8 neighborhood feel welcoming for that matter. So that's just an overall
9 comment.

10
11 Then as it specifically relates to the multifamily, I'm actually very concerned
12 with some of the buffers that have been I guess introduced most recently. I
13 feel like they're very excessive. I'm not quite sure I understand the rationale.
14 Who are we trying to protect from whom? I just, it seems like we're putting
15 up barriers, for what I'm not sure. I'm also concerned that in some cases a
16 buffer that is so excessive may make sites infeasible to build, multifamily.
17 In which case, yes, it's by right a developer can come in and do it, but when
18 you get down to pen to paper it's not going to work itself out because the
19 constraints are going to be too much for them to invest the money. And
20 we're going to essentially kneecap ourselves when it comes to this concept
21 of missing middle and different types of housing. So I think we need to look
22 very seriously at that. And again, I just think it goes back to what are we
23 trying to protect here? I'm just not sure I understand the rationale.

24
25 And then more specifically as it relates to multifamily and the special use
26 permit. First, I am happy to see that the fourth and fewer units is by right
27 across the board. That's great. I'm uncomfortable with the intermediate
28 level, the special use permanent, which I think was five to 13. I'm a little
29 concerned with the 13 plus, especially because we calculate that by number
30 of units. So my question would be in an urban area if you say you've got a
31 three acre parcel, the density that's allowed by right is say 20 units per acre.
32 But now we're saying, well you still need to go get a special use permit
33 because you're exceeding the 13 units. And maybe I'm misunderstanding
34 but to me it seems like that's completely contradictory to the underlying land
35 use. So I don't know if that's been pointed out, but that was just something
36 that kind of caught my eye, especially as it relates to the 13 plus. And I
37 guess the same could be true for the five to 13 particularly in the urban
38 core, it makes sense to me when you start looking at the suburban place
39 types, but the urban place types I think it sort of is definitely undercutting
40 the whole concept there. I'll pause if you wanted to respond.

41
42 Weir: No, I don't recall if it's in the draft or as a conversation. I think the urban
43 area may have been excluded from that special use permit, but I'm not
44 100% Sure. I think all of your comments get back to that neighborhood
45 compatibility. The freshest example that can come to my mind is your
46 meeting last month where you dealt with the apartment proposal, that was

1 a rezoning. But if you recall staff offered you conditions to allow it go
2 forward. So that's the type of issues what we anticipate with those projects
3 going in. Even though it may be right by special use permit, by having a
4 standard and you know we're still at a stage where that can be modified.
5 But it gives a place for an expectation if you're going to go forward with this
6 project and then it allows existing developed areas to have an idea of this
7 is what they can suspect also. A comment that the Freese and Nichols
8 made yesterday was that they reviewed other ordinances across the nation
9 that have eliminated the single-family zoning districts. And so those density
10 breaks or steps were kind of a consensus of what they saw, and kind of the
11 treatments that they had saw. So that's where the proposals come from.
12

13 Kaiser: Okay/ I mean that's helpful. I think from my perspective just kind of gaming
14 that out, right. If this is - what's our vision and are we doing the things to
15 get the vision as opposed to undercutting that at the outset. And then I think
16 my final comment is just going back to the road cross sections. I haven't
17 taken a look at what is been most recently proposed in this latest draft. But
18 what I saw on the screen I still have a lot of reservations about that part.
19 One being that as far as I'm aware we still haven't addressed the
20 intersection design. We address it from purely a site triangle, which is a
21 driver perspective. But there's no other perspective. And I think that is
22 critically important. If we can have sight triangles, we should be able to
23 dictate other parts of the intersection that makes it safer for multimodal
24 transportation. And then the cross sections, my comments aren't going to
25 be new to you, but I do think we're not there. We have an opportunity to
26 really change the level of safety for all users of our transportation network.
27 And I think we, what I have seen up to this point is we're just putting a little
28 lip gloss on business as usual. There's nothing in here, particularly that
29 traveling width, just the one that you had up on screen I noticed the inside
30 lane, I guess the outside lane was 13 feet, which is one foot increase which
31 from what I think we currently have, which is 12 feet. And then we have an
32 11 foot on the inner lane, which is an actual one foot reduction, but they
33 cancel each other out. So at the end of the day, we haven't really
34 accomplished anything. I'm happy to provide more resources. I found three
35 just this weekend from EPA, Federal Highway Administration, and
36 Congress for New Urbanism that specifically addresses the emergency
37 vehicle access, which I know has come up in conversation. So I'm happy
38 to provide those, again as more evidence based of what we should be doing
39 as opposed to just winging it.
40

41 Weir: Yes, Mr. Chair. All information you can provide is more than welcome.
42 What was presented here is now the ordinances. There is another
43 component that staff's working on is the technical manual. And that has
44 more of the details like the curb returns, the clear sight triangles, it gives the
45 DRC and the Public Works Director the ability to modify those even further.
46 That chapter also deals with the City's complete street ordinance and the

1 requirement that major projects be reviewed. So while you may not, you
2 basically see kind of stock options for the street cross sections, that tech
3 manual allows additional flexibility and ability to modify those cross sections.
4 And the DRC also was given some authority to modify cross sections going
5 forward.

6
7 Kaiser: Thank you. And I don't have any further questions. So anybody else has
8 any final thoughts? All right.

9
10 Weir: Thank you.

11
12 Kaiser: Thank you. Appreciate it.

13
14 Weir: Yes., thank you for indulging me.

15
16 Kaiser: Looking forward to the final push.

17
18 **8. CONSENT AGENDA**

19
20 **8.1 Case No. 24ZO0500053:** A request to approve a zone change from C-2
21 Commercial Medium Intensity) to R-1aM (Single-Family Medium Density Mobile)
22 for a parcel of land encompassing 0.99 + acres and located at 6175 Lemo Road.
23 Submitted by Supreme Investments, LLC., Representative. Council District 5.

24
25 **8.2 Case No. 24ZO1000039:** A request to approve a Special Use Permit (SUP) to
26 allow a cannabis-based business less than the required 300-foot buffer distance
27 from another cannabis based business. The subject property is zoned M-1/M-2
28 (Industrial Standard), 1.01 ± acres in size, and is located at 1740 W. Hadley
29 Avenue. Submitted by Leon Harris, Premier Highlife, representative. Council
30 District 4.

31
32 Kaiser: All right. Moving on to the consent agenda. Tonight we've got two items,
33 8.1, 8.2. Looking for a motion to approve the consent agenda. Hold on one
34 second.

35
36 Ochoa: Give me one second Chair, if I could bring up that presentation for people
37 in the crowd, if anybody wanted to talk about one of those. They'll have the
38 opportunity. Here we go. So it's two different cases, it's 8.1, which is a zone
39 change at 6175 Lemo. And 8.2 is a special use permit to allow cannabis
40 business closer than the 300 feet at 1740 W. Hadley.

41
42 Kaiser: So is there anybody in the audience who wishes to hear discussion on any
43 one of these? All right. Hearing none. We'll take a motion to approve the
44 consent agenda.

45
46 Smith: I move that we move to approve tonight's consent agenda 8.1 and 8.2.

1
2 Porter: I second.
3
4 Baum: Board Member Acosta.
5
6 Acosta: Yes.
7
8 Baum: Board Member Smith.
9
10 Smith: Yes.
11
12 Baum: Board Member Porter.
13
14 Porter: Yes.
15
16 Baum: Board Member Murray.
17
18 Murray: Yes.
19
20 Baum: Chair Kaiser.
21
22 Kaiser: Yes.
23
24 Baum: Motion passes.

25
26 **9. OLD BUSINESS**
27

28 Kaiser: All right. We do not have old business.
29

30 **10. NEW BUSINESS**
31

32 **10.1 Case 24VO0500054:** A request to approve a variance to deviate nine (9) feet and
33 six (6) inches from the required ten (10) foot building separation requirement and
34 to deviate two (2) feet and two (2) inches from the required three (3) foot accessory
35 structure setback requirement for an existing porch on a property located at 6038
36 Solstice Street. The property is approximately 0.13 ± acres in size, is zoned PUD
37 (Planned Unit Development) and located within the Metro Verde PUD. Submitted
38 by Christopher Baron, property owner. Council District 5.
39

40 Kaiser: So moving on to new business and item 10.1 which is a request to approve
41 a variance on Solstice Street. Take it away staff.
42

43 Ochoa: Thank you, sir. What we have before you is a proposed variance for a
44 property located at 6038 Solstice Street. It is located near the intersection
45 of Santa Sabina Avenue and Solstice Street. The property encompasses
46 roughly 0.13 acres. It is zoned PUD. It's a planned unit development with

1 a sub zoning have what is called the U3 in the Metro Verde area, which is
2 the suburban zoning. Currently, there's a single-family home on the
3 property.
4

5 Shown here and just sea of matching homes, essentially just the sea of
6 homes out here. What the applicant is looking to do is get, it's essentially
7 two variances, one being from the actual 2001 Zoning Code that requires a
8 minimum three foot setback from the rear property line. And then two is a
9 variance to the actual Metro Verde PUD requirements that requires a
10 minimum 10 foot building separation between buildings on the same
11 property. So essentially, the back porch is already built. It was constructed.
12 And the applicant is seeking to retain that porch, that accessory building in
13 the rear of his yard. It was built without a permit unfortunately. That is why
14 we're here trying to get the variance approved. The variance would allow
15 the porch to remain in the rear yard with a 10 inch setback from the rear
16 property line and a six inch separation from the home.
17

18 Site plan shown here with the drawn in porch in the back over here. And
19 here are some actual pictures of that back porch. Very nicely built, made
20 out of steel. As you can see the distance from the wall itself and then you
21 could see how close it is to the home right there.
22

23 Justification, the applicant wasn't aware that the porch/accessory building
24 was constructed without a permit. I believe when he purchased the home
25 it was already there is what he's told staff. The porch, accessory building
26 was a selling factor for purchasing the home. That the property brings more
27 aesthetics and adds value to his property is another reason why he would
28 like to keep it. It would be fiscally irresponsible to remove the structure as
29 there is a fixed income for the household is what the applicant is justifying.
30

31 With that, staff did not identify any way that this meets the requirement for
32 a hardship. So staff does recommend denial for the proposed variance
33 based on the findings listed here. as you can see, does not meet the
34 setbacks, does that meet the requirements of Article 2, Section 38-10, J and
35 K, was constructed without a permit.
36

37 Staff sent out public notice to the surrounding property owners within the
38 area. Staff did not receive any phone calls or e-mails associated with the
39 proposed variance. If the Planning and Zoning Commission potentially
40 would like to recommend approval, or vote to approve this, staff does ask
41 that you add an actual condition it that must obtain a building permit and
42 require that all inspections get done essentially for the structure. With that
43 the options are one, to vote "yes" and approve. Again, voting to approve
44 you will have to provide alternate facts of findings since we are
45 recommending denial. Two, to the vote "no" and deny as recommended by
46 staff. Three to vote "yes" and provide conditions for the proposed variance.

1 And four to table postpone and direct staff accordingly. The applicant is
2 here if you have any questions for him as well. But I stand for questions.
3
4 Kaiser: Thank you. Does applicant wish to make any comments before we ...?
5 Okay. Thank you. If you have questions we'll call you up. Yes, we'll get to
6 public comment in just a minute. Any questions from the Commission
7 before we go to public?
8
9 Smith: I have to two. First one, do you know when the patio shelter was
10 constructed? And when the applicant purchased a home?
11
12 Ochoa: Mr. Chair, Commissioner Smith. From what staff (*inaudible*) through our
13 aerials it looks like it was built around 2022. And he purchased it in 2023.
14 So it was about a six month split for when it was built to when the gentleman
15 purchased it, sir.
16
17 Smith: All right. Thank you.
18
19 Murray: I have a quick question. And then is this coming before us because staff
20 noticed it without a permit, or was it brought up by a community member?
21
22 Ochoa: Mr. Chair, Commissioner Murray. I believe a code enforcement was called
23 out there. And code enforcement required them to come in here and try to
24 fix the issue, which the only way we could do it is by approving a variance
25 essentially.
26
27 Kaiser: So on the setback just so I understand, it's currently, they have 14 feet
28 between I guess the original covered patio to the property line, right, and it's
29 a 10 foot setback in the back.
30
31 Ochoa: It's a three foot setback in the rear. They're at about two feet and two
32 inches. So in other words it's about eight, Am I doing my math right? Sorry
33 about that. Let me see here. There we go. So it's about, roughly about six
34 inches from the home and about 10 inches from the rear, because the
35 property line does go to the middle of the rock wall in the back.
36
37 Kaiser: I understood. So they could, there is an option to pull it out of the setback
38 which would give them about a 10 foot covered patio, right. Fourteen feet
39 minus three feet.
40
41 Ochoa: Roughly. It's possible, sir, but it's very limited room area back there. There
42 are exceptions that are allowed by the Metro Verde PUD that would allow
43 potentially them to meet a couple of things. But structurally something
44 would have to be done for the structure itself either moving in, something
45 would have to be done in order for it to meet those requirements.
46

1 Kaiser: Sure. Yes, I understand that. I'm just trying to - they do have room to do
2 something. They just did a little too much.
3
4 Ochoa: Unfortunately, yes.
5
6 Kaiser: Got you. Okay. Thank you. Okay, we'll go to the public. Is there anybody?
7 Seeing one hand. So come on forward. I see two people so we'll, three
8 people. Okay. We'll just take turns and each will get three minutes
9
10 Spadini: Hi. Thanks for taking the time. I appreciate that.
11
12 Kaiser: Yes. And before we get started please state your name for record so I can
13 swear you in.
14
15 Spadini: Sure. Lisa Spadini.
16
17 Kaiser: And do you swear or affirm that the testimony you're about to give is the
18 truth and nothing but the truth under penalty of law?
19
20 Spadini: I do.
21
22 Kaiser: Go ahead.
23
24 Spadini: Okay. I did not call the permit person or anyone about the overhang. I
25 would rather be neighborly and work it out. However, this went up the very
26 first weekend they moved in. It was done by Sunday, so I didn't have a
27 chance to really discuss anything. And I'm the neighbor that lives directly
28 behind the couple. And from our side, it does not look, I wish I did
29 PowerPoint, I didn't realize that I had to do that. But from my view it's just
30 steel beams that are the color of the Golden Gate Bridge when it gets worn,
31 you know that rust color, with a white tin roof or cream. None of it matches
32 the home color of the back of the couple. And I have a friend that's a realtor
33 and she came for lunch recently before the ordinance and before I got the
34 notice, and said that when I want to downsize and sell my home, it's going
35 to affect the property value negatively, and I'll have a much harder time
36 selling my home on Arosa Street which butts up to this thing. Because
37 they'll go to a home that doesn't have that industrial looking thing behind us.
38 Questions? Should I be doing something else? Sorry.
39
40 Kaiser: If you have anything else to say, please say it. Otherwise, thank you for
41 coming up.
42
43 Spadini: Okay. Could I like e-mail someone the photos or would that be a variance?
44
45 Kaiser: If you want to bring your phone we look at your phone real quick. We'll pass
46 it down. Okay. Thank you. Don't go far.

1
2 Nichols: Mr. Chair. Your home was adjacent to a home about.
3
4 Spadini: Well the overhang is attached to the other side of my brick wall.
5
6 Nichols: So your home is on the side of the ...
7
8 Kaiser: Immediate behind.
9
10 Nichols: Directly behind.
11
12 Kaiser: Yes.
13
14 Nichols: Has there been any rainfall?
15
16 Spadini: Yes.
17
18 Nichols: And has that, does that rainfall come across to your property from the
19 drainage from the roof structure?
20
21 Spadini: It has landed on the wall.
22
23 Nichols: On the wall.
24
25 Spadini: You know monsoon, yes.
26
27 Nichols: Okay.
28
29 Baron: I have video from the last rainfall. It does not.
30
31 Nichols: Just a moment, sir, when your turn you can come up and speak at the
32 podium. Thank you. Thank you for the answer, ma'am.
33
34 Kaiser: And thank you for coming up this evening. If you want to, Commissioner
35 Acosta has your phone, so when he's done he can hand it back to you.
36 Thank you so much. All right there was a gentleman on this side please
37 come forward. And please state your name for the record.
38
39 Borum: Trevor Borum.
40
41 Kaiser: And do you swear or affirm that the testimony you're about to give is the
42 truth and nothing but the truth under penalty of law?
43
44 Borum: Yes, I do.
45
46 Kaiser: Go ahead.

1
2 Borum: I live on Arosa Street also which is the backyard street to Solstice. The
3 structure is nice. You can see it just barely if you peek through houses on
4 Solstice. The color that was spoken about, it complements the rest of the
5 neighborhood, the rock wall, etc. I also don't believe it to be in the CCRs
6 that any structure needs to be painted to match the homes. And that would
7 be conducive to the rest of the structures put up in that neighborhood, sheds
8 and lean-tos on the side of the homes, etc, in addition to overhangs on
9 driveways. There's no rainfall over that rock wall. It does hit the rock wall
10 the same as it would for anywhere else but it could probably be mitigated
11 with a gutter if it was really that serious. The structure is strong. It's does
12 not overhang the ball at all. You can see that in the pictures. I think that it's
13 an addition. Also, I just got an appraisal back on my home today for an
14 increase in 48 months almost on the dime of \$117,000. So nothing's
15 affecting the property values in that neighborhood. If that one was affecting
16 others, then the ones next to me would be affecting mine, in front of me
17 would be affecting mine, etc. So I just I find that very hard to believe. That's
18 where I'm at.
19
20 Kaiser: Thank you.
21
22 Borum: I think it's a beautiful thing. Thank you.
23
24 Kaiser: All right. And we have one more gentleman on this side. Please state your
25 name for the record.
26
27 Arroyo: Erice Arroyo.
28
29 Kaiser: And do you swear or affirm that the testimony you're about to give is the
30 truth and nothing but the truth under penalty of law?
31
32 Arroyo: Yes.
33
34 Kaiser: Go ahead.
35
36 Arroyo: So I also live on Arosa Street. And I saw the structure myself and talked to
37 the gentleman, asked him about it and everything like that. Took pictures
38 of it myself, because I kind of want to do something very similar to my
39 backyard. But because the sun hits my backyard directly. And I actually
40 talked to my friend's wife who's also a real estate agent and she said that
41 would only add value if it's built exactly, good quality and doesn't look like, I
42 mean there's some pergolas that people buy that have contractors come
43 out and look way worse. My mom has one right behind her house that they
44 hired themselves a contractor and it looks horrible. She hired a good
45 contractor and built a quality pergola that looks good. I don't think that
46 because of what someone else is going to do is really going to truly affect

1 how your home is going to sell. So for me, I think there's people that have
2 weeds in the yards that don't do their front yard that's a bigger threat than
3 that. You know there's people that have RVs that are sticking out all over
4 the place over there. There's people have cars parked in the dirt between
5 houses that are I think way worse to look at than a back patio, covered patio.
6 That's just my opinion. It's built quality. It looks good. Doesn't seem to
7 bother me very much. Looks good.
8
9 Kaiser: All right. Thank you. All right, any other? Yes, sir.
10
11 Murray: Hey, Adam. While you're up there could you maybe go back to a couple of
12 the pictures.
13
14 Ochoa: That one or that one.
15
16 Kaiser: Yes, that's a good one.
17
18 Ochoa: That's a good one.
19
20 Kaiser: Thank you. Just state your name for the record and then you may proceed.
21
22 Shervanick: Gregory Shervanick for the record. Again, this is one of the conundrums
23 that the new Realize and its orientation towards urban heat and protecting
24 our environment must be looked at. It seems fruitless to go back and
25 remove something that is producing shade and decreasing urban heat in
26 that area. And even if it's an eyesore to a neighbor, it is more helpful as it
27 is now. And if the Realize contribution goes into effect, there should be no
28 problem with anyone protecting their home and increasing the value by
29 increasing shade or the umber effect around their home. Thank you very
30 much.
31
32 Kaiser: Thank you. All right. Unfortunately, we're going to have to close public
33 comment unless there's anybody else that wishes to speak. We just don't
34 have time to keep getting around to folks who've already spoken. So unless
35 there's anyone else. The applicant you wish to say something? Yes, please
36 come forward. And please state your name for the record.
37
38 Baron: Christopher James Baron.
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 Baron: I do.
44
45 Kaiser: Go ahead.
46

1 Baron: Good evening, gentlemen. I understand that your position here is voluntary
2 and this is out of your own time, so I appreciate you guys to doing what you
3 do for the City. There were some inaccuracies. The home contingency was
4 before closing that this structure be done. So that six month windows before
5 closing was off. Okay, so what Ms. Lisa was saying is correct. Okay. Also,
6 if it sways the vote one way or the other, I'm willing to put up, so this is a six
7 foot wall, I'm aware that I'm allowed to put out an eight foot wall, no more
8 than eight foot in that area. I'm willing to put up a fence of her choosing,
9 some kind of style so it brighten her side of the yard up. She didn't get a
10 chance to speak to me about it. But I'm willing to do that. That's not a
11 problem. During this application process, do you guys get to see the
12 hardship letter?
13

14 Kaiser: We received it. Yes.
15

16 Baron: Okay. So you understand some of the family needs for the structure. As
17 this gentleman stated, the shade and what have you. The complaint
18 originally came from a barking dog complaint that I did on a neighbor and
19 the City has fixed that. So this was for an appraisal type of scenario that
20 was also covered in the letter. So unless you guys have any questions for
21 me, that's all I have.
22

23 Kaiser: Thank you.
24

25 Baron: Yes, sir.
26

27 Kaiser: All right, coming back to the Commission. Any additional questions or
28 comments?
29

30 Smith: I have a comment that may lead to a question. You know we've had
31 applicants come before us in the past requesting variance primarily for
32 automobile shelters that had been you know put up without permission. And
33 you know one of the things that really impacts our decision is the fact that
34 you know it really impacts the utility easement. Also, you know sometimes
35 they've gone way over you know like close to the sidewalk. They obvious,
36 you know they're in front the yard. And so it can lead to other people seeing
37 the same thing and you know putting one up. And so you know it's been
38 our track record I guess you could say to deny those because of those you
39 know primarily the utility easement reason. And lateral structures too are
40 structures that can be you know disassembled without too much of a
41 financial hardship. Generally, people will always say that you know there's
42 a medical reason you know why they have to be able to have shade you
43 know for the car to get to their home. In this case, and I don't know how
44 many you know applicants have come forward with this type of request for
45 a variance. I think this is the first one that I've experienced where you have
46 a well-made structure in the backyard. From what we've been told that it

1 was there before the applicant purchased the home. I can't verify that. I
2 mean it's a small window of six months, it could have been part of the
3 purchase process.
4

5 But you know I guess my comment that I want to make is this is for me, and
6 it may be the same for the other Commissioners here, this is when, we're
7 the impact on you know the City and its you know enforcement of codes. It
8 seems very minimal and unnecessary. And it's just, I'm saying that because
9 it's just, this is the one you know the one request that's come before us
10 where it's not as clear as it has been with the automobile or with the car
11 shelters in front of their homes, and the impact that it has on the City which
12 is greater because of utility easement situation. So I just wanted to make
13 that comment.
14

15 Kaiser: I don't really have a question here. But I'm just going to kind of explain my
16 thought process on this one. I can't claim to know how this is going to go
17 when we vote but this is, it is a tricky one I think for me. Part of me sees it,
18 there's plenty of room to have done something here, right. I mean there's
19 11 feet that you could have built within the setback. It wouldn't have in my
20 opinion really dramatically changed the outcome as far as aesthetics or the
21 amount of shade that you would receive. So I think there is plenty of room
22 to do this the right way. And I think it's kind of unfortunate that the previous
23 owners or whoever put it up decided to go on their own maybe out of the
24 fact that they weren't aware they needed a permit. I think we've seen that
25 a lot for sure is folks not being aware of the rules. But ultimately you know
26 that's the responsibility of the homeowner, especially someone who's
27 purchasing property. You've got to look into these things. You have to do
28 your due diligence. And it's not enough I think for this body to compensate
29 for that oversight. Nor do I think it's the purview of this body to address
30 neighborhood disputes. So from my perspective, I think there's a way to do
31 this, it certainly isn't going to be cheap, and it's going to cost money to pull
32 it back out of the setback, but I think in my view there's an opportunity to do
33 this the right way. That's just kind of how I see it.
34

35 Nichols: Mr. Chair. And the person that installed the structure, not necessarily the
36 owner, but the person that actually constructed it, it appears to me that this
37 was a professional installation. And that tells me that there was somebody
38 that, maybe a contractor, or a person that produced the materials, they
39 would have known that a permit would have been required. If a permit had
40 been acquired we wouldn't be having this discussion tonight, because the
41 plans would have been reviewed and they would have said this is a setback
42 that's required. And so basically what we have here is a situation that could
43 have been constructed properly to setbacks per the person that actually
44 installed, actually built the project. And that it didn't meet requirement. And
45 they probably knew that.
46

1 Kaiser: Thank you. Commissioner Smith.
2
3 Smith: I just wanted to just echo what Mr. Nichols said, because I think we had this
4 come up, I don't know if it was the last meeting or the meeting before where
5 I think a question came up about the responsibility of contractors to know
6 that when you're accepting you know a bid to work or contracted to install
7 something like this that they need to you know actually request a permit.
8 And I think if I remember correctly, or maybe someone from the Commission
9 or the public, but you know it's like what can we do? What can the City do
10 to make sure that, I mean there has to be some type of penalty in some way
11 for a contractor. Because you know they're just out to make money and
12 they take advantage of people. I mean maybe their you know their you
13 know lack of knowledge of how you know how they're supposed to have a
14 permit to build a structure, whether it's a car shade or whether it's a patio
15 cover. And I don't, I don't know what the answer is right now, but it seems
16 like this is going to be a recurring problem as long as we have commercial
17 contractors that you know accept the job and build it and then just go away
18 and you know and plead innocent. That you know because that's what ends
19 up happening with the applicant. They're the ones that come before us you
20 know requesting a variance. The contractor has taken the money and ran.
21 And they're the ones here requesting the, the applicant, the public is the
22 one, they're the ones here now trying to not have to spend money to have
23 something removed. And you know the Chair has stated that you know it's
24 a tricky situation that we get put in because we're not here to you know
25 solve disputes between neighbors but at the same time this will continue
26 until we can, until a way is found, figured out to make sure that the public
27 knows that they have to have a permit and then the contractors can't get
28 away with just building you know structures without one.
29
30 Kaiser: All right. Looking for a motion to approve. And keep in mind the staff
31 recommendation was denial. Just need a motion to approve so we can
32 vote.
33
34 Smith: I move that we approve this variance.
35
36 Murray: And a yes is to deny and a no is to ...
37
38 Ochoa: For clarification. So you know right now we're just, it always has to be in
39 the affirmative, so the motion and the second. And then when you vote,
40 you're actually going to vote yes or no or whatever. Staff is recommending
41 denial. So if you do vote to approve this, we do ask that you state your new
42 findings of fact, essentially.
43
44 Kaiser: And to clarify, if you vote yes you're voting to approve.
45
46 Ochoa: Right.

1
2 Murray: To deny.
3
4 Kaiser: To approve. There's a motion is to approve.
5
6 Ochoa: Move to approve the variance.
7
8 Kaiser: So if you want to deny it based on staff's recommendation, you'd vote no.
9
10 Smith: I have a question then. With conditions. Where would those conditions
11 have to be?
12
13 Ochoa: Really that's up to the Commission. Staff did provide one example where
14 they're requiring the applicant to submit for a permit and get those
15 inspections done. Potentially another condition, not allowing the enclosure
16 of the structure maybe, just keeping it an open air porch if you will.
17 Whatever conditions you seem appropriate would be what you'd want to do.
18 I believe the applicant just stated that a permit has been filed with us.
19
20 Murray: So I guess since no one has second the motion, I say that we pull it back
21 and then we - we're kind of in a rock and a hard place where we're, it's
22 undeniably in the wrong based on codes, but at the same time it's not like
23 the carports where they're encroaching in front of utility easements. And
24 then we're also getting in between a neighborhood feud which is not
25 necessarily our field or decision to make. So I think having worked in real
26 estate I don't think it's a devalue in property. I think it's a personal opinion.
27 I think based on the photos that we've seen here that this is a solid structure
28 and it's very pleasing to some, maybe not others. I think there is a
29 compromise that we can come up, I don't know what. I don't know if we say
30 that it can't be enclosed or he has to do what the City did and recommend
31 that he get a building permit and that all inspections come up. But that's my
32 thought.
33
34 Ochoa: We do have a motion right now so if you do want to add conditions
35 Commissioner Smith will have to retract his motion. If you want to add
36 conditions and so forth like that.
37
38 Kaiser: Commissioner Smith. Do you just want to retract your motion and we'll start
39 over?
40
41 Smith: Well I, you know I thought that we were going to move that we vote on it
42 and I could vote based on yes, no, or yes with conditions. So does that still
43 stand or do I have to?
44
45 Ochoa: Because you did. You'd have to retract, sir, especially if you want to add
46 conditions because your motion would have to be to approve with conditions

1 and state those conditions, and then you'll get a second. And you all could
2 vote on that.
3
4 Smith: Copy. Okay. I understand. I'll retract my original motion. And I will submit
5 a new motion that we approve yes with conditions. The condition that I state
6 is that the applicant request or apply for a permit and makes the necessary
7 structural changes to come within compliance.
8
9 Ochoa: So point of clarity, sir. So you're saying they need to follow code in other
10 words? Because then the variance wouldn't, the point would be moot for
11 this variance unfortunately if we did that.
12
13 Smith: Okay. I guess I'm not confused because if I go ...
14
15 Murray: You go back to your side that says - yes. And then I think another thing to
16 add is maybe just that it's not enclosed.
17
18 Smith: Yes, so with conditions that the applicant must obtain building permit and
19 all required inspections.
20
21 Ochoa: Okay.
22
23 Kaiser: Go ahead. Second.
24
25 Murray: I second.
26
27 Baum: Board Member Acosta.
28
29 Acosta: So I vote yes to approve with the conditions of getting the building permit as
30 noted by Commissioner Smith. And the findings of the urban new findings
31 for us that I suppose this doesn't necessarily set much of a precedent for all
32 the other front porch enclosures that we've been having with the utility
33 easements, and based off of the recommendations of the conditions with
34 the approval from City staff.
35
36 Baum: Board Member Smith.
37
38 Smith: I vote yes with conditions as laid out before staff that they obtain a permit
39 and they meet all of the applicable requirements.
40
41 Baum: Board Member Porter.
42
43 Porter: I vote yes with obtaining the building permit and all required inspections
44
45 Baum: And your findings please.
46

1 Porter: I don't have any findings.
2
3 Kaiser: You need a reason to go against staff recommendation.
4
5 Ochoa: This is what staff does every day.
6
7 Porter: With all the new findings that we just found out right now.
8
9 Baum: Thank you.
10
11 Ochoa: As discussed.
12
13 Baum: Board Member Murray.
14
15 Murray: Yes to approve with conditions because it does not set a precedent for the
16 front yard carport with utility easements, and it also adds necessary shade
17 in this climate.
18
19 Baum: Chair Kaiser.
20
21 Kaiser: No, based on staff recommendation.
22
23 Baum: Motion passes.
24
25 Kaiser: I'm sorry ma'am. We had to move on to the next item. The general public
26 comment has closed so you're welcome to come out to speak on the next
27 item if you wish.
28
29 **10.2 Case 24VO0500062:** A request to approve a variance to deviate of 68 feet to the
30 maximum sign height of 12 feet and to deviate 521.67 square feet to the maximum
31 sign size of 50 square feet for a proposed new sign that shall be located at 8951
32 Mountain Vista Parkway. The sign will be utilized for a new development on the
33 subject property that encompasses 6.00 + acres and zoned LCIIIP-C (Las Cruces
34 Innovation and Industrial Park Overlay Zone Commercial District). Submitted by
35 Texas Republic Signs, LLC., representative. Council District 4.
36
37 Kaiser: All right, moving on to our final item this evening, which is 10.2. This is a
38 request to approve a variance for some signs at 89519 Mountain Vista
39 Parkway.
40
41 Ochoa: Correct, sir. Proposed variance is for a freestanding sign that would be
42 located at 8951 Mountain Vista Parkway. Subject property is located on the
43 southeast corner what is Mountain Vista Parkway and Crawford Boulevard.
44 This is outside on the West Mesa area of town. Property encompasses
45 roughly six acres in size, and is zoned what we call LCIIIP-C, which is Las
46 Cruces Innovation and Industrial Overlay Zone, Commercial district.

1
2 The property is currently undeveloped and vacant, but it's about to start
3 getting developed. The subject property here. As you can see there. And
4 the zoning in the area, everything's industrial in nature, the zoning around
5 this area. The variance we're looking at is under Chapter 38 of the 2001
6 Ooops, that should be the Las Cruces Sign Code. My apologies about that.
7 Oh, no, I'm sorry. I am right. It is the 2001 Zoning Code because it is the
8 actual requirements of the Las Cruces Innovation and Industrial Overlay
9 Zone district. Essentially in that zoning district freestanding signs are limited
10 to height of 12 feet. They have to be monument signs in nature, and a
11 maximum size of 50 square feet. As you can see what the proposed
12 business is a new Allsup's that'll be going into there. So that sign limitation
13 would really affect this business. What they were proposing is an 80 foot
14 tall sign and a total about 371.67 square feet in size. That includes the
15 Allsup's sign and the gas prices are there. You packets I believe had a sign
16 that looked more like a pole sign. Because it is a design requirement that
17 they need to look more like a monument, the applicant worked with us to
18 widen up that base to make the sign look much more like a monument sign
19 instead of just a pole sign.
20

21 Here's the property schematics and this is roughly where that sign will be
22 located in order to gain people's attention along the freeway. The applicant
23 justification is for sight distance, it'll allow motorists sufficient time to safely
24 proceed to the exit ramp to go to their business. Physical hardship, there
25 is topographic constraints on the property where it's kind of lower, with the
26 freeway is a little higher, so it's really difficult to see. I believe the applicant
27 also provided you all pictures of how the difference between a 12 foot sign
28 compared to their 80 foot tall sign, from a mile away, a half mile away, three-
29 quarters of a mile, and so forth like that. Additionally, which is one of the,
30 another thing as well it'll potentially from an economic standpoint spur
31 economic development in the City. And this is A new type of business, the
32 second type of business that's finally that could serve this area. The one
33 before, you already approved one for Love's, I believe, that's directly across
34 the street from that development. This is essentially just asking the same
35 request.
36

37 When staff did their analysis we did find no health, safety, or welfare issues
38 identified with the proposal. There is a physical hardship identified by staff
39 with the topographic constraints. Our Economic Development Department
40 who kind of oversees that area agreed with the variance request, it is
41 necessary to address one that topography, sign locations, and setbacks,
42 and visibility for traveling customers. Notice was sent out to surrounding
43 property owners. Staff did not receive any comments or inquiries about the
44 proposal. With that staff is recommending approval based on the findings
45 that the variance request meets the criteria for decisions outlined in Article
46 2, Section 38-10(k), physical hardship does exist for topographical

1 constraints. Allows a new business to operate in an area with limited access
2 to convenience stores. The new sign will be modified architecturally as you
3 have already seen to enhance the growing industrial park. So with that your
4 option is, one to vote "yes" and approve as recommended by staff, two to
5 vote "no" and deny. If you do want to deny just remember you do need to
6 provide new findings of fact. Three to vote "yes" with conditions, four, table
7 or postpone. That is end of my presentation. The applicant is here too if
8 you have any questions for them. And I stand for questions.
9

10 Kaiser: Thank you. Any questions from the Commission? We have no questions.
11 Any members of the public who wish to speak? Seeing none. Come back.
12 Looking for a motion to approve. I'm sorry. Yes, sir. Can you please come
13 forward and speak in the microphone. And please state your name for the
14 record so I can swear you in.
15

16 Williams: My name is Robert Williams.
17

18 Kaiser: And do you swear or affirm that the testimony you're about to give is the
19 truth and nothing but the truth under penalty of law?
20

21 Williams: I affirm.
22

23 Kaiser: Go ahead.
24

25 Willaims: Well actually I have no issue with anything with this one. I just missed the
26 first part when you were talking about zoning. Can I comment on that?
27

28 Kaiser: You've got two minutes and 49 seconds.
29

30 Willaims: Okay, cool.
31

32 Kaiser: So talk about whatever you want.
33

34 Williams: No, no. Okay, cool. I just wanted to, the main reason I was here was for
35 the first part on zoning with the cannabis industry. You know I see them all
36 over Las Cruces. And that particular one, there's a park right across the
37 street. That's a really low income area. I know it's industrial. As a father,
38 how many permits did you guys, how many permits are allowed for the
39 cannabis industry? I mean we're a small community. And I don't see that
40 we need that many cannabis locations. I see you guys approved it right
41 away, it went right through. I should have spoken up then, I apologize. My
42 first time being here at a City Council meeting. I'm done with Allsup's
43 coming. Good. We need more gas stations and everything. So I have
44 nothing against them or anything. I just want to speak about this.
45

1 So I just wanted to ask if I can. Is there a limit to how many cannabis
2 dispensaries you guys are going to allow in the City? Is there a limit? Or is
3 there actual number that you guys are going to stop doing? And along with
4 that, I see that you guys have changed the buffer zone so they can be in
5 residential areas, right. But is there a buffer zone for schools, like with
6 alcohol and everything else, is there a zone? Because I've seen some on
7 the way to schools and it seems to me it's very close. And you know kids
8 walk to school every day. I'm not trying to be restrictive. I know that you
9 know everybody wants to be their own individual saying and put all these
10 really cool names and everything. But I just wanted to just basically
11 wondering like, is there going to be a limit in how much weed do we have
12 to sell in Las Cruces? I know it's a big deal. Before you didn't have to have
13 big advertisements. You knew where your dope dealer was. So that's kind
14 of where I'm at. I mean, how many, and is there anything that I can do to
15 limit that? I want to do, just as a father. I know I'm here by myself.

16
17 Kaiser: Well thank you for coming out tonight. I really appreciate you taking the
18 time. If you don't mind, let us take a vote on this item and then before we
19 conclude tonight's meeting, I'll have staff address some of those questions
20 that you've raised about.

21
22 Williams: Okay.

23
24 Kaiser: So hang out for just a couple more minutes.

25
26 Williams: Okay, thank you.

27
28 Kaiser: Thank you. Okay, coming back. Looking for a motion to approve item 10.2.

29
30 Smith: I move that we approve item 10.2.

31
32 Murray: I second.

33
34 Baum: Board Member Acosta.

35
36 Acosta: I vote yes based on staff recommendation.

37
38 Baum: Board Member Smith.

39
40 Smith: Yes, based on staff recommendation.

41
42 Baum: Board Member Porter.

43
44 Porter: I vote yes based on staff recommendations.

45
46 Baum: Board Member Murray.

1
2 Murray: Yes, based on staff recommendation.

3
4 Baum: Chair Kaiser.

5
6 Kaiser: Yes, based on staff recommendation,

7
8 Baum: Motion passes.

9
10 **11. STAFF ANNOUNCEMENTS**

11
12 Kaiser: All right, so we've got staff announcements. So if there's any of those, love
13 to hear them. Otherwise, I'll give you a chance to respond to the gentleman
14 who came up this evening.

15
16 Ochoa: I do have one announcement, Mr. Chair. I don't know if you noticed, we got
17 to a new face here That is Jackie. She is our new planning tech. So she'll
18 be helping us out a lot. She'll be bothering you all for signatures and stuff
19 like that for my letters. But we're finally getting fully staffed and hopefully,
20 fingers crossed sometime next, if not this month, next month I'll get a new
21 planner as well. So and I could help Dave with Realize, finally. Get my
22 senior planner on. But Larry, would you want to answer the questions of
23 the gentleman?

24
25 Nichols: Yes, thank you very much. And members of the Commission. Sir you're
26 speaking to the cannabis activity. Basically, what we're finding with the
27 cannabis businesses, there has yet to be a cannabis business that has been
28 built from the ground up. What we're finding is mostly cannabis businesses
29 are occupying locations that are in commercial zones. And the way our
30 zoning is for approval for businesses and commercial zones, if they meet
31 the requirements for the commercial zoning, then they are given a permit to
32 do that.

33
34 Where are we on the cannabis business activity? There has been over 124
35 applications for cannabis businesses. There's about 75 that have been
36 approved and have business registrations to conduct their business. The
37 difference between the applications and the ones that are actively approved
38 are some are still pending state authorization or approval. There are a few
39 that have withdrawn. But basically, that's the activity. What do we project
40 might happen from here forward is probably going to come to what happens
41 with most businesses. The competition kind of regulates how many will be
42 forthcoming in the future, a little bit like, similar to maybe fast food
43 businesses. You know how many go in under a franchise, how many go
44 under individual, a mom and pop operations. But what happens is after a
45 period of time if they're not able to sustain their business operation, then
46 they basically limit the expansion or having new businesses. Right now

1 we're still in a posture of new business application being submitted. And
2 that is where we are on the cannabis activity right now.

3
4 Kaiser: Thank you. And so I hope that answers some of your questions this
5 evening. Once again, thank you for coming out tonight. Hope to see you
6 at some future meetings perhaps. Like to see new faces and engagement
7 from the community.
8

9 **12. ADJOURNMENT (7:36)**

10
11 Kaiser: So with that, looking for a motion to adjourn.

12
13 Porter: I motion to adjourn.

14
15 Smith: I second.

16
17 Kaiser: All in favor.

18
19 MOTION PASSES UNANIMOUSLY.

20
21 Kaiser: Thank you all. See you next month.

22
23 Ochoa: Thank you folks. Appreciate you all.
24
25
26
27

28
29 _____
Chairperson