



City of Las Cruces[®]

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 January 24, 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. Acceptance Of The Agenda
4. Elections Of Officers
5. Approval Of Minutes

Documents:

[12-20-22 PNZ MINUTES.PDF](#)

6. Postponements
7. Public Participation
8. Consent Agenda
9. Old Business
- 9.1. Mesilla Valley Community Of Hope Planned Unit Development (PUD) Major Amendment
A request to approve a Major Amendment to a PUD Concept Plan known as the Mesilla Valley Community of Hope PUD. The proposed PUD currently encompasses 8.01 ± acres, is zoned PUD and located at 999 W. Amador Avenue. The PUD major amendment will increase the size of the PUD area to a total of 16.59 ± acres and will also incorporate the new master plan that was created for the campus. Submitted by the City of Las Cruces, property owners. (Case #22ZO2500106)
10. New Business
- 10.1. 3161 N. Main Street Special Use Permit
A special use permit (SUP) to allow for a cannabis retail establishment within the required buffer distance between said establishment and a single-family residential zoning district boundary. The subject property is located at 3161 N. Main Street, is 0.5 ± acres in size, and is zoned C-2 (Commercial Medium Intensity). Submitted by Gonzalo Chavez. (Case # 22ZO1000140)

10.2. 4003 Tellbrook Road Zone Change Request

A zone change from A-2 (Rural Agricultural District) to C-3C (Commercial High Intensity-Conditional) for property located at 4003 Tellbrook Road. The property is ± 10.85 acres and located on the northeast corner of Tellbrook Road and Las Alturas Drive. Submitted by Raylyn and Lezlie Wilcox, property owners. (Case # 22ZO0500020)

10.3. 1024 S. Main Street Special Use Permit Request

A special use permit (SUP) to allow a cannabis retail establishment within the required buffer distance between said establishment and a single-family residential zoning district boundary. The subject property is located at 1024 S, Main Street, is ± 0.20 acres in size, and is zoned C-1 (Commercial Low Intensity). Submitted by Victoria Bruce, Co-Owner Bryan's Green Care. (Case # 22ZO1000134)

11. Discussion

12. Staff Announcements

13. Adjournment

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Posted: 01/10/2023

1 **PLANNING AND ZONING COMMISSION**
2 **FOR THE**
3 **CITY OF LAS CRUCES**
4 **City Council Chambers**
5 **December 20, 2022 at 6:00 p.m.**
6

7 **BOARD MEMBERS PRESENT:**

8 Scott Kaiser, Chair
9 Vanessa Vega, Secretary
10 Joaquin Acosta, Member
11 James Bennett, Member
12 Enrico Smith, Member
13

14 **BOARD MEMBERS ABSENT:**
15

16 **STAFF PRESENT:**

17 Adam Ochoa, Senior Planner/Building Inspection Supervisor
18 Vincent Banegas, Interim Planner
19 John Castillo, CLC Planner
20 Jocelyn Garrison, CLC Senior Assistant City Attorney
21 Adrian Guzman, CLC Communications
22 Becky Baum, Recording Secretary, RC Creations, LLC
23

24 **1. CALL TO ORDER (6:00)**
25

26 Kaiser: All right. Good evening everyone. Welcome to the December 20th
27 Planning and Zoning Commission. It is 6:02. So we're going to go ahead
28 and begin.
29

30 **2. CONFLICT OF INTEREST**
31

32 Kaiser: Can I get, or does anyone have a conflict of interest this evening they'd
33 like to announce? Seeing none.
34

35 **3. ACCEPTANCE OF THE AGENDA**
36

37 Kaiser: Can I get a motion to approve tonight's agenda?
38

39 Bennett: I make a motion to approve tonight's agenda.
40

41 Acosta: I second
42

43 Baum: Board member Acosta.
44

45 Acosta: Yes.
46

1 Baum: Board Member Bennett.
2
3 Bennett: I abstained because I wasn't at the meeting.
4
5 Baum: This is for acceptance of the agenda, please.
6
7 Bennett: Acceptance of it. Okay. Yes. Sorry.
8
9 Baum: Thank you. Board Member Smith.
10
11 Smith: Yes.
12
13 Baum: Chair Kaiser.
14
15 Kaiser: Yes.
16
17 Baum: Thank you.
18

19 **4. APPROVAL OF MINUTES – November 15, 2022**
20

21 Kaiser: Okay, so moving on to the minutes from the November 15th meeting. Is
22 there anybody that would like to make any comments or edits to the
23 minutes? Seeing none. Can I get a motion to approve?
24
25 Bennett: I make a motion to approve the minutes from the last meeting.
26
27 Acosta: I second.
28
29 Baum: Board Member Acosta.
30
31 Acosta: Yes.
32
33 Baum: Board Member Bennett.
34
35 Bennett: I abstain.
36
37 Baum: Board Member Smith.
38
39 Smith: Yes.
40
41 Baum: Chair Kaiser.
42
43 Kaiser: Yes.
44
45 Baum: Thank you.
46

1 **5. POSTPONEMENTS**

2
3 Kaiser: All right. We don't have any postponements this evening,

4
5 Ochoa: Sorry, Commissioner Kaiser. We do actually have one case that we'll
6 have to postpone tonight. It is the first case under new business. It's a
7 case number 22ZO2500106. It's shown as case number 9.1, the Mesilla
8 Valley Community of Hope Planning and Development Concept Plan
9 major amendment. We will have to readvertise for that particular case.
10 We'll be bringing that back to you all at the January meeting. So if you
11 could just I guess hopefully get a motion, hopefully get that postponed for
12 next month, please.

13
14 Kaiser: Yes. So should we do that now? Okay. Can I get a motion to postpone
15 item 9.1 to the January, what's the specific date on that? 24th.

16
17 Ochoa: Yes sir, that is January 24th to be specific.

18
19 Kaiser: Okay. So can I get a motion to postpone item 9.1 to January 24, 2023.

20
21 Bennett: I make a motion to postpone 9.1 to January 24th meeting.

22
23 Smith: And I second.

24
25 Baum: Board Member Acosta.

26
27 Acosta: Yes.

28
29 Baum: Board Member Bennett.

30
31 Bennett: Yes.

32
33 Baum: Board Member Smith.

34
35 Smith: Yes.

36
37 Baum: Chair Kaiser.

38
39 Kaiser: Yes.

40
41 Baum: Thank you.

42
43 **6. PUBLIC PARTICIPATION**

1 Kaiser: Okay, moving to the public participation. Is there anybody in the audience
2 tonight that would like to speak on something that is not on tonight's
3 agenda? Seeing none/
4

5 **7. CONSENT AGENDA**
6

7 **7.1 Metro Verde Arcadia Phase 4:** A request to approve a Final Site Plan
8 known as Metro Verde Arcadia Phase 4 located within the Metro Verde
9 Planned Unit Development (PUD) area. The proposed subdivision
10 encompasses 9.5 ± acres, is zoned PUD (Planned Unit Development),
11 and is located west Red Hawk Golf Road. The subdivision proposes 52
12 single-family residential lots and two tracts of land dedicated to the City of
13 Las Cruces for drainage purposes. Submitted by Sierra Norte
14 Development Inc., property owners. (Case# 22ZO3000122)
15

16 Kaiser: We will move on to the consent agenda. We have one item, item 7.1
17 which is a request to approve a final site plan and is Metro Verde Arcadia
18 Phase 4. That is the only item on the consent agenda. So can I get a
19 motion to approve tonight's consent agenda?
20

21 Bennett: I make a motion to approve tonight's consent agenda.
22

23 Smith: I second.
24

25 Baum: Board Member Acosta.
26

27 Acosta: Yes.
28

29 Baum: Board Member Bennett.
30

31 Bennett: Yes.
32

33 Baum: Board Member Smith.
34

35 Smith: Yes.
36

37 Baum: Chair Kaiser.
38

39 Kaiser: Yes.
40

41 Baum: Thank you.
42

43 **8. OLD BUSINESS**
44

45 Kaiser: All right. We have no old business.
46

1 **9. NEW BUSINESS**

2
3 **9.1 MVCH Planned Unit Development (PUD) Major Amendment:** A request
4 to approve a Major Amendment to a Planned Unit Development (PUD)
5 Concept Plan known as the Mesilla Valley Community of Hope PUD. The
6 proposed PUD currently encompasses 8.01 ± acres, is zoned PUD and
7 located at 999 W Amador. The PUD major amendment will incorporate an
8 additional 15.7 ± acres for a total of 23.71 + acres. This amendment will
9 also incorporate the new master plan that was created for the property.
10 Submitted by the City of Las Cruces Property owners. (Case
11 #22ZO25500106)

12
13 **POSTPONED UNTIL JANUARY 24, 2023 MEETING**

14
15 **9.1 3100 W. Picacho Avenue Special Use Permit:** A special use permit
16 (SUP) to allow for a cannabis retail establishment within the required
17 buffer distance between said establishment and a single-family residential
18 zoning district boundary. The subject property is located at 3100 W.
19 Picacho Avenue, STE 2, is ± 1.08 acres in size, and is zoned C-2
20 (Commercial Medium Intensity). Submitted by Richard Aziz, Owner -
21 Sassy Grass Dispensary. (Case # 22ZO1000136)

22
23 **Kaiser:** So we will move on to our final item this evening, which is item 9.2, a
24 Special Use Permit to allow cannabis retail establishment within the
25 required buffer. Staff please take it away.

26
27 **Banegas:** Mr. Chairman, Members of the Commission. First and foremost I'd like to
28 wish all of you happy holiday season and a safe one at that, as well as
29 members of the public and staff. Vincent Banegas, Interim Planner.
30 Presenting tonight's case involving 3100 West Picacho Avenue. It is a
31 Special Use Permit. It's case 22ZO1000136. The property is currently
32 zoned C-2, that's our commercial medium intensity district. It was
33 developed in essence as a small retail service center. One of the bigger
34 uses there is the Valley Pizza establishment.

35
36 The property is located just north of on the north side of Picacho between
37 motel Boulevard, Maese lane and Roadrunner Lane to the west. It's a
38 little over one acre in size, in fact point 1.08 acres in size. And what you'll
39 find in the neighborhood is a mixed use. Series of uses ranging from
40 single-family, a little bit of multifamily, a little bit of agriculture, quasi
41 institutional type uses, retail, and office. Supporting zones for those uses
42 run the gamut from R-1a, R-1b, C-2, C-3, and our industrial zoning
43 designations of M-1, M-2. The zoning map shown here identifies the
44 property outlined in red. And what you see is the R-1a single-family
45 zoning district which is within that 300 foot buffer that is called out for a
46 cannabis dispensary in our code. It's a conditional use unless they cannot

1 comply with that 300 feet, then it goes under a Special Use Permit review
2 for examination of potential impacts to the neighborhood. Other zoning
3 districts as indicated previously, again, additional C-2 zoning, industrial
4 zoning, and up in here is single-family development along the lines of an
5 R-1b which is a smaller lot size than your typical R-1a district.
6

7 Aerial view of the subject property, you can see that the property itself has
8 at least three significant structures on site, and this is where the Valley
9 Pizza is. This building is where the cannabis dispensary is to be located.
10 In fact it's the back or northern most portion of it. And it is the
11 measurement from here to that district boundary where that was taken to
12 justify bringing it forward as a Special Use Permit. You do have some
13 uses over here in the form of a daycare/nursery. There is adequate
14 separation pursuant to our code from the building to the property line of
15 that business. And then of course you have school property a little bit
16 further northeast. Other uses in the area, again you have a little bit of
17 some industrial zone and industrial use, I should say. Buildings here is
18 the Atlas Van Lines Moving Storage, you got Citizens Bank, and then you
19 got some additional uses down here that are more industrial in nature.
20

21 So the building where the dispensary is to be located was constructed in
22 '68 pursuant to the county records. The property was created using a
23 USRS recording of the tract back in the day. And it's been zoned to C-2
24 since pre-1970 which tends to be our base and date for our zoning
25 designations in terms of research. The building property is immediately
26 adjacent to that R-1a zoning district as I illustrated on the zoning map, and
27 we're talking about 99 feet away from that boundary. Mentioned that there
28 were multiple businesses on the site, pizza business being one of them,
29 the juice bar, Sassy Grass Juice Bar is another. And I'm informed that
30 there's a contractor. Sheetrock/drywall contractor on the suite 3 property,
31 or the building located due north of the other two buildings. And of course
32 the cannabis dispensary has been proposed.
33

34 So the proposal that is being brought forward is to seek the SUP for this
35 cannabis dispensary in the suite 2 as illustrated. Everything regarding the
36 buffer distances complies except for that single-family zone. All the other
37 distances are met. In fact, I got a phone call from the business owner of
38 the daycare school property and in my measurements and also in their
39 measurements they came to about 306 to 310 linear feet, so those
40 comply.
41

42 So the use itself if it's approved this evening will follow City of Las Cruces
43 and State of New Mexico regulations governing the cannabis related retail
44 activity. And I've got a few photos here for you so you can see what's
45 involved here. You got the Valley Pizza establishment here in this
46 building. And it is this building here where the dispensary is to be located

1 and more so on the back half. And another shot just showing some of the
2 parking arrangements and how the buildings interact. A little bit more.
3 This shot down here is the back side, the Maese Lane side of the
4 property. And to the best of my understanding some of the storage that is
5 back there is tied to the drywall contractor that takes up this building here,
6 at least in part. Some of these vehicles etc, again to the best of my
7 knowledge and understanding are inoperable, so some of that has to be
8 addressed. Other factors are involved in terms of nonconforming uses on
9 the property and staff is in the process of meeting with the property owner
10 to iron out those issues. This is another shot along Maese Lane showing
11 some of those vehicles.
12

13 So public notice was sent out pursuant to code. And I received one phone
14 call citing concern over the proximity to that daycare that I illustrated on
15 the aerial. I did inform that they are compliant with the buffer distance for
16 that use. So recommendation of findings of fact this evening, staff does
17 recommend conditional approval. The property business owner shall be
18 required to bring all nonconforming site design elements into compliance
19 with the 2001 Zoning Code and all applicable companion codes by, one of
20 the two. The first one being by completing the task prior to the issuance of
21 a business registration. But staff in looking at those has determined
22 there's a number of issues that need to be addressed. So we're willing to
23 work with them and complete the said tasks via an approved and
24 accepted compliance plan that simply illustrates or identifies what specific
25 improvements need to be carried out and by when. I should note that
26 those conditions, I have talked to both the business owner and the
27 property owner and have identified several of the issues so they're willing
28 to sit down with staff and carry that out. The findings for this case in terms
29 of that conditional approval are as follows, except for the distance to the
30 single-family zoning district boundaries the proposal meets all of the other
31 distance requirements. The primary ingress and egress to the property
32 and to the buildings is from Picacho Avenue. There is secondary access
33 from Maese Lane for that suite 3 only, that's the contractor building. The
34 subject property is compatible with other fronting properties along Picacho
35 Avenue, certainly within or along either side of the subject property, both
36 east and west, and also south of Picacho.
37

38 Staff does not anticipate as a result of the ingress/egress having any
39 significant impact to the residential properties located due north. And the
40 proposal meets the purpose and intent of Section 38-2 of the Zoning
41 Code. The requirements outlined in the Zoning Code and those stipulated
42 by the State of New Mexico will be followed as indicated, nonconforming
43 issues will be addressed. There are several goals and policies and
44 actions that support this SUP request. Certainly within the regional
45 commercial place type which this property is within, the Elevate Las
46 Cruces Comprehensive Plan speaks to the support of community growth

1 with concentrated development along activity centers and key corridors,
2 talks about mixed use neighborhoods, expanding economic opportunities,
3 and employment opportunities, etc. So in your packet, it goes on and lists
4 several of those, but I just summarized them here.

5
6 So tonight's options for you to consider is to vote "yes" and approve the
7 SUP as presented, to vote "no" and deny, just bear in mind that a denial
8 requires new information or facts not identified during staff's review or in
9 the packet. You can vote "yes" with the condition as stipulated by staff or
10 any other condition you deem appropriate, or you could vote to table. And
11 that concludes staff's presentation of this case. The business owner and I
12 believe the property owner are in attendance should you wish to ask them
13 any questions. And that concludes staff's presentation. I'll stand for any
14 questions.

15
16 Kaiser: Thank you Vincent. Are there any questions? Please, go ahead.

17
18 Acosta: I just have one question for Vincent. I guess a little bit more clarity as to
19 the conditions.

20
21 Banegas: Mr. Chairman, Commissioner Acosta. They speak to the nonconforming
22 characteristics of the property. Parking for example needs to be
23 addressed, some of the site obscuring fencing for that back property, back
24 portion along Maese Lane have to be addressed. There's others, but what
25 staff is looking for is basically a compliance plan, a schedule as to when
26 those will be brought into compliance with the code. And the reason for
27 that is because they are numerous.

28
29 Acosta: And the clarification. Is that schedule, their business license at the end of
30 all that, or it's in the beginning and then they can, they're allowed to go or?

31
32 Banegas: We're looking to secure an agreement with them on how to proceed with
33 this. And then once that is undertaken, then they can receive their
34 business registration to carry on with the dispensary. The compliance
35 plan may extend beyond that. And they may go ahead and proceed with
36 some of the business activities and other state related licensure steps that
37 are needed. But as long as we get some of the key elements in place
38 before they open up, that's what we're looking for, i.e. ADA parking, things
39 of that sort. Some of the key elements need to go in quickly, and then
40 other elements can be scheduled.

41
42 Acosta: Thank you.

43
44 Kaiser: Any other questions? All right. Seeing none. I'll open it up to any
45 members from the public that wish to speak on this item. Seeing none. I'll
46 come back to the Commission. If there's no further comments, looking for

1 a motion to approve, keep in mind staff has recommended conditional
2 approval. So just make sure you state that in your motion.

3
4 Acosta: I make a motion to approve with conditions.

5
6 Smith: I second.

7
8 Baum: Board Member Acosta.

9
10 Acosta: I vote yes for conditional approval based on staff recommendation.

11
12 Baum: Board Member Bennett.

13
14 Bennett: I vote yes, meets the purpose intent of the code, Elevate Las Cruces, my
15 site survey, and staff recommendation.

16
17 Baum: Board Member Smith.

18
19 Smith: I vote yes with conditions that they meet the requirements of the staff for
20 compliance, and also based on site visit.

21
22 Baum: Chair Kaiser.

23
24 Kaiser: Yes, based on staff recommendation and consistency with Elevate Las
25 Cruces.

26
27 Baum: Motion passes. Thank you.

28
29 **10. DISCUSSION**

30
31 **11. STAFF ANNOUNCEMENTS**

32
33 Kas Alright staff, are there any final announcements or discussion items for
34 tonight?

35
36 Ochoa: I don't know if we have any discussion items to really discuss tonight Mr.
37 Chair. The only thing we do have I guess is a reminder again just echoing
38 what Vince said, hope you all have happy holidays. Thank you so much
39 for attending this meeting. We're low as you can see on actual
40 Commissioners, we're down to five. Our director is diligently working with
41 City Council members in their respective districts to try to get replacement
42 Commissioners that way we have a full set of seven and we're not having
43 to bother you all the time with phone calls and e-mails to get quorum. But
44 that being said, in January, at that meeting, that is our first of the year
45 meeting, that is where we'll be voting for our new chair and secretary. So
46 just keep that in mind that that will be happening at that meeting. And

1 hopefully we'll have at least, Ms. Vega will be back and hopefully one or
2 two other members on this as well.

3
4 Other than that, that's about it. Like I said, January's our next meeting.
5 We are trying to push; we do have a handful of other Special Use Permits
6 and variances which been kind of a just sitting there if you will. We're
7 going to try to bring these forward as quickly as possible, that way we get
8 the rest of these folks through the process as well. Other than that, Mr.
9 Chair, I leave it up to you. Thank you.

10
11 Kaiser: Thank you very much. And just want to echo back to you all staff and the
12 public, wish you all Happy Holidays. We'll certainly hope to see you back
13 here in 2023.

14
15 **12. ADJOURNMENT (6:21)**

16
17 Kaiser: So, can I get a motion to adjourn tonight's meeting?

18
19 Acosta: Make a motion to adjourn tonight's meeting.

20
21 Bennett: I'll second.

22
23 Kaiser: All in favor.

24
25 MOTION PASSES UNANIMOUSLY.

26
27 Kaiser: Meeting's adjourned. Thank you. Happy holidays.

28
29
30
31
32 _____
33 Chairperson