

SUMMARY:

Case #Z16-002/Pecan Brewery was heard by the ETZ Commission at its regularly scheduled meeting of June 16, 2016, for a Zone Change from E11 (Light Industrial District, wide variety of light industry, fabricating, processing, wholesale distributing and warehousing uses) Zoning to an E13 (Special Industrial District, 5,000 sq. ft. minimum lot size, to provide for a variety of industrial uses that, due to the nature of the businesses, may cause some levels of air or noise pollution) Zoning District to establish a brewery and tap room within an existing 25,000 sq. ft. structure on a 3.86-acre parcel. The plan for the facility includes brewing and bottling their own craft beers as well as potentially brewing and bottling craft beers for other local breweries coupled with a proposed approximate 1,500 sq. ft. tap room. The brewery and tap room will employ approximately 8-10 persons initially, and if the business is successful, could expand to as many as 40 employees including brewery operations, tap room facilities, maintenance, management and support staff. The owners anticipate two delivery trucks per week at the facility that will impact W. Picacho Ave. No traffic is proposed on N. Fairacres Rd.

The ETZ Commission heard the case presentation by staff, and a presentation and comments from the applicants' agent. Commissioners were concerned about the submitted traffic analysis and discussed those concerns with the applicant's engineer. Several members of the public gave testimony and their concerns included the traffic impacts to W. Picacho Ave. and N. Fairacres Rd. (a narrow, 2-lane, paved road), safety risks to children from the nearby elementary school, proximity to 2 churches, water and waste disposal issues, air pollution and odors, increased crime in the area, light pollution, and negative impacts to the quality of life in the neighborhood.

During the ETZ Commission deliberations a motion to amend staff's recommendation of two conditions by adding another condition was approved by a 4-3-0 (four in favor, 3 opposed, no abstentions) vote. The condition would require the property to revert back to the original zoning of E11 Light Industrial, if the property is no longer used as a brewery with a Special Use Permit. The motion to recommend **Conditional Approval**, with the three conditions, was approved by a vote of 7-0-0 (seven in favor, zero opposed, and zero abstentions).

NOTICE / NOTIFICATION

- 22 letters of notification were mailed on July 1, 2016, to the Area of Notification.
- Legal Ads were placed in the Las Cruces Sun-News on July 3, 2016.
- Signs placed on the property in a timely manner.
- Agenda placed on the DAC Web site.

ETZ COMMISSION FINDINGS

If the Extra-territorial Zoning Authority wishes to follow the ETZ Commission's recommendation of Conditional Approval of Case # Z16-002 / Pecan Brewery, the ETZ Commission recommends the following findings:

1. The subject property is located outside the corporate limits of the City of Las Cruces, but within the five-mile Extra-territorial Zone (ETZ) as set forth by 3-19-5(1), NMSA 1978 and the Joint Powers Agreement between Doña Ana County and the City of Las Cruces. Therefore, the Las Cruces ETZ Commission (ETZ-C) has jurisdiction to review this case.

2. The proposed Zone Change Request **does** meet Policy 7.1.1, Program 8.1.1.1, Policy 8.2 and Policy 8.3.3 of the Goals, Policies, and Objectives of the ETZ Comprehensive Plan 2000-2020.
3. The Zone Change request **does** satisfy the 2.1.D Evaluation Criteria of the ETZ Ordinance.
4. The Zone Change would be in harmony with industrially zoned properties in the area, would benefit the public with increased employment opportunities, and at 3.86-acres is a large enough area to not be considered a spot zone.
5. Per the “Miller Criteria,” the EI3 Zone Change request **does** meet the change of conditions criteria, as there have been Zone Changes approved for industrial zoning in the area along the W. Picacho Ave. transportation corridor.
6. The applicant has overcome the presumption that the existing zoning is the most appropriate and the Zone Change is necessary to protect the public.
7. A Special Use Permit is required to be approved by the ETZ Commission per Section 3.1.O.4.4 of the ETZ Ordinance for breweries.

ETZ COMMISSION RECOMMENDATION

Based on the request meeting the “Miller” criteria, the 2.1.D Evaluation Criteria, Goals, Policies and Objectives of the Comprehensive Plan 2000-2020, and not being considered a spot zone, the ETZ Commission recommends **Conditional Approval** of Zone Change Request Case # Z16-002 / Pecan Brewery with the following conditions:

- 1) *A Special Use Permit shall be approved by the ETZ Commission.*
- 2) *Access to the property shall be limited to W. Picacho Avenue.*
- 3) *If property is no longer used as a brewery with a Special Use Permit the zoning shall revert back to the original EI1 Zoning District.*



ZONE CHANGE
EXTRA-TERRITORIAL ZONING COMMISSION

DOÑA ANA COUNTY COMMUNITY DEVELOPMENT DEPARTMENT
Doña Ana County Government Complex • 845 N. Motel Blvd.
Las Cruces, New Mexico 88007 • Office: (575) 647-7350

MEETING DATE: June 16, 2016

CASE #: Z16-002 / Pecan Brewery

REQUEST: Zone Change from E11 to E13

PURPOSE: Establish & operate a brewery and tap room

**PROPERTY OWNER/
APPLICANT:** Pecan Brewery, LLC, Steve Peale, Agent

LOCATION: 4581 W. Picacho Ave.

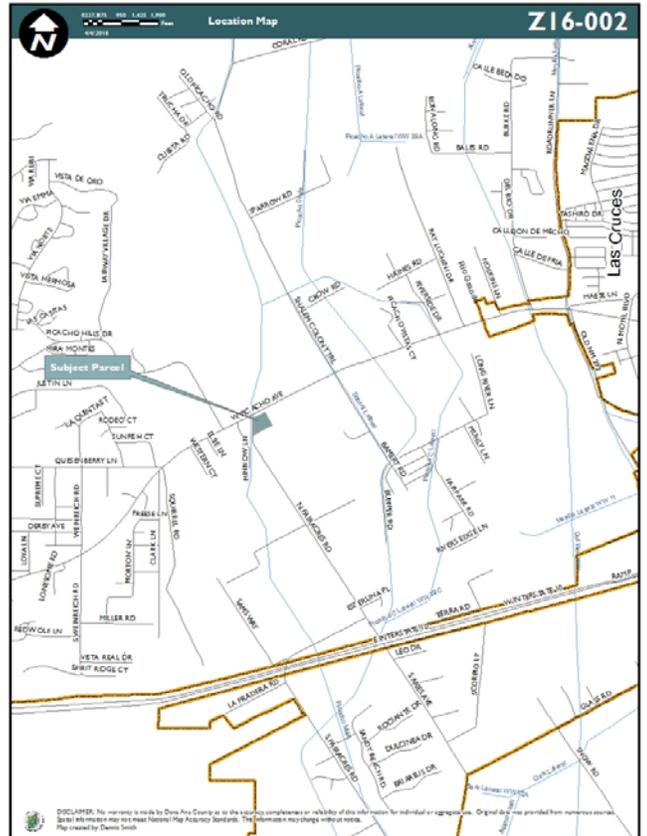
LEGAL DESCRIPTION: Lot #1 of the Mosley Acres Subdivision as recorded in the Doña Ana County Clerks Office September 27, 2005, with Instrument #0533302.

PROPERTY SIZE: 3.86-acres

PARCEL ID NO.: 03-02548

RECOMMENDATION: Conditional Approval

CASE MANAGER: Steve Meadows, Planner



REPORT CONTENTS: (1) Cover Page (2) Case Analysis and Staff Recommendation, (3) GIS Information & Maps (4) Application and Supporting Documents (5) Public Notification

SURROUNDING ZONING AND LAND USE

SITE	ZONING	LAND USE
North	EC2 - Retail and personal service uses and some commercial recreational uses, generally serving several neighborhoods.	Agricultural uses
South	ER3 – Residential, 1-acre minimum new lot size, single family site-built homes	Agricultural and residential uses
East	EC2c - Retail and personal service uses and some commercial recreational uses, generally serving several neighborhoods, with conditions	Agricultural uses
West	ER3 – Residential, 1-acre minimum new lot size, single family site-built homes	Residential uses & the DAC Vector Control facility

BACKGROUND

Existing Conditions and Zoning:

The subject property is a 3.86-acre trapezoidal shaped parcel (*Page 17-18*) located within an E11 (Light Industrial District, wide variety of light industry, fabricating, processing, wholesale distributing and warehousing uses) Zoning District. The subject parcel is located west of the City of Las Cruces and south of W. Picacho Ave., designated as a principal arterial (requiring 120' R-O-W), by the Mesilla Valley MPO. Fairacres Rd., designated as a minor arterial (requiring 100' R-O-W) by the Mesilla Valley MPO is located along the west boundary line of the subject parcel. Water to the site is provided by the City of Las Cruces and a septic system (Permit #LC950252) is in place. A 100' X 250' building, constructed in 1979, is located on the subject property. A 12' utility easement is located within the north and west property boundaries. A 17.5' road easement is located along the western property line. A 5' utility easement is located in the northwest corner of the property.

The Request:

The applicant is requesting a Zone Change from E11 (Light Industrial District, wide variety of light industry, fabricating, processing, wholesale distributing and warehousing uses) to an E13 (Special Industrial District, 5,000 sq. ft. minimum lot size, to provide for a variety of industrial uses that, due to the nature of the businesses, may cause some levels of air or noise pollution) Zoning District to establish a brewery and tap room on the site within a 25,000 sq. ft. existing structure. Operations will include brewing and bottling beer and a tap room open to the public. There will be 8-10 employees to start and 15-20 as the business grows. The applicant's request includes an approximate 1,500 sq. ft. tap room operating from 3:00 pm to 8:00 pm weekdays and from Noon to 10:00 pm on Saturdays. The applicant anticipates approximately 20-30 patrons on weekdays and 50-75 on a busy Saturday. ***This case was postponed to this date at the May 19, ETZ Commission hearing by a vote of 5-0-0.***

APPLICABLE PLANS, POLICIES, AND CRITERIA FOR APPROVAL

1. Las Cruces Extra-territorial Zoning Ordinance No. 88-02, as Amended

Section 1.6 Definitions

Spot Zoning: An amendment to a zoning ordinance that is not compatible with a comprehensive scheme of zoning, whether one lot, several lots or a large area. Spot zoning can also be created through variances, which are granted without regard for impact on the surrounding area.

Section 2.1.B Zoning District Changes: Rezoning

A zoning district change or rezoning is a change in classification of the zoning district map and shall be recorded and shown on the Official Zoning District Map. Zoning district changes shall not include initial zoning whenever ETZ boundaries are realigned.

Conditional Zoning

- 2.1.B.1 Conditional Zoning may be initiated by the Planning Director, the Zoning Commission or by the applicant and shall limit and/or restrict those uses within the zoning district which would otherwise be permitted by right. A rezoning subject to condition is appropriate to allow certain uses that are compatible with the surrounding uses and environment.
- 2.1.B.2 A condition attached to a zoning district may:
 - a. limit the use of property affected so that one or more of the uses which would otherwise be permitted in the district being adopted shall not be permitted in the specific district as conditioned.
 - b. require traditional design standards, time limitations relating to the construction of buildings, landscaping, streets, roadways, pathways, utilities, drainage ways and other site design features as may be necessary to protect the community or the environment from the impact of development.
- 2.1.B.3 It shall be unlawful to utilize, sell or lease property rezoned with conditions without first providing to any prospective buyer or lessee a disclosure statement stipulating the conditions of the rezone, and without filing a copy of said disclosure with the County Planning Division.
- 2.1.B.4 A conditional zoning shall be revoked and revert to the previous zoning district if the property within said district is not used or developed in accordance with the new district regulations within two (2) years from the date of the ETZ Authority.
- 2.1.B.5 Any use or structure allowed by a Special Use Permit under the specified zoning district shall not be permitted by Conditional Zoning.
- 2.1.B.6 Zone change procedures prescribed by this Code shall be applicable to Conditional Zoning.
- 2.1.B.7 Amendments to the Official Zoning Map shall be reflected by the lowercase 'c' following the zone designation.

2.1.D Evaluation Criteria

The Planning Director and the ETZ Commission may use the following general criteria when reviewing Special Use Permits and Zoning applications. The ETZ Commission

shall have the authority to require additional specific information on any of the following criteria.

Unless additional justification is presented, the fact that there is an existing legal nonconforming use shall not be considered sufficient grounds for a zone change in order to bring that use into conformity.

- 2.1.D.1 Determination of potential number of homes, population and population demographics.
- 2.1.D.2 Determination of potential traffic flows (average daily traffic) and where they will impact the transportation system.
- 2.1.D.3 Determination of need for new commercial activity.
- 2.1.D.4 Determination of potential water and sewage needs.
- 2.1.D.5 Evaluation of existing infrastructure capacities and an analysis of the ability of the existing system to accommodate the new development.
- 2.1.D.6 The difference between capacity and impact should be stated. Those areas which are appropriate for the developer to underwrite should be negotiated between local government and developer.
- 2.1.D.7 The ETZ should reserve the right to place appropriate zoning categories on environmentally sensitive areas, areas of historical significance or areas which contain endangered or rare species of animal or plant life.
- 2.1.D.8 Any analysis required should be undertaken and paid for by the developer and verified by the ETZ Commission.
- 2.1.D.9 Determination of impact of a proposed zone change on surrounding properties.

Current Zoning District:

Section 3.1.M E11 LIGHT INDUSTRIAL DISTRICT

3.1.M.1 PURPOSE

The purpose of the E11 district is to provide a wide variety of light industry, fabricating, processing, wholesale distributing and warehousing uses appropriately located relative to major transportation facilities. The major portion of the business activity is conducted within enclosed buildings. Land use in this district shall be constructed and operated to ensure there is no excessive noise, vibration, smoke, dust or other particulate matter, toxic or noxious matter, humidity, heat or glare at or beyond any lot line of the parcel on which it is located. Excessive is defined as a degree exceeding that caused in their customary manner of operation by users permitted in the E11 district, a degree injurious to the public health, safety, welfare or to a degree to which it is a nuisance by reason of excessiveness. Residential uses shall not be permitted except for a residential watchman, caretaker or proprietor of a commercial use.

3.1.M.2 DEVELOPMENT REQUIREMENTS

Minimum lot area	5,000 square feet
Minimum lot width	60 feet
Minimum lot depth	70 feet
Minimum front setback	25 feet

Minimum side setback	7 feet
Minimum rear setback	15 feet
Maximum building height	50 feet

3.1.M.3 EI1 PERMITTED USES

The following uses are permitted by right in the EI1 district:

3.1.M.3.a PERMITTED USES - NO CONDITIONS

1. Automobile and truck parking garages and lots
2. Automobile and truck service stations
3. Business offices
4. Commercial or trade schools
5. Dwelling for resident watchmen and caretakers employed on the premises, and business proprietors, provided they are located on the same property as the business.
6. Electrical shops
7. Engraving shops
8. Fence and wall sales and storage
9. Glass cutting and finishing
10. Hardware stores
11. Laboratories – research, experimental or testing
12. Lumber yards
13. Newspaper establishments, distribution centers
14. Paint supplies, sales and distribution
15. Rental and sales of contractor equipment
16. Restaurants with no drive-in service
17. Service establishments for repair and maintenance of home and business appliances, building maintenance and repair, including pest control, tree and lawn services
18. Sign construction and sales
19. Storage building and warehouses
20. Telephone exchange stations
21. Tire sales and service establishments
22. Welding and light fabrication

3.1.M.3.b PERMITTED USES - WITH CONDITIONS

The following uses are permitted in EI1 in accordance with stated conditions:

1. Automobile, mobile home, trailer and truck sales, rentals and storage. The vehicle area must be graded and surfaced with asphalt, concrete or other materials that will provide equivalent protection against potholes, erosion, dust, and a solid wall or fence six (6) feet high shall be maintained along any side of such area abutting or contiguous to any residential zone.

2. Construction or contractor's yard. Yard shall be maintained in a neat and orderly fashion and enclosed by a solid wall or fence of a minimum six (6) feet in height. However there shall be no fence or wall more than three (3) feet of a street intersection.
3. Garages for repair of passenger motor vehicles, light trucks, vans and motorcycles, including body work. All work must be performed in a completely enclosed building. There shall be no storage of junk automobiles for salvage purposes. Only those motor vehicles awaiting repairs can be parked on the premises behind a solid wall or fence so that such vehicles will not be visible from surrounding properties.
4. Heavy equipment repair service (accessory use). Permitted only as an incidental or accessory use to heavy equipment sales or rentals. Floor area for repair shall not exceed three thousand (3,000) square feet and not exceed thirty (30) percent of the total gross floor area. Welding is permitted only in conjunction and shall not be used for the purpose of heavy equipment assembly.
5. Open or exterior storage and display of merchandise, materials. Storage or display of materials on the exterior of a building shall be completely enclosed by a fence or wall of solid construction, no less than six (6) feet in height, except for mobile homes, cars, trucks or motorcycles.
6. Paint shop, mixing, treatment and spraying. Buildings shall be located on hundred (100) feet from any residential zoning district and obtain approval from the County Fire Prevention Inspector.
7. Public utility installations, substations and water wells. The site shall be developed and maintained in conformance with the general character and appearance of the zoning district, and shall include landscaping and suitable screening in the form of a solid wall, fence or compact shrubbery around the perimeter of the lot or tract.
8. Restaurants with drive-in service. Must have at least one (1) stacking lane ten (10) feet in width and two hundred (200) feet in length for each drive-in window that is designed to ensure that no business traffic backs onto the street giving access.
9. Storage of wrecked or dismantled vehicles and parts (accessory use). The storage of wrecked and dismantled vehicles and parts thereof shall be permitted only as an incidental or accessory use to a vehicle repair establishment or body shop permitted in the E11 district. Such use shall be in accordance with the following.
 - a. Storage shall be within an enclosed building or within a site obscuring fence at least six (6) feet in height above adjacent road grades
 - b. Vehicles and parts stored at the exterior of a building shall be owned by customers of the business and such storage shall be only for the purpose of repair and return to customers
 - c. Exterior storage of vehicles shall not remain on the premises for a period exceeding three (3) months
 - d. There shall be a maximum of twenty (20) wrecked vehicles stored at the building exterior during any one time

- e. Exterior storage shall be a minimum of one hundred (100) feet from a residential zoning district

3.1.M.4 E11 SPECIAL USE PERMITS

The following uses require a public hearing pursuant to Section 2.1.G of this Ordinance and approval by the ETZ Commission:

- 1. Airports or heliports
- 2. Bus passenger terminals, including storage of buses
- 3. Major facilities for generation of energy, water treatment plants, sewer treatment plants, commercial and public radio and television broadcasting and microwave broadcasting and receiving facilities, storage yards for public utilities and similar uses.
- 4. Recycling centers
- 5. Satellite parking areas
- 6. Wind driven electrical generators or wind driven pumps
- 7. Mobile homes on a permanent basis for the purpose of housing security guards pursuant to Section 3.01 of this Article. Conditions shall be attached regarding unobtrusive sitting and screening.
- 8. Wineries and/or wine tasting rooms

Section 3.1.N E12 GENERAL INDUSTRIAL DISTRICT

3.1.N.1 PURPOSE

The purpose of the E12 district is to provide for a wide variety of industrial operations, but to restrict or prohibit those industries which do not meet reasonable performance standards. Some or all of the business activity is conducted within screened open space yards. All uses shall be constructed and operated to ensure that there is no excessive noise, vibration, smoke, dust or other particulate matter, toxic or noxious matter, humidity, heat or glare at or beyond any lot line of the parcel on which it is located. Excessive is defined as a degree exceeding that caused in their customary manner of operation by users permitted in the E11 district, a degree injurious to the public health, safety, welfare or to a degree to which it is a nuisance by reason of excessiveness.

Residential uses shall not be permitted except for a residential watchman, caretaker or proprietor of a commercial use.

3.1.N.2 DEVELOPMENT REQUIREMENTS

Minimum lot area	5,000 square feet
Minimum lot width	60 feet
Minimum lot depth	70 feet
Minimum front setback	25 feet
Minimum side setback	7 feet
Minimum rear setback	15 feet
Maximum building height	50 feet

3.1.N.3 E12 PERMITTED USES

The following uses are permitted by right in the E12 District

3.1.N.3.a PERMITTED USES - NO CONDITIONS

1. All uses permitted under Section 3.1.M.3a of this Article. (See E11 above)
2. Beverages blending or bottling, baking products, candy manufacturing, tobacco, products, dairy products and ice cream, fruit and vegetable processing and canning.
3. Compounding of cosmetics, toiletries, drugs and pharmaceutical products
4. Cotton ginning and baling, cotton seed products, manufacturing, flour milling, grain elevators.
5. Ice and cold storage plants.
6. Manufacturing or assemble of bolts, nuts, screws and rivets, photographic and metering equipment, electrical appliances, tools, machinery, and hardware products, sheet metal products, heating, cooling and ventilation equipment.
7. Manufacturing of boxes, furniture, cabinets, baskets and other wood products of similar nature.
8. Manufacturing or assembly of medical and dental equipment, drafting, optical and musical instruments, watches, clocks, toys, games, electrical or electronic apparatus and communication equipment.
9. Manufacturing of pottery or other similar ceramic products from previously pulverized clay in kilns fired only by smoke fan furnaces
10. Manufacturing of rugs, mattresses, pillows, quilts, hosiery, clothing and fabrics, shoes and leather products, printing and finishing of textiles and fibers into fabric goods.
11. Storage in bulk of, or warehouse for, such material as contractor's equipment and supplies, clothing, cotton, drugs, dry goods, films, furniture, feed, fertilizer, grain, glass, groceries, hardware, hay, lumber, machinery, rope and shop supplies.

3.1.N.3.b PERMITTED USES - WITH CONDITIONS

The following uses are permitted in EI2 in accordance with the stated conditions:

1. All uses permitted uses with conditions under Section 3.1.M.3.b of this Article. (See E11 above)
2. Commercial, industrial laundries and dry cleaning establishments. Only nonflammable or noncombustible materials are to be used in the cleaning process and that portion of the structure on which a cleaning process is done is at least fifty (50) feet from a residential zone
3. Garages for repair of diesel trucks, semi trucks, buses and other heavy vehicles and equipment. All work must be performed in a completely enclosed building or in an area fully enclosed by a solid fence of a minimum six (6) feet in height. There shall be no open storage of parts, salvage materials or vehicle bodies, junk vehicles or equipment for salvage purposes. Only those vehicles awaiting repairs can be parked on the premises behind a solid wall or fence so that such vehicles will not be visible from surrounding properties.

3.1.N.4 EI2 SPECIAL USE PERMITS

The following uses require a public hearing pursuant to Section 2.1.G of this Ordinance and approval by the ETZ Commission:

- a. All uses requiring a Special Use Permit under Section 3.1.M.4 of this Ordinance. (See EI1 above)
- b. Railroad rights-of-way including a strip of land with tracks and auxiliary facilities for track operation, passenger stations, switching yards and terminals, repair shops, roundhouses, powerhouses, interlocking towers and fueling, sanding and water stations.
- c. Mobile homes on a permanent basis for the purpose of housing security guards pursuant to Section 3.01 of this Article shall be attached regarding unobtrusive sitting and screening.

Proposed Zoning District:

Section 3.1.O EI3 SPECIAL INDUSTRIAL DISTRICT

3.1.O.1 PURPOSE

The purpose of the EI3 district is to provide for a variety of industrial uses that, due to the nature of the businesses, may cause some levels of air or noise pollution.

3.1.O.2 DEVELOPMENT REQUIREMENTS

Minimum lot area	5,000 square feet
Minimum lot width	60 feet
Minimum lot depth	70 feet
Minimum front setback	25 feet
Minimum side setback	7 feet
Minimum rear setback	15 feet
Maximum building height	50 feet

3.1.O.3 EI3 PERMITTED USES

The following uses are permitted by right in the EI3 district:

3.1.O.3.a PERMITTED USES - NO CONDITIONS

All uses permitted under Section 3.1.N.3.a of this Article are allowed under this Section. (See EI2 above)

3.1.O.3.b PERMITTED USES - WITH CONDITIONS

All uses permitted conditional uses under Section 3.1.N.3.b of this Article are allowed under this Section. (See EI2 above)

3.1.O.4 EI3 SPECIAL USE PERMITS

The following uses require a public hearing pursuant to Section 2.1.G of this Ordinance and approval by the ETZ Commission:

1. All uses requiring a SUP under Section 3.1.N.4 of this Article (See EI2 above)
2. Asphalt and concrete batching plants

3. Auction yards for livestock sales
4. **Breweries**
5. Curing, tanning, dressing, dyeing and storage of animal hair, hides and raw fur
6. Dairies
7. Distilleries
8. Drilling of oil, gas, wells or other similar types of shaft mining
9. Facilities for killing processing poultry
10. Fat rendering plants
11. Gravel, sand or dirt removal
12. Iron and steel foundries or fabrication plants, forging, rolling or heavy weight casting
13. Manufacturing of disinfectants, insecticides, dyes, ink, tar roofing or waterproofing
14. Manufacturing of fertilizers
15. Manufacturing of firearms
16. Manufacturing of meat and poultry products
17. Manufacturing paint, varnish, turpentine and other similar types of material
18. Manufacturing or storage of explosive materials
19. Petroleum refineries
20. Pulp goods, molded or pressed, paper products, including the manufacturing of paper
21. Sanitary landfills
22. Scrap iron or junk storage, scrap paper or rag storage or bailing, automobile wrecking yards and storage of junk or wrecked motor vehicles
23. Stockyards or slaughterhouses
24. Stone milling or processing plants
25. Storage of bulk, or warehouse for, materials such as asphalt, brick, cement, gasoline, grease, oil, iron, steel, lead, lime, liquefied petroleum gas, paint, plaster and roofing
26. Storage or disposal sites for hazardous materials
27. Mobile homes on a permanent basis for the purpose of housing security guards pursuant to Section 3.01. Conditions shall be attached regarding unobtrusive siting and screening.

2. **ETZ Comprehensive Plan 2000-2020**

The proposed Zone Change Request does meet the Goals, Policies, and Objectives of the ETZ Comprehensive Plan 2000-2020:

3. **Miller Criteria**

The Supreme Court of New Mexico, Miller versus Albuquerque, September 9, 1976, stated: *“The fundamental justification for an amendatory or repealing zoning*

ordinance is a change of conditions making the amendment or repeal reasonably necessary to protect the public interest. Also, a zoning amendment may cover and perfect previous defective ordinances or correct mistakes or injustices therein.”

4. **Spot Zone**

Spot Zoning (*Bennett v. City Council For City of Las Cruces, 1999-NMCA-15, 126 N.M. 619*) is determined on an ad hoc basis, considering:

- 1) the disharmony with the surrounding area;
- 2) the size of the area rezoned; and
- 3) the benefit of the rezoning to the community or the owner of the parcel.

AGENCY COMMENTS

DAC Engineering: 1) NMDOT or DAC Driveway Permit will be required or updated. 2) Adhere to all regulatory agencies' comments. Some agencies may require certain permits or licenses to be obtained. 3) Further submittals would warrant further comments. 4) Provide a STA. **2nd Review (of submitted STA):** No comments.

DAC Flood Commission: 1) Pursuant to FIRM No. 35013C0627 E, the subject property is not currently located in a FEMA Special Flood Hazard Area and is located in FEMA Flood Zone "X", areas determined to be outside the 500-year floodplain. Please be advised that the lot is susceptible to flooding despite not being located directly in a Special Flood Hazard Area.

DAC Fire Marshal: Zone Change approved only. No issues with fire code.

DAC Building Services: Any change of use or occupancy classification of the structure will require permits.

DAC Rural Addressing Coordinator: No comments.

DAC Zoning Codes: No open cases.

DASO Codes: Property full of weeds. Must clean and clear. 4/15/16

NMED: Wastewater Treatment and Disposal-No comment on zone change. **Water Supply/Water Quality:** No concerns with zone change. Location is greater than 3,000 ft. from nearest public water system. **Solid Waste Disposal:** The Solid Waste Bureau has no comment or concern relative to solid waste matters. **Surface Water Bureau –** No comments received.

NMDOT: Will require an access permit off of Picacho Ave. from the NMDOT D-1 office. Even though the access is existing we would like to update our records.

Mesilla Valley MPO: Picacho Ave. is a principal arterial requiring 120' R-O-W, Fairacres is a minor arterial requiring 100' R-O-W, however the R-O-W on Fairacres is constrained and the MPO is prohibited from seeking R-O-W. **(Staff note: Mosley Acres Subdivision, Pg. 18, reserves 17.5 road easement)**

CLC Planning Dept: No issues.

EBID: No comments received.

Office of the State Engineer: No water right issues with the proposed Zone Change. (Staff note: **Water from the City of Las Cruces will be utilized at this site per Ready, Willing, and Able letter from CLC submitted to staff.**)

NOTICE / NOTIFICATION

- 22 letters of notification were sent on May 2, 2016, to the Area of Notification.
- Legal Ads were placed in the Las Cruces Sun-News on May 1, 2016.
- Signs placed on the property in a timely manner.
- Agenda placed on the DAC Web site.
- Letter (*Pages 23-24*) from Mr. & Mrs. Youngs (*#13 on list*) received May 10 with concerns about traffic, proximity to elementary school and safety concerns, noise, lighting, possible increase in pests and rodents, smells and emissions, waste disposal, excessive use of water, increase in local crime, drunk drivers, and the reduction in the quality of life of the neighborhood.
- Email (*Page 25*) from Pastor Moore representing the Fairacres Baptist Church (*not on list*) was received May 12 voicing their opposition to the establishment of a business serving alcohol citing the proximity of the property to the elementary school and two churches.
- Email (*Page 26*) from Ms. Paula Jimerson (*not on list*) received on May 12 voiced her concerns on proximity of school and safety of the children, increased traffic on Fairacres Rd. and the safety of the neighborhood due to those drivers exiting the tap room after drinking.
- 2 phone calls were received voicing opposition to the request from Ms. Mosley (*#11 on list*) and from Mr. Jackson (*not on list*). Their concerns were traffic, smells, safety concerns for children and neighborhood, and disruption to the neighborhood.

STAFF ANALYSIS

The applicant is requesting a Zone Change on a 3.86-acre parcel from an E11 (Light Industrial District, 5,000 sq. ft. minimum new lot size, wide variety of light industrial uses) Zoning District to an E13 (Special Industrial District, 5,000 sq. ft. minimum lot size, to provide for a variety of industrial uses that, due to the nature of the businesses, may cause some levels of air or noise pollution) Zoning District to establish and operate a brewery and tap room on the site. The facility will be accessed from W. Picacho Ave., classified as a minor arterial by the Mesilla Valley MPO. In addition to approval of a Zone Change the applicant must submit and receive approval of a Special Use Permit per Section 3.1.O.4.4 (*Page 10*) of the ETZ Ordinance.

1) 2.1.D Evaluation Criteria and Analysis Applicant's responses *in italics*, **Staff analysis in bold.**

2.1.D.1: Determination of the number of homes, population, and population demographics.—*N/A. Due to the commercial/industrial nature of the proposal. All buildings are existing. No homes proposed.*

2.1.D.2: Determination of potential traffic flows (average daily traffic) and where they will impact the transportation system. *The intent of the use of the vacant existing building is a brewery with a tap room. The A.D.T. should remain the same, due to the fact all buildings are existing.* **Agency comments indicate that W. Picacho Ave. is designated as a principal arterial and will serve as principle access to the site. NMDOT comments (Page 11) require an access permit through the District Office. STA (Page 22) provided for 2nd review by Engineering Dept. received no comments.**

2.1.D.3: Determination of need for new commercial activity. *The existing building has been in that location for many years, providing badly needed jobs for the area.* **Site is conducive to industrial uses as it is already zoned EI1 and nearby industrial and commercial uses and zoning are compatible.**

2.1.D.4: Determination of potential water and sewage needs. *Water is by City of Las Cruces (see attached narrative). There is an existing septic system on the property, which may be replaced upon refurbishing the building. All necessary permits shall be obtained.* **Applicant has provided a Ready, Willing, and Able Letter from City of Las Cruces. Water well on property will not be utilized. Existing septic system will be utilized for the operation of the brewery and tap room and septic system will be updated/replaced as required at time of building refurbishment.**

2.1.D.5: Evaluation of existing infrastructure capacities and an analysis of the ability of the existing system to accommodate the new development. *N/A. Due to the fact all buildings are existing.* **NMDOT states that the facility will need an updated access permit. Water is adequate and waste water disposal facility is adequate but will be updated/replaced as required at time of building refurbishment.**

2.1.D.6: The difference between capacity and impact should be stated. Those areas that are appropriate for the developer to underwrite should be negotiated between local government and developer. *N/A Due to fact all buildings are existing.* **Infrastructure capacity is adequate and no new systems or improvements are indicated by the agency review comments. Applicant has stated that septic system shall be updated/replaced as required at time of development.**

2.1.D.7: The ETZ should reserve the right to place appropriate zoning categories on environmentally sensitive areas, areas of historical significance, or areas on which contain endangered or rare species of animal or plant life. *None known at this time.* **There has been no evidence submitted of any areas of historical significance, or areas containing endangered species.**

2.1.D.8: Any analysis required should be undertaken and paid for by the developer and verified by the ETZ Commission. *None required at this time.* **Any subsequent analysis to be prepared and paid by applicant.**

2.1.D.9: Determination of impact of a proposed zone change on surrounding properties. *The commercial/industrial building has been in that location for many years with access to U.S. 70 (Picacho Ave.). The proposal fits with the harmony of the neighborhood and other zoning in the immediate vicinity are of similar uses providing badly needed jobs for the area. (See attached narrative Page 19).* **Impact to the surrounding properties will be minimal as the proposed use is compatible with the area uses and zoning. Impacts to the south are**

mitigated by the intervening E11 Zoning District. N. Fairacres Rd. and the EBID Picacho Drain, on the west side of the subject parcel, provide buffering to the residential area to the west of the subject parcel. The submitted STA (Page 22) indicates 12 PM Peak Hour trips entering and 6 PM Peak Hour trips based on a 1,500 sq. ft. public tap room area. Engineering staff made no additional comments concerning the STA review. There is an EC2c Community Commercial District abutting the east property line that is currently utilized for agriculture. This agricultural parcel (EC2c Zoning) provides a buffer to the elementary school east of the proposed E13 Zoning District. The subject parcel is approximately 440' from the elementary school (property line to property line) and outside of the 300' minimum distance between a school and a facility selling alcohol products as required by New Mexico Statute Section 60-6B-10, NMSA 7.1.2015.

If the applicant adheres to all local and state regulatory, ordinance, and developmental requirements, the Zone Change would have no adverse impacts to the surrounding properties, thus meeting the 2.1.D Decisional Criteria.

2) ETZ Comprehensive Plan 2000-2020

Comparing the E11 Zone Change request with the Goals, Policies and objectives of the ETZ Comprehensive Plan 2000-2020, reveals the following that are met by this request:

The proposed Zone Change Request **does** meet the following Goals, Policies, and Objectives of the ETZ Comprehensive Plan 2000-2020:

- Policy 7.1.1: Where appropriate, consider allowing development with the urban character generally found in close proximity to the corporate limits of the City of Las Cruces, or within the two-mile area adjacent to the City of Las Cruces that is suitable for urban development. *The subject parcel is within the two-mile area adjacent to the City of Las Cruces. It abuts other commercial and industrial properties and uses and would not be out of character with the industrial uses in the immediate area and along the Hwy 70 (W. Picacho Ave.) corridor (Page 22).*
- Program 8.1.1.1: Development of industrial sites shall be encouraged to locate on existing or planned arterial or collector streets or in planned industrial parks. *Requested Zone Change is located on W. Picacho Ave. (Hwy 70) a designated principal arterial road.*
- Objective 8.2: Support, maintain and assist growth and expansion of the region's existing business, industrial and agricultural economic base. *This request will assist in the expansion of jobs in the brewing industry in Doña Ana County.*
- Policy 8.3.3: The County should encourage development of businesses which can be integrated into the ETZ without adverse impacts on the County's resources. *This proposed use will not adversely impact the County's resources, no additional infrastructure is anticipated.*

3) "Miller" Criteria

In New Mexico, the primary justification for a Zone Change is spelled out in the Miller vs. City of Albuquerque ruling of 1976 (A.K.A. the "Miller" Criteria) which says the "*The fundamental justification for an amendatory or repealing zoning ordinance is a change of conditions making the amendment or repeal reasonably necessary to protect the public interest. Also, a zoning amendment may cover and perfect previous defective ordinances or correct mistakes or injustices therein.*" This is commonly known as the "change or mistake" rule which is widely

interpreted as there has been a change in the conditions in the area of the subject property sufficient to warrant a need to protect the public and change the zoning district, or that there was a mistake in the original zoning of the property.

The applicant is proposing to rezone the 3.86-acre parcel to establish and operate a brewery and tap room. The existing 25,000 sq. ft. building will be remodeled and refurbished and no new buildings are anticipated. Currently, the parcel is zoned E11 but the property and building are vacant and have been underutilized for years. The applicant is moving an existing brewery operation from another location outside Doña Ana County and relocating to this proposed site. The proposed Zone Change and uses are consistent with the character of zones and uses along the W. Picacho Ave. corridor (*Page 21*). The subject parcel is adjacent to another parcel with the same E11 zoning classification. The industrial and commercial zoning and uses in the area would be compatible with the proposed zone. There have been Zone Changes to properties along W. Picacho Ave (Hwy 70) to industrial zones including Z95-020/Kelley, Z98-002/Oxford, Z01-007/Navarro, and Z01-008/Perry. These area Zone Changes demonstrate that a “change in conditions” has occurred and make it necessary to protect the public with the approval of this Zone Change request per the “Miller” Criteria.

The applicant has overcome the presumption that the current zoning is the most appropriate, as these “change in conditions” indicate the zoning and uses in the area around the subject parcel (*Page 21*) and along the W. Picacho Ave. corridor which serves these properties, is consistent with the proposed development. The residentially zoned property abutting the subject parcel on the SE corner will be required to be buffered with a Buffer “E”, per Section 4.2.C of the ETZ Ordinance. Buffer “D” will be required on the east and southwest portions of the subject property to comply with Section 4.2.C of the ETZ Ordinance. The use will be buffered naturally from the west properties by N. Fairacres Rd. and the 50’ EBID Drain R-O-W to the west.

Staff’s analysis supports the conclusion that the original zone designation of E11 does not currently serve the needs of the residents in the area. Therefore, the Zone Change to E13 does meet the “Miller” Criteria and would be justified at this time.

4) Spot Zone

The applicants request for E13 zoning would be in harmony with the industrially zoned properties in the immediate area and along the W. Picacho Ave. corridor. If approved, the facility would benefit the general public and not just the applicant as it would assist in expanding this type of business in the County without adverse impacts to resources. The new E13 Zoning District will allow the underutilized property and structures to be utilized and add employment opportunities for the area. The 3.86-acres would be a large enough of an area to not be considered a spot zone because the parcel is already zoned E11 Light Industrial District and is in the immediate area of other industrial and commercially zoned properties, some of which are smaller than the subject parcel.

These findings provide the basis to conclude that the proposed Zone Change would not be considered a “spot zone” per the 1999 Bennett ruling.

STAFF FINDINGS

If the Extra-territorial Zoning Commission wishes to follow staff's recommendation of Approval of Case # Z16-002 / Pecan Brewery, staff recommends the following findings:

1. The subject property is located outside the corporate limits of the City of Las Cruces, but within the five-mile Extra-territorial Zone (ETZ) as set forth by 3-19-5(1), NMSA 1978 and the Joint Powers Agreement between Doña Ana County and the City of Las Cruces. Therefore, the Las Cruces ETZ Commission (ETZ-C) has jurisdiction to review this case.
2. The proposed Zone Change Request **does** meet Policy 7.1.1, Program 8.1.1.1, Policy 8.2 and Policy 8.3.3 of the Goals, Policies, and Objectives of the ETZ Comprehensive Plan 2000-2020.
3. The Zone Change request **does** satisfy the 2.1.D Evaluation Criteria of the ETZ Ordinance.
4. The Zone Change would be in harmony with industrially zoned properties in the area, would benefit the public with increased employment opportunities, and at 3.86-acres is a large enough area to not be considered a spot zone.
5. Per the "Miller Criteria," the E13 Zone Change request **does** meet the change of conditions criteria, as there have been Zone Changes approved for industrial zoning in the area along the W. Picacho Ave. transportation corridor.
6. The applicant has overcome the presumption that the existing zoning is the most appropriate and the Zone Change is necessary to protect the public.
7. A Special Use Permit is required to be approved by the ETZ Commission per Section 3.1.O.4.4 of the ETZ Ordinance for breweries.

STAFF RECOMMENDATION

Based on the request meeting the "Miller" criteria, the 2.1.D Evaluation Criteria, Goals, Policies and Objectives of the Comprehensive Plan 2000-2020, and not being considered a spot zone, staff recommends **Conditional Approval** of Zone Change Request Case # Z16-002 / Pecan Brewery with the following conditions:

- 1) *A Special Use Permit shall be approved by the ETZ Commission.*
- 2) *Access to the property shall be limited to W. Picacho Ave.*

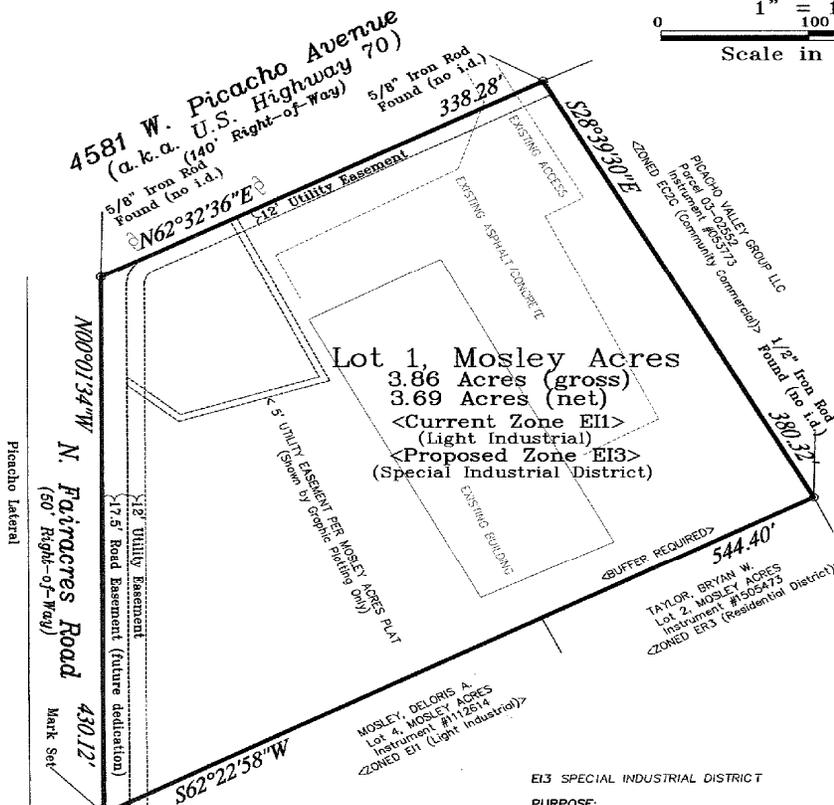
Property Survey

PROPOSED RE-ZONING MAP FOR LOT 1, MOSLEY ACRES

A 3.86 ACRE TRACT OF LAND
BEING LOT 1, MOSLEY ACRES,
AS FILED JANUARY 7, 2005, BOOK 21, PAGES 98-99, OF THE DONA ANA COUNTY RECORDS
LOCATED IN SECTION 16, T.28S, R.1E, OF THE U.S.R.S. SURVEYS
WITHIN THE EXTRA TERRITORIAL ZONE, WEST OF LAS CRUCES
DONA ANA COUNTY, NEW MEXICO.
NOVEMBER 2, 2015



1" = 100'
0 100 200
Scale in Feet



Lot 1, Mosley Acres
3.86 Acres (gross)
3.69 Acres (net)
<Current Zone E11>
(Light Industrial)
<Proposed Zone E13>
(Special Industrial District)

E13 SPECIAL INDUSTRIAL DISTRICT

PURPOSE:
The purpose of the E13 district is to provide for a variety of industrial uses that, due to the nature of the businesses, may cause some levels of air or noise pollution.

INTENT OF REQUEST:
The Developer wishes to operate a brewery with a "Tap Room" within the existing building and property.

DEVELOPMENT REQUIREMENTS

Minimum lot area, 5,000 square feet
Minimum lot width, 60 feet
Minimum lot depth, 70 feet
Minimum front setback, 25 feet
Minimum side setback, 7 feet
Minimum rear setback, 15 feet
Maximum building height, 50 feet

PERMITTED USES:

A "Special Use Permit" will be required for this proposal.

Proposed Utility Services:

Water - City of Las Cruces
Sewer - Septic
Natural Gas - Zia Gas
Electric Service: El Paso Electric Co.
Telephone: Qwest
Cable TV: Comcast

Name of development: LOT 1, MOSLEY ACRES RE-ZONE

Developer: SCHAFER FAMILY TRUST
C/O INDUSTRY CONSULTING GROUP INC
DALLAS TX 75381

Engineer: Borderland Engineers & Surveyors LLC.
2290 N. Main Street, Ste. 3C
Las Cruces, New Mexico 88001
575-522-1443

Surveyor: Borderland Engineers & Surveyors LLC.
2290 N. Main Street, Ste. 3C
Las Cruces, New Mexico 88001
575-522-1443

Proposed Land Use:
(Existing) - Light Industrial
(Proposed) - General Industrial District
Proposed Zoning:
(Existing) - Zoning E11
(Proposed) - Zoning E12

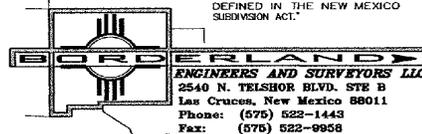
Notes:

- 1.) An N.M.D.O.T. Access Point & Access Permit must be obtained upon Lot development/use.
- 2.) A Landscape/Buffer Zone shall be required on all property lines adjacent to any Residential Land Use Zoning per E.T.Z. requirements.
- 3.) Any modification/refurbishing to the existing Building and/or Septic system will require all necessary permits.

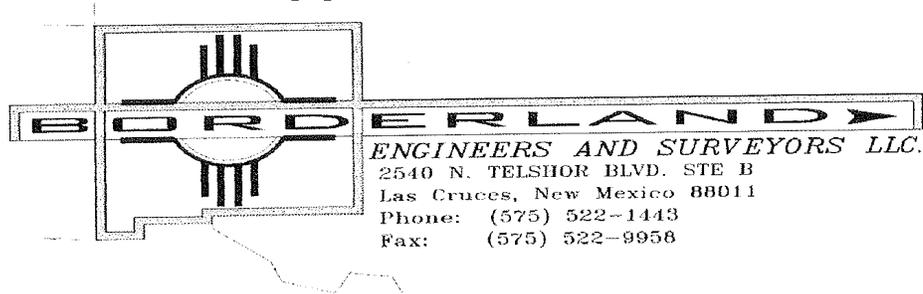
PROPERTY IS IN AN "X" DESIGNATED ZONE AS SHOWN ON THE FLOOD INSURANCE RATE MAP COMMUNITY PANEL NO. 550430654 X, EFFECTIVE SEPTEMBER 27, 1991.

INSTRUMENT OF RECORD:
WARRANTY DEED FILED
9-27-05, Instrument #0533302
OF THE DONA ANA COUNTY RECORDS

"THIS IS A BOUNDARY SURVEY PLAT OF AN EXISTING TRACT OR TRACTS OF LAND. IT IS NOT A LAND DIVISION OR SUBDIVISION AS DEFINED IN THE NEW MEXICO SUBDIVISION ACT."



Applicants' Narrative



March 17, 2016

ZONE CHANGE REQUEST – E11 TO E13 - NARRATIVE

The developer intends to bring this 3.86 acre property into compliance with the Dona Ana County Zoning Code

There is an existing vacant commercial/industrial building on the property, which is within the existing E11 zone area. The property owner would like to have the property brought into compliance with a "Brewery & Bottling, with a Tap Room" by having our client re-zone it to E13, and a "Special Use Permit" will be required for this type of use within the E13 Zone .

To the North, properties are zoned EC2 (Community Commercial) and E11 (Light Industrial), to the South, East and to the West is zoned E11 (Light Industrial), EC2 (Community Commercial), and ER-3 (residential district). To the West and adjacent to the subject property is N. Fairacres Road and the Picacho Lateral, creating a natural Buffer between the subject property and the ER3 residential land uses to the West.

There will be a buffer required along the Southeast quarter of the property where a small area of the ER3 residential land uses to the South is adjacent to the subject property.

There are many Commercial and Industrial uses in the immediate vicinity of the subject property and along with the fact the subject property is adjacent and has existing access to U.S. Highway 70 (a.k.a. Picacho Avenue) this proposal fits in with the harmony of the vicinity and neighborhood.

The water supply is from the City of Las Cruces and is already existing to the property.

Natural Gas service is by Zia Gas Company and is existing at the property.

There is an existing septic system on the property, the owner may replace this system upon refurbishing the existing building, all necessary permits will be obtained. The wastewater from the septic tank will be hauled away by a licensed Septic company.

The intent is to refurbish the existing building as necessary to fit the needs for a Brewery and Bottling company, along with a Tap Room open to the public.

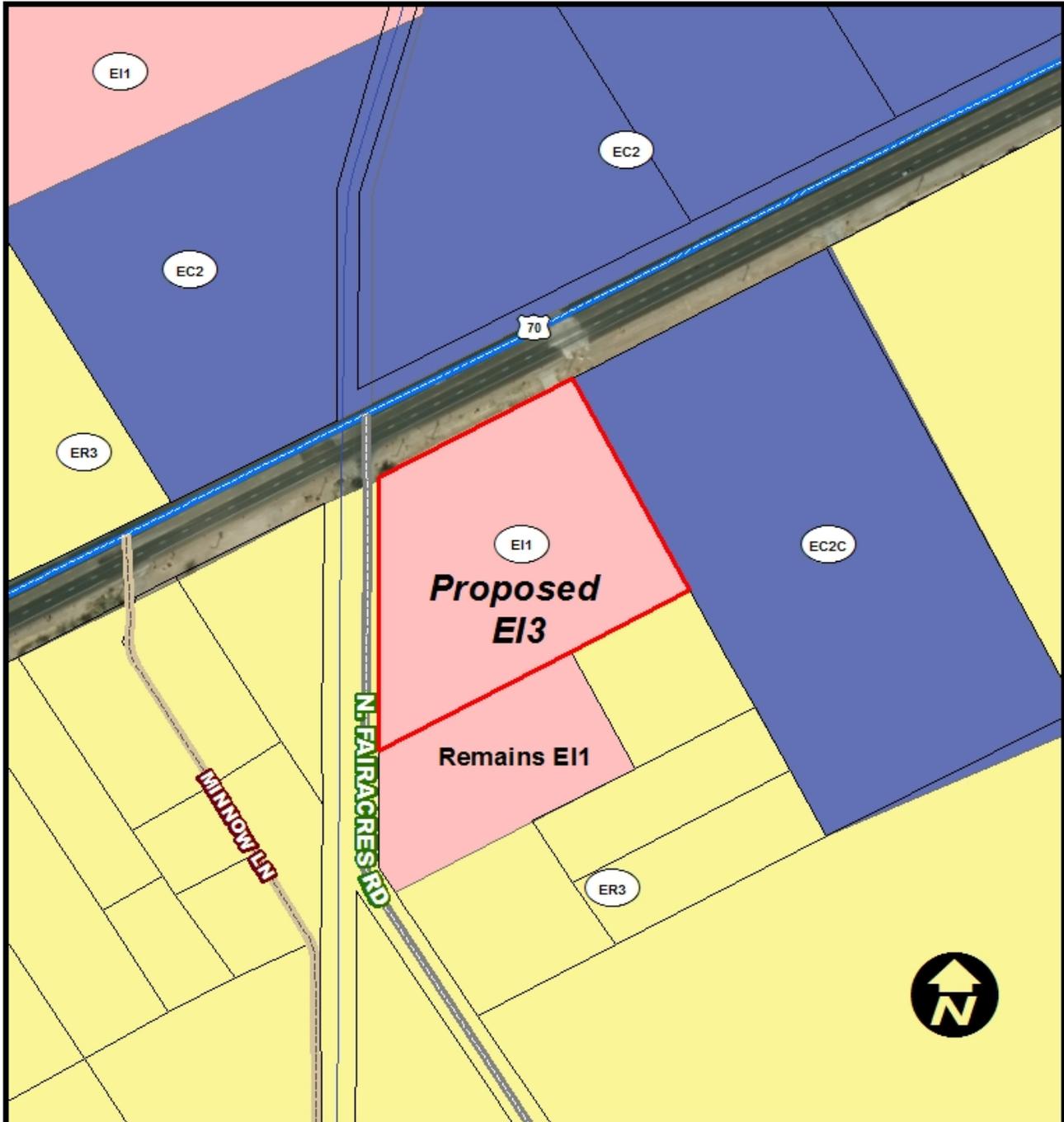
In accordance with the E.T.Z. and Dona Ana County Zoning Code, we are requesting a Zone Change for this property located at 4581 W. Picacho Avenue, from the existing E11 zone to the proposed E13 zoning and a Special Use permit for the specified uses.

Thank you for your consideration and as always, if you should have any questions, please don't hesitate to call.

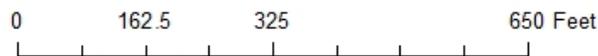
Sincerely,

Borderland Engineers and Surveyors, LLC.

Proposed & Current Zoning



CASE # Z16-002 / Pecan Brewery E11 to E13



This map was created by the Doña Ana County G.I.S. to assist in the administration of local regulations. Neither the County of Doña Ana or the Doña Ana County Geographic Information System assumes any legal responsibilities for the information contained in this map. Users noting errors or omissions are encouraged to contact the County of Doña Ana at (505) 647-7237.

D.A.C. Geographic Information Systems
845 N. Motel Blvd.
Las Cruces, NM 88007
(505) 647-7237



Site Threshold Assessment (STA)

Appendix E. Site Threshold Assessment (STA)

A Site Threshold Assessment (STA) is required of all developing or redeveloping properties within Doña Ana County.

Permit Application

Applicant Name: Pecan Brewery LLC
 Business Name: _____
 Business Address: P.O. Box 1435
 City: Fairacres State: NM Zip Code: 88033

Site Description

Development Type	Site Information (fill in all that apply)		
Residential	Building Size (sf)	<u>1500</u>	Dwelling Units
Retail	Parcel Size (ac)		Rooms
Office	Roadway Frontage (ft)		Beds
Industrial	Parking Spaces		Students
Institutional	Employees		Seats
Lodging	Other		Fuel Pumps
Restaurant			Courts
Convenience/Gas			Storage Units
Other <u>Tasting Room</u>			

Public Only

The STA examines existing roadway volumes and anticipated site trip generation for the purpose of determining if additional analyses are required. If the site characteristics and the trip generation estimate for a proposed development do not satisfy the requirements for a TIA, as determined by the County Engineering Services Department, the STA should be approved and the traffic study requirement for the proposed development will be complete. If additional analysis is required based on the results of the STA, the County Engineer should indicate to the applicant the level of analysis that is required.

Existing Roadway Data

Road Name: W. Picacho Avenue (4581 W. Picacho Ave #1)
 Road AADT: 10,700 Count Year: 2014 Number of Lanes (two-way): 2

Trip Generation

ITE Trip Generation Land Use Category: 936 (Drinking Place)
 AM Peak Hour Trips Enter: n/a Exit: n/a (No AM given)
 PM Peak Hour Trips Enter: 12 Exit: 6

To be filled out by the County Engineering Services Department

Exceeds Threshold? Y or N If yes, is a TIA Required? Y or N

Notes: _____



Youngs Letter (Pg. 1 of 2)

To Whom It May Concern,

May 9, 2016

I am writing in response to the request that has been made to rezone the property at 4581 W. Picacho Ave. We own one of the properties in Mosley Acres , directly south of the warehouse property. We have lived in the N. Fairacres neighborhood for more than 40 years. I was raised here and we are now raising our children in the same neighborhood.

We feel we have several very viable concerns about such a business being located at the proposed location. We are very strongly against the proposal, due to both personal concerns and concerns with how it will affect the neighborhood as a whole. We ask that you please take the following points into consideration and please do not allow zoning changes that would allow Pecan Brewing to locate a brewery and/or tap room in our neighborhood.

1. Property is directly next door to a very busy elementary school. The increase in traffic in an area where we already have speed/volume of traffic issues in front of the school will only make safety matters worse. Allowing for public consumption of alcohol will add another set of concerns to this as well. The school is currently seeking help with the DOT in setting up other safety constraints due to the already existing concern related to the high volume of traffic in the area. As parents, no one wants their child's school located next door to a liquor establishment.
2. The traffic on N. Fairacres Rd is already very high. The road is very narrow. Our neighborhood has many young children in it. Our families use our road for walking and riding bikes. Many bicyclists use our road on a regular basis on weekends, holidays, and in the evening. There is already safety concerns due to the high volume of traffic due to the increased number of homes in the area. The increase in traffic due to consumer/transportation vehicles will add to this problem.
3. There is the matter of increased noise due to the production process and transport of their beer. What about air pollution and smell from the fermenting of the mash? What will be done with the hop once it is used. How will it be disposed of? Doesn't it cause a certain amount of stench? I find it hard to believe that anyone in our area wants to have to deal with any smells from the production of beer and the discarding of the byproducts? Will this add to the influx of pests such as mosquitos, flies, and rodents? What about light pollution? How will they dispose of waste water?
4. Our water table in the valley is already very low. Farmers are having a hard time due to the severe decrease in the amount of water they are allotted for their crops. Beer production takes a large amount of water. Beer is approximately 85% water, not including the amount of water used in the production process. Many of our wells in the area have had to be redrilled in recent years due to the dropping water table already. Again, part of the economic price we pay for living in our area. The brewing industry is one of the largest industrial users of water. In spite of significant technological improvements over the last 20 years, energy consumption, water consumption, wastewater, solid waste and by-products and emissions to air remain major environmental challenges in the brewing industry.
5. Having people from outside our neighborhood in the area during evening and weekend hours can bring many new problems. This will present any number of new issues including dealing with the traffic, possible increases in crime in our quiet neighborhood, and people driving under the influence. It would make sense, that if someone has had too much to drink, rather than going back down Picacho, they will use N. Fairacres to drive into Mesilla to avoid being stopped. So, we will have to worry about drunk

Youngs Letter (Pg. 2 of 2)

drivers being on our street. With this type of business, a certain amount of crime seems to influx. This could include robberies, assaults, and sexual crimes. None of which we want in our neighborhood. With concern for the recent horrific abduction and murder of the young girl in the northern part of our state, as parents we can not help but worry about having any situation near our families that may attract such acts.

6. We have chosen to live in a semi-rural area of many reasons. Many of us have paid for our homes at a premium to have the benefits of living in such a location. Our children can play in our yards and ride their bikes, and visit neighbors without a great deal of fear of what a busy, highly populated area is not permissive of. Having the fear of unknown people in our community at all hours, drinking and partying, is not a quality of life we set ourselves up for when we chose Fairacres Rd for our homes. It is a family friendly neighborhood, not an industrial park. We are able to enjoy our homes and yards in the evenings without much concern for air and noise pollution. We should be allowed to continue to do so.
7. For selfish reason, we do not want to have our homes located directly next to a brewery/tap room. I do not want to have to deal with any of the possible issues that such would involve. Noise, decreased safety and security, possible air pollution, and traffic are all concerns for my family's wellbeing and quality of life. We have chosen to build our lives in a family friendly neighborhood, not an industrial park. We realize that the property in question was deemed "light industrial" many years ago. However, having been a pet supply storage warehouse and an electronics supply warehouse (neither open to the general public) are much different than a brewery and tap house that will be open to the public. Neither of the previous businesses posed any type of threat to the neighborhood safety other than a very few trucks in and out of their parking area during normal business hours that only accessed their property directly off Picacho Ave. The proposed would increase trucks, consumer traffic, possibly intoxicated drivers at undetermined hours, possibly during evening/night/weekend hours. What will this do to our property values? One can not help but worry about the impact of being located directly next to such a facility will do to the ability to sell our home if need be.

We feel that with the fact that many of us have lived in the surrounding area for decades, we should be able to have a voice in what types of businesses become part of our neighborhood. Many of us grew up in homes on N. Fairacres Rd and have returned to build homes and raise our children in the same neighborhood. By letting this business set up shop at the proposed location will take away many of the quality of life benefits we have living in the Fairacres area. We encourage them to seek a location for their business in a nonresidential area that is already zoned for this sort of industry. Afterall, we have and industrial area on the west mesa.

Thank you,

Todd and Denage Youngs
806 N. Fairacres Rd, #2
Las Cruces, NM 88005



Pastor Moore Email

Steve Meadows

From: Chipper Moore <chippermoore1987@gmail.com>
Sent: Wednesday, May 11, 2016 5:02 PM
To: Steve Meadows
Subject: Re-zoning of Property at the Corner of Picacho and Fairacres Rd

I am the Senior Pastor of Fairacres Baptist Church, 5100 W. Picacho, Ave., and I oppose the re-zoning of property at the corner of Picacho Ave. and Fairacres Rd to allow an establishment that sells alcohol. This property is very near Fairacres Elementary School and two churches. Our church membership also opposes this change. Please enter mine and my church's opposition in the record for the meeting on Thursday, May 19.

I can be reached at 575-650-8816 if needed.

Thank you.

Chipper Moore

Jimerson Email

Steve Meadows

From: Paula Jimerson <pdjimerson@q.com>
Sent: Thursday, May 12, 2016 2:48 PM
To: Steve Meadows
Subject: Pecan Brewing on Plcacho

I am writing this email in regards to the zoning change request by Pecan Brewing, for the warehouse on the corner of Plcacho Avenue and North Fairacres Road. It is my understanding that Pecan Brewing wishes to put in a brewery and a tap house, which will be open to the public. I am AGAINST this for many reasons:

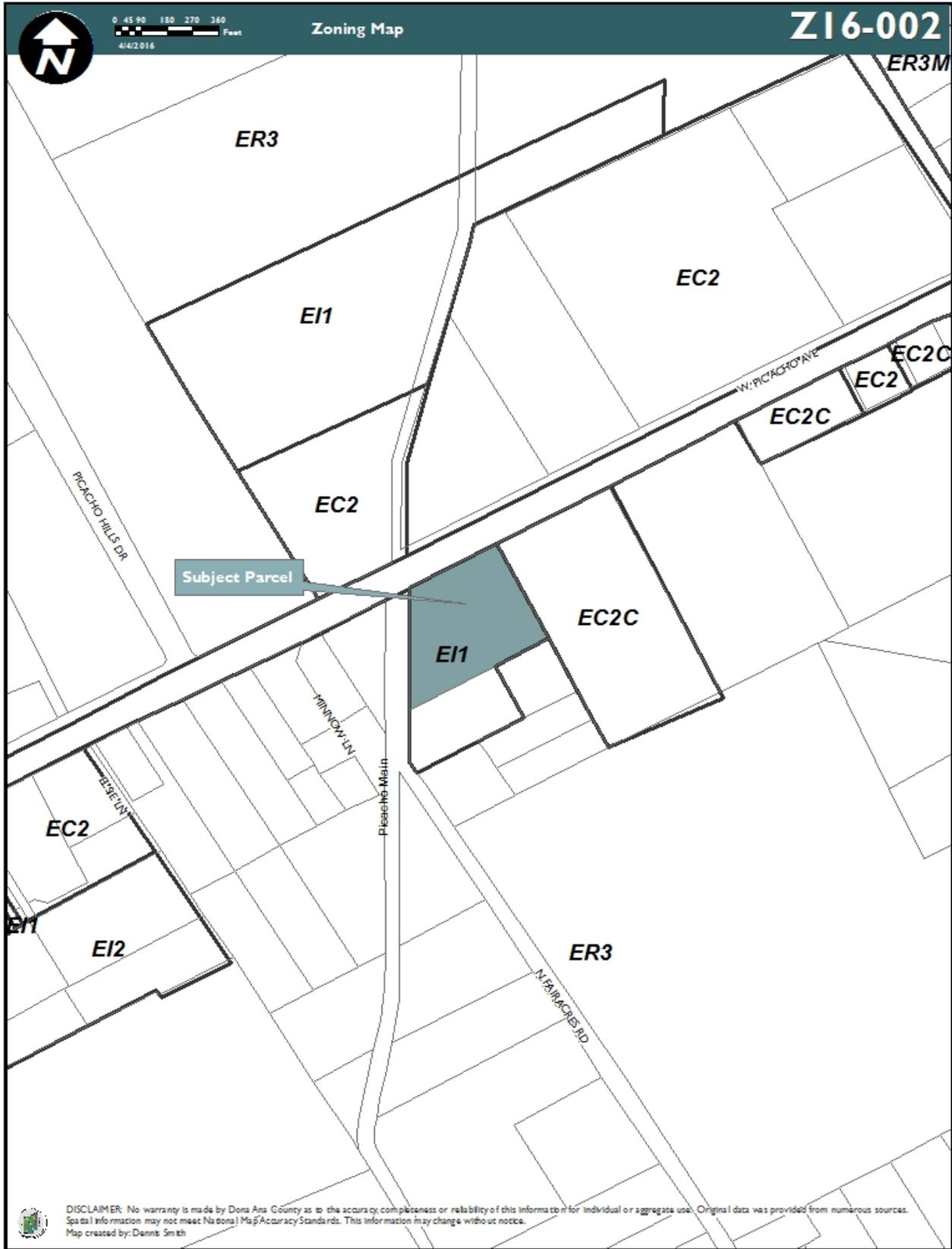
First of all, I have children who attend Fairacres Elementary, which is across a vacant lot from the warehouse. This area on Plcacho is already congested. We have fought for a school zone for years to no avail, and now we are going to add more traffic? I am concerned for the safety of the kids and their parents during school and during all the many after school activities that go on at Fairacres Elementary. In a time when our nation is doing all we can to make our schools a safer place, how can we even consider this? Secondly, Fairacres Elementary is over crowded and there has been talk of expanding the school. If they do this, the only real solution is to purchase some of the land from the farm that lies between the current school and the warehouse. In doing this, it would make the school a next door neighbor to the establishment. There are surely laws against this.

Another reason for my concern is that I live at the end of North Fairacres Road. In the last few years I have seen an increase in traffic and the road is narrow and not made to handle large volumes of traffic. Suppose the tap house does open. If someone sits and drinks too much (let's all be honest, we know it happens), they are likely to take the busy, narrow back way to get home to avoid the law enforcement. This will put my family and neighbors at even more risk. For these reasons, I hope you will consider not allowing the zoning change. As a small community, myself and so many neighbors do not want this kind of business in our backyard. We are adamantly against this brewery/tap house and trust you will consider what is best for the residents and more importantly, our children.

Sincerely,

Paula Jimerson

Zoning Map

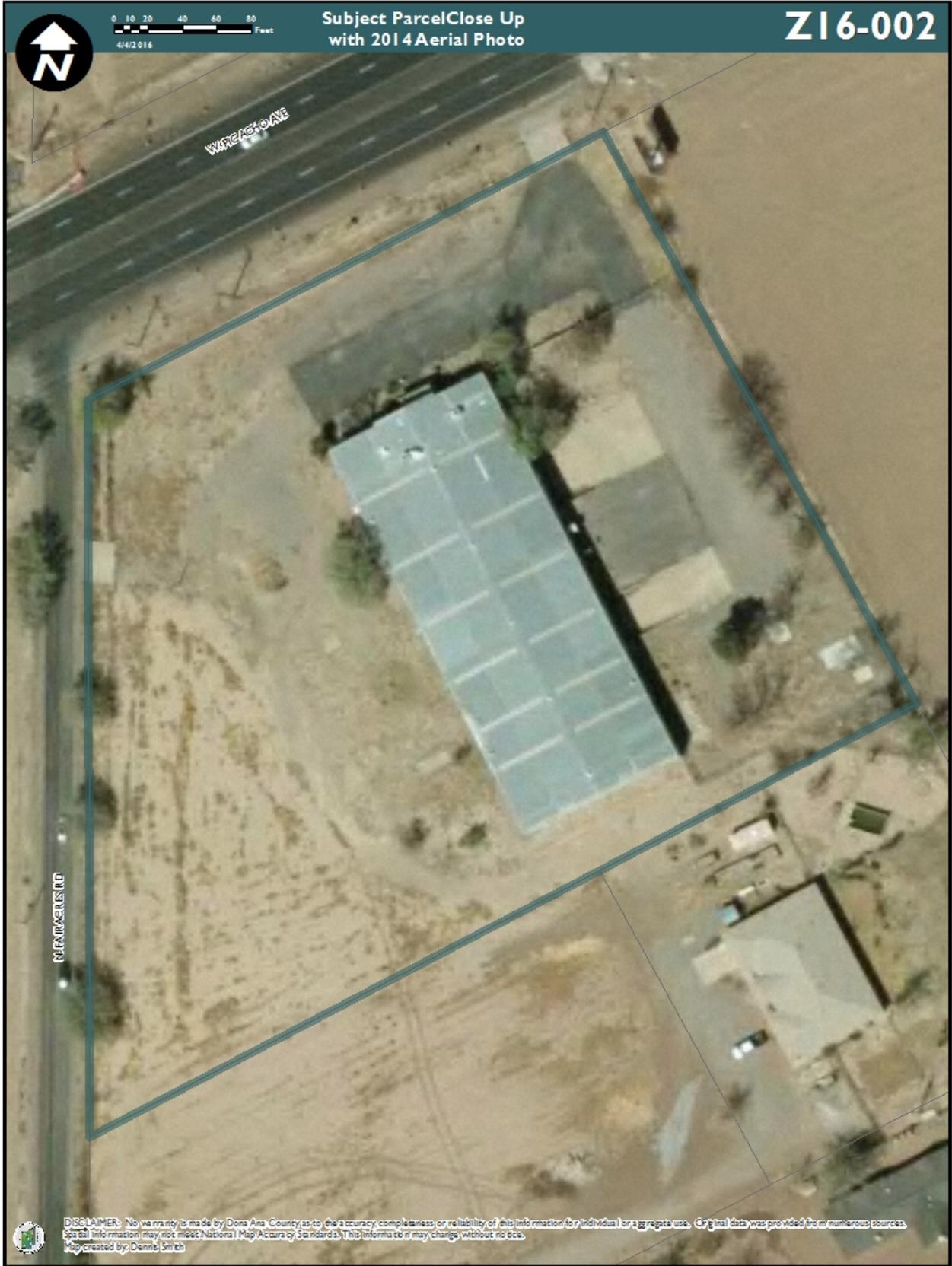


DISCLAIMER: No warranty is made by Dona Ana County as to the accuracy, completeness or reliability of this information for individual or aggregate use. Original data was provided from numerous sources. Spatial information may not meet National Map Accuracy Standards. This information may change without notice.
Map created by: Dennis Smith

Area Land Use Aerial



Close-up Aerial of Parcel



Area of Notification Map

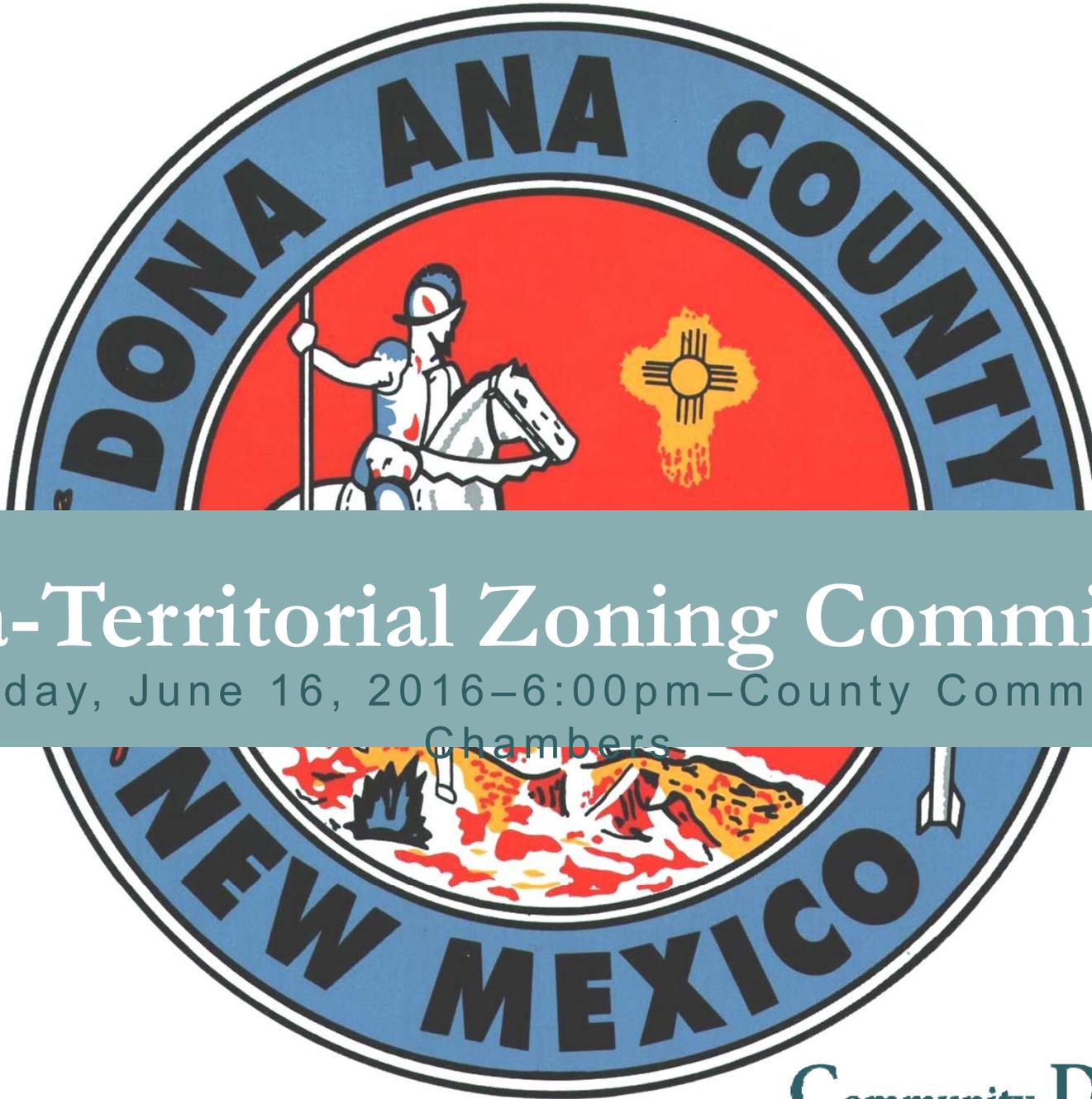


Area of Notification Aerial



Area of Notification List

CODE	MAP_CODE	NAME	ADDRESS I	CITY	STATE	ZIP
1	4-003-135-258-420	SCHAFFER FAMILY TRUST	C/O INDUSTRY CONSULTING GROUP INC	DALLAS	TX	75381
2	4-003-135-212-313	SCHUMACHER WILLIAM JAMES SUCC TRSTE	701 S VALLEY DR	LAS CRUCES	NM	88005
3	4-003-135-282-323	JOHNSON RICHARD K JR	925 DALRYMPLE RD	LAS CRUCES	NM	88007
4	4-003-135-256-358	JOHNSON GREG S	432 S FAIRACRES RD	LAS CRUCES	NM	88005
5	4-003-135-317-441	PICACHO VALLEY GROUP LLC	2185 W AMADOR STE I	LAS CRUCES	NM	88005
6	4-003-135-030-240	ISMOND CRISTAN M ET AL CO-TRUSTEES	2225 PEPPER RD	LAS CRUCES	NM	88007
7	4-003-135-232-456	COUNTY OF DONA ANA	845 N MOTEL BLVD	LAS CRUCES	NM	88007
8	4-003-135-222-476	MORALES MARIO	880 MINNOW LN	LAS CRUCES	NM	88007
9	4-003-135-285-440	TAYLOR BRYAN W	804 N FAIRACRES RD	LAS CRUCES	NM	88005
10	4-003-135-209-486	ORTEGA CLYDE J & GERRY R	PO BOX 267	FAIRACRES	NM	88033
11	4-003-135-255-466	MOSLEY DELORIS A	806 N FAIRACRES RD	LAS CRUCES	NM	88005
12	4-003-135-199-481	NIETO GUADALUPE G & ANTONIA C	4617 W PICACHO	LAS CRUCES	NM	88005-4871
13	4-003-135-285-458	YOUNGS EVELYN D & TODD W	806 N FAIRACRES RD UNIT 2	LAS CRUCES	NM	88005
14	4-003-135-234-492	WILLIAMS HAROLD GLENN &	HC 35 BOX	ARREY	NM	87930
15	4-003-135-291-469	TAYLOR KENDRA	806 N FAIRACRES RD # 3	LAS CRUCES	NM	88005
16	4-003-135-215-390	ORTEGA PAT A & IRENE M	855 MINNOW LN	LAS CRUCES	NM	88007
17	4-003-135-225-496	TRUJILLO MARIO A & ALICIA G	835 MINNOW LN	LAS CRUCES	NM	88007
18	4-003-135-215-508	RODRIGUEZ LUIS V	PO BOX 148	FAIRACRES	NM	88033-0148
19	4-003-136-250-009	BOMBACH FAMILY TRUST	749 N FAIRACRES	LAS CRUCES	NM	88005
20	4-003-136-226-010	GARCIA ELEUTERIO R	4619 W PICACHO AVE	LAS CRUCES	NM	88007
21		NM STATE HWY DEPT.	8070 BATAAN MEMORIAL EAST	LAS CRUCES	NM	88012
22		DAC ROAD DEPT.	2025 E. GRIGGS	LAS CRUCES	NM	88001
23		EBID	530 S. MELENDRES	LAS CRUCES	NM	88001



Extra-Territorial Zoning Commission

Thursday, June 16, 2016–6:00pm–County Commission
Chambers

Community Development
Desarrollo Comunitario



Agenda Item #6 Z16-002

Steve Meadows Presenter-Planner

Community Development
Desarrollo Comunitario

Synopsis

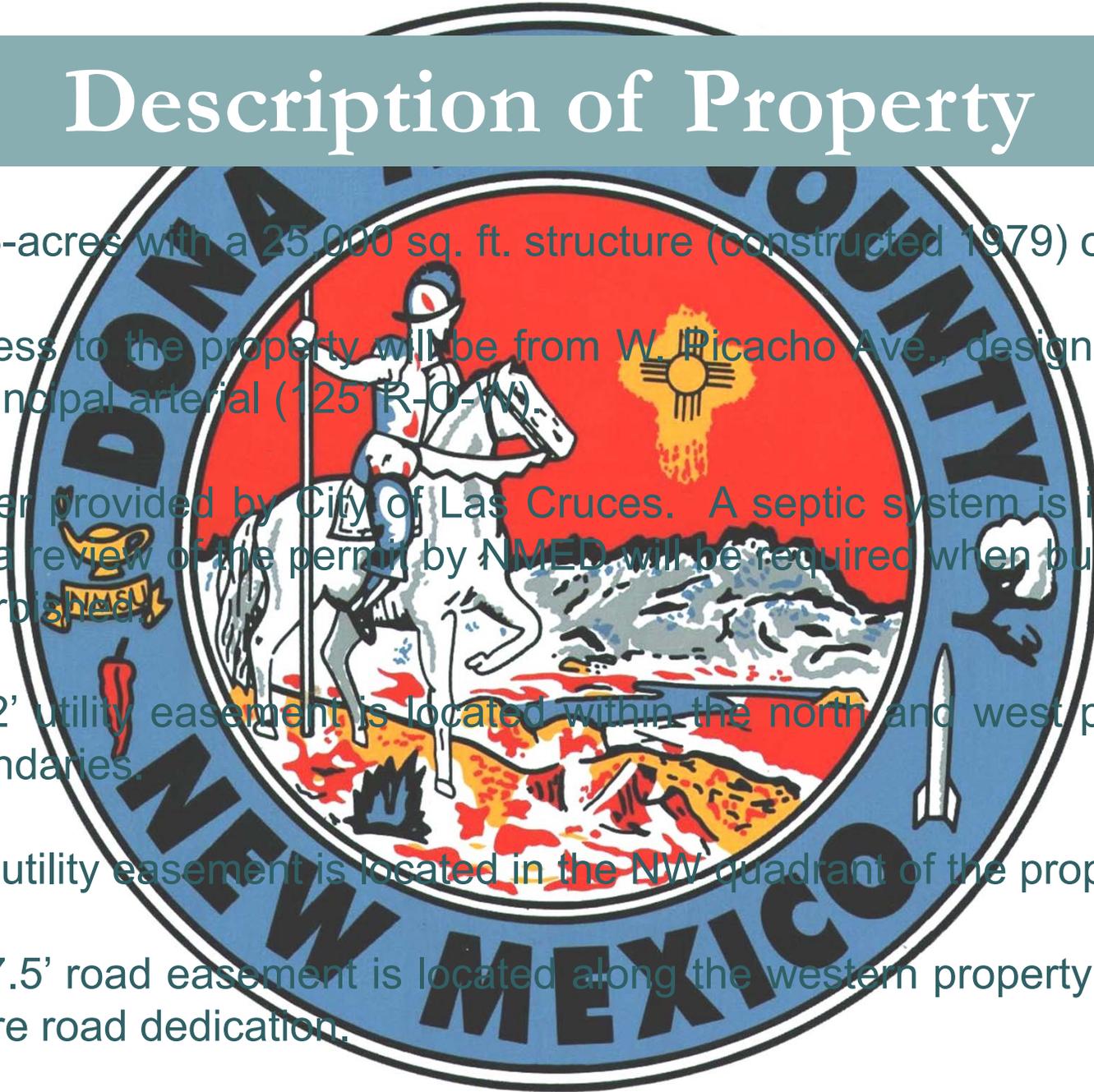
- **Owner/Applicant:** Pecan Brewery, LLC, Steve Peale, Borderland Eng. & Surveys, Agent
 - **Location:** 4581 W. Picacho Ave.
 - **Zoning:** EI1 (Light Industrial District, wide variety of light industry, fabricating, processing, wholesale distributing and warehousing uses)
 - **Request:** Zone Change to EI3 (Special Industrial District, 5,000 sq. ft. minimum lot size, to provide for a variety of industrial uses that, that, due to the nature of the businesses, may cause some levels of levels of air or noise pollution) on a 3.86-acre parcel.
 - **Purpose:** Zone Change to establish and operate a brewery and tap room (tasting room).
- *Due to only 5 ETZ Commission members in attendance on May 19 the case was postponed to June 16, 2016, at 6:00 pm in the Commissioners Chambers by a vote of 5-0-0.*

Zoning Map

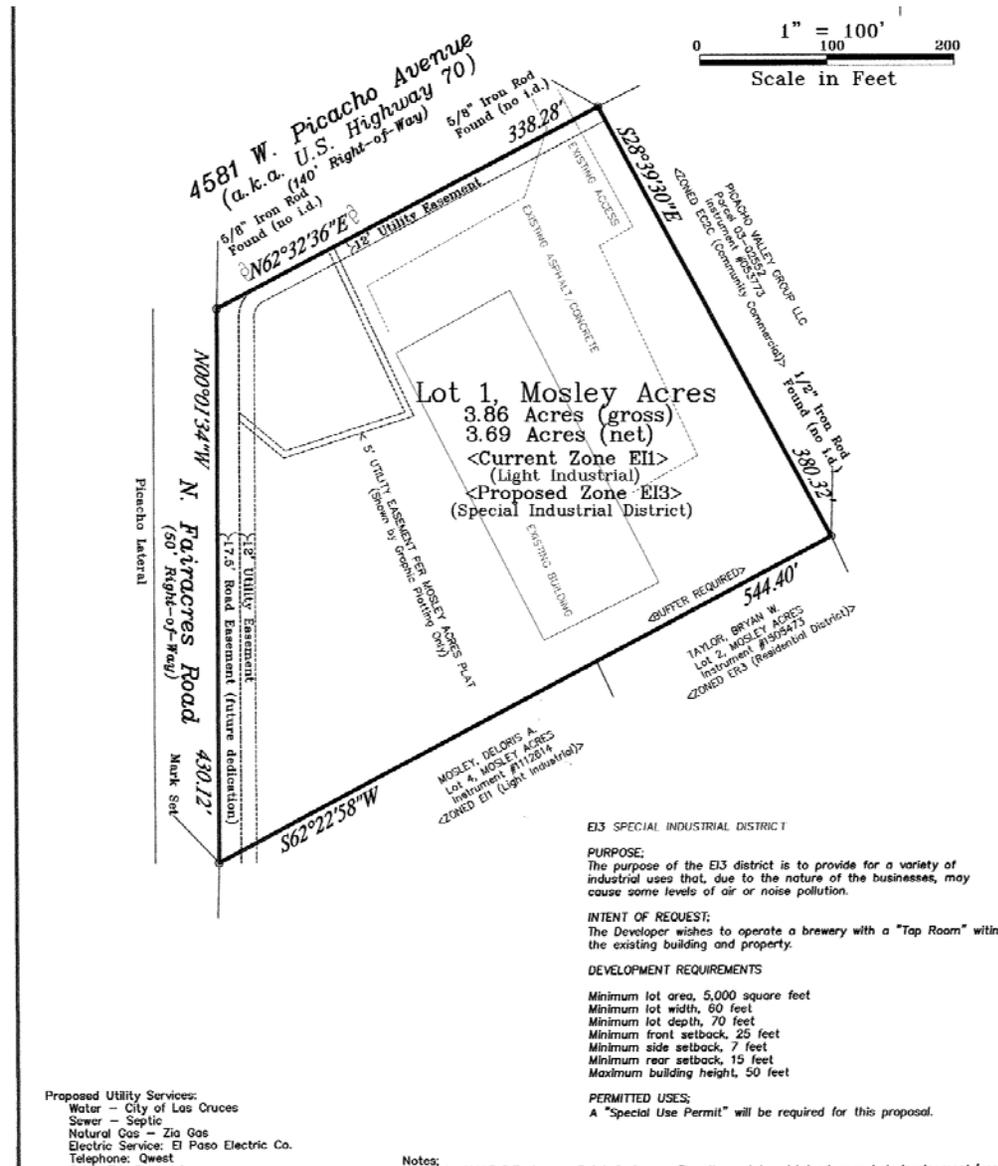


Description of Property

- 3.86-acres with a 25,000 sq. ft. structure (constructed 1979) on site.
- Access to the property will be from W. Picacho Ave., designated as a principal arterial (125' R-O-W).
- Water provided by City of Las Cruces. A septic system is in place but a review of the permit by NMED will be required when building is refurbished.
- A 12' utility easement is located within the north and west property boundaries.
- A 5' utility easement is located in the NW quadrant of the property.
- A 17.5' road easement is located along the western property line for future road dedication.



Survey of Property



Area of Notification Aerial View



Handwritten signature and text:
Dennis J. Davis
Davis Acre Company
10000 S. 10th St.
Tulsa, Oklahoma 74107
918.438.1234

South View of Entrance



SE View of Building



SW View of Building Loading Docks



SW View of Entrance and Bldg



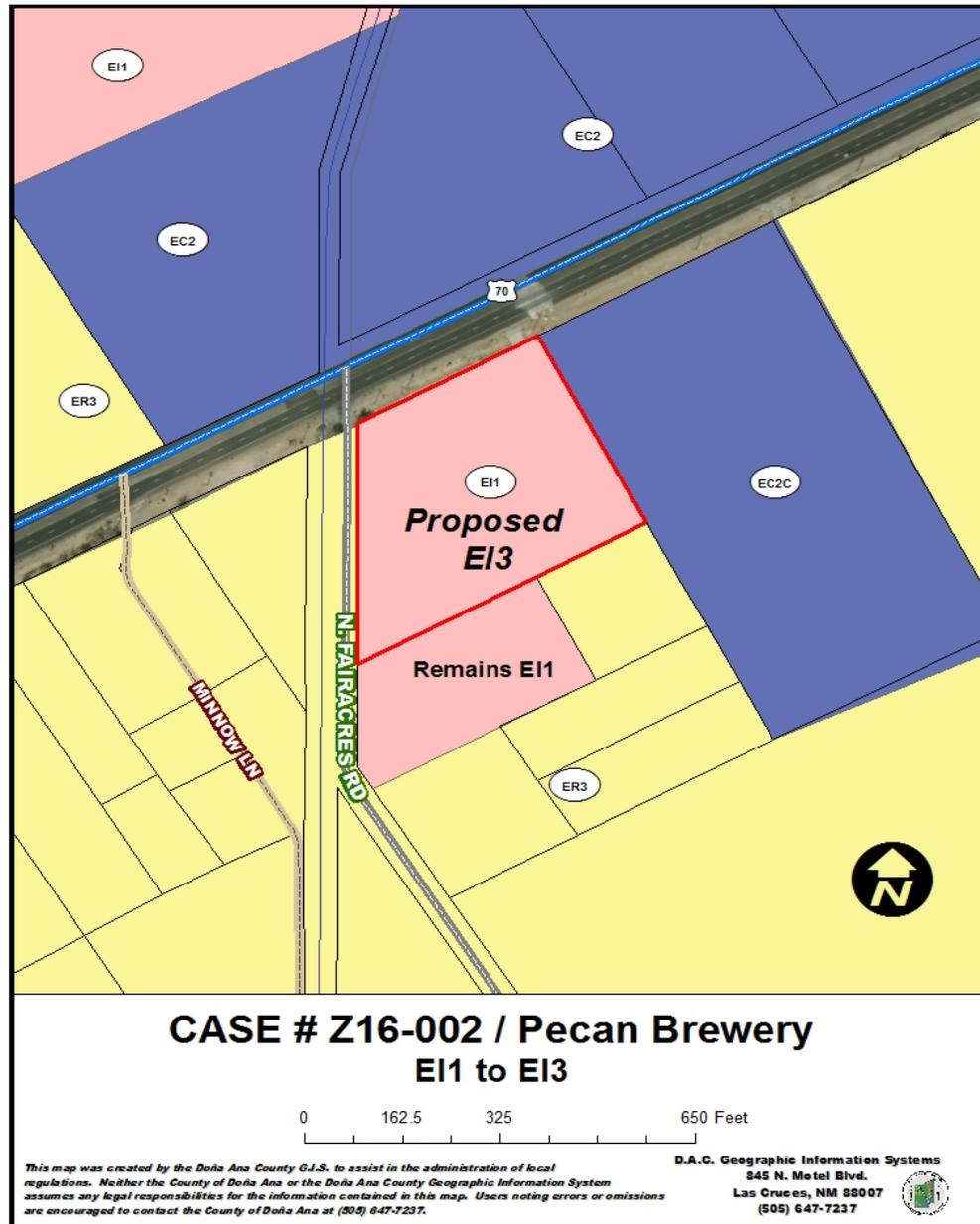
East View of Building



East View of Front of Building



Proposed Zoning Map



Public Notice/Notification

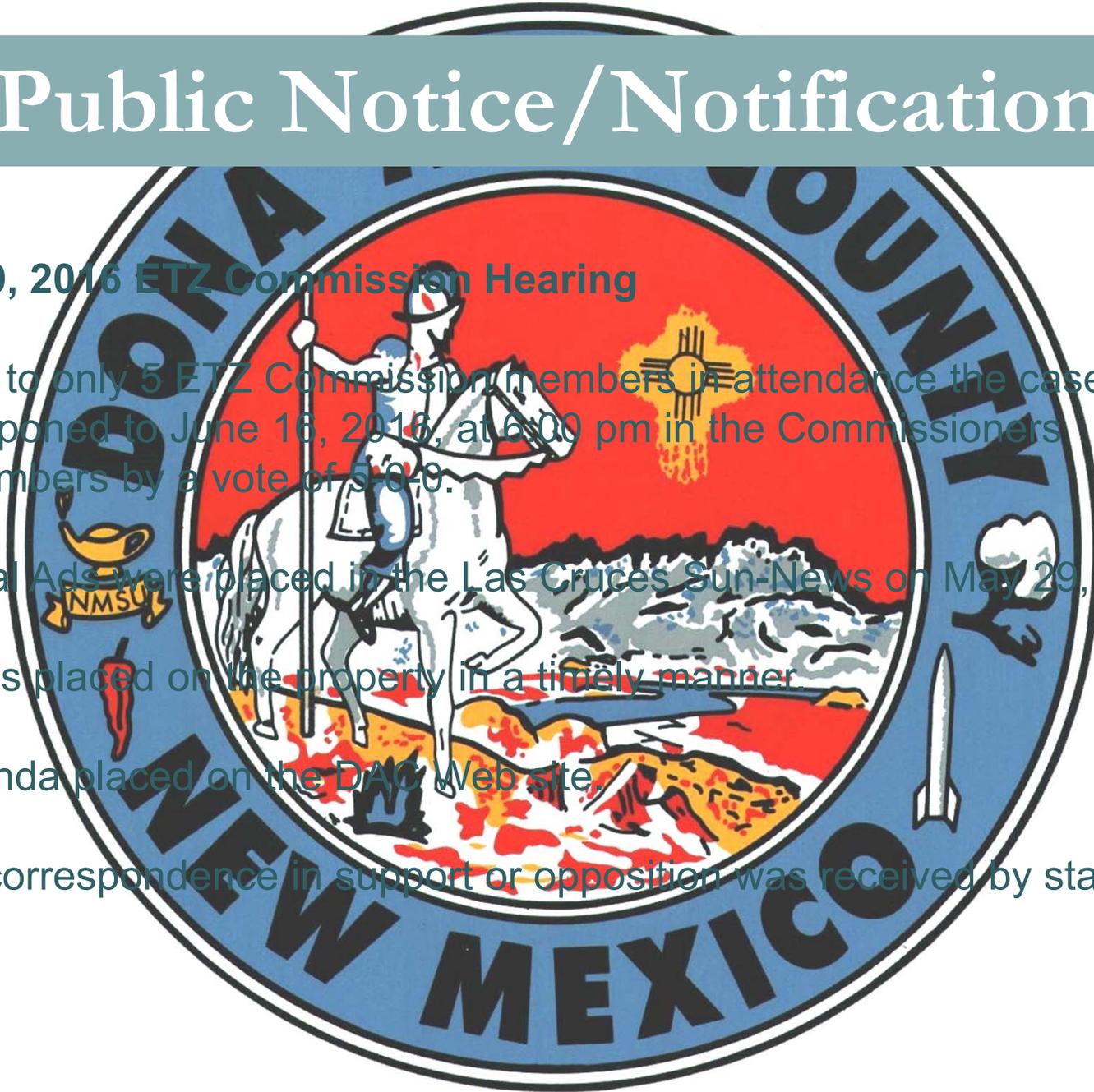
ORIGINAL HEARING DATE

- 22 letters of notification were sent on May 2, 2016, to the Area of Notification.
- Legal Ads were placed in the Las Cruces Sun-News on May 4, 2016.
- Signs placed on the property in a timely manner.
- Agenda placed on the DAC Web site.
- One letter, two emails and two phone calls were received by staff in opposition to the request (Figs. 23-26).
 - *The letter, emails and phone calls were in opposition due to the nature of the business creating traffic problems in their neighborhood and along N. Fairacres Rd., the proximity to the elementary school and the safety of the children, and the proximity to two churches. Concerns also included smells and emissions, noise, lighting issues, increase in local crime, potential drunk drivers, and the reduction in the quality of life for the neighborhood.*

Public Notice/Notification

May 19, 2016 ETZ Commission Hearing

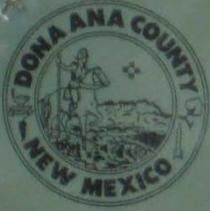
- Due to only 5 ETZ Commission members in attendance the case was postponed to June 16, 2016, at 6:00 pm in the Commissioners Chambers by a vote of 5-0-0.
- Legal Ads were placed in the Las Cruces Sun-News on May 29, 2016.
- Signs placed on the property in a timely manner
- Agenda placed on the DAC Web site
- No correspondence in support or opposition was received by staff.



Area of Notification Map



ETZC Hearing Notification Sign

 **PUBLIC HEARING NOTICE**
Z16-002

CASE NUMBER: _____
LAND USE REQUEST: _____

SUBMITTED BY: _____

The applicants are requesting a Zone Change on a 3.86-acre parcel from E11 (Light Industrial, 5,000 sq. ft. minimum new lot size, wide variety of light industry) to E13 (Special Industrial District, 5,000 sq. ft. minimum new lot size, wide variety of industrial uses that, due to their nature, may cause some levels of air or noise pollution) Zoning. The applicant is requesting the Zone Change to establish a brewery and tap room. The subject property is located west of the City of Las Cruces and south of W. Picacho Ave., within Section 16, Twp 23 South, Rge 1 East. The parcel is addressed as 4581 W. Picacho Ave., Las Cruces, NM 88005. It is described as Lot #1 of the Mosley Acres Subdivision, as recorded in the Office of the Doña Ana County Clerk on January 7, 2005, in Plat Book 21, Pages 98-99. The subject parcel can be further identified by Parcel ID #03-02548. *This case was postponed to this date at the ETZ Commission hearing of May 19, 2016.*

Pecan Brewery, LLC, Borderland Eng. & Surveys, Agent

THIS HEARING WILL TAKE PLACE AT THE DOÑA ANA COUNTY GOVERNMENT CENTER, 845 N. MOTEL BLVD., LAS CRUCES, NM ON DATE: Thurs, June 16, TIME: 6:00 PM
BEFORE THE Extra-territorial Zoning Commission

ALL PERSONS HAVE A RIGHT TO APPEAR AT THIS HEARING. FOR INFORMATION ON THIS CASE, PLEASE CALL THE DOÑA ANA COUNTY COMMUNITY DEVELOPMENT DEPARTMENT AT (575) 647-7350. Para información en español, por favor llame (575) 647-7350. IT IS UNLAWFUL FOR AN UNAUTHORIZED PERSON TO REMOVE OR TAMPER WITH THIS SIGN.

Steve Meadows / 525-6121 Borderland Eng. 5/31
COMMUNITY DEVELOPMENT STAFF /PHONE NUMBER **POSTED BY** **DATE**

Staff Analysis

Zone Change Evaluation Requirements:

- ETZ Ordinance 88-02
- ETZ Comprehensive Plan
- “Miller” Criteria
- Section 2.1.D Evaluation Criteria
- Spot Zone Criteria



Staff Analysis

ETZ Ordinance 88-02

- Section 2.1.A: Zoning Commission and Zoning Authority, Duties and Procedures – Case Z16-002/Pecan Brewery shall be heard by the ETZ Commission for a recommendation to the ETZ Authority.
- Section 2.1.C: Application Procedures – Applicant has complied with application submittal requirements.
- Section 2.1.G: Public Hearing and Notice Requirements – All requirements for public notification have been met.

Staff Analysis

ETZ Comprehensive Plan 2000-2020

- E13 request does meet the following Goals, Policies, and Objectives of the ETZ Comprehensive Plan 2000-2020 (Page 14):
 - Policy 7.1.0: *Where appropriate, consider allowing development with the urban character generally found in close proximity to the corporate limits of the City of Las Cruces, or within the two-mile area adjacent to the City of Las Cruces, that is suitable for urban development. **The subject parcel is within the two-mile area adjacent to the City of Las Cruces. It abuts other commercial and industrial properties and uses and would not be out of character with the industrial uses in the immediate area and along the W. Pisacho Ave. corridor.***

Staff Analysis

ETZ Comprehensive Plan 2000-2020 (cont.)

- EI3 request does meet the following Goals, Policies, and Objectives of the ETZ Comprehensive Plan 2000-2020 (Page 14):
- Program 8.1.1: Development of industrial sites shall be encouraged to locate on existing or planned arterial or collector streets or in planned industrial parks. *Requested Zone Change is located on W. Picacho Ave. (Hwy 70) a designated principal arterial road.*
 - Objective 8.2: Support, maintain and assist growth and expansion of the region's existing business, industrial and agricultural economic base. *This request will assist in the expansion of jobs in the brewing industry in Doña Ana County.*

Staff Analysis

ETZ Comprehensive Plan 2000-2020 (cont.)

- El3 request does meet the following Goals, Policies, and Objectives of the ETZ Comprehensive Plan 2000-2020 (Page 14):
 - Policy 8.3.3: The County should encourage development of businesses which can be integrated into the ETZ without adverse impacts on the County's resources. *This proposed use will not adversely impact the County's resources, no additional infrastructure is anticipated.*
- *Request meets the above Goals, Policies, and Objectives of the ETZ Comprehensive Plan 2000-2020.*



Staff Analysis

“Miller” Criteria

The Supreme Court of New Mexico, *Miller versus Albuquerque*, September 9, 1976, stated: *“The fundamental justification for an amendatory or repealing zoning ordinance is a change of conditions making the amendment or repeal reasonably necessary to protect the public interest. Also, a zoning amendment may cover and perfect previous defective ordinances or correct mistakes or injustices therein.”*

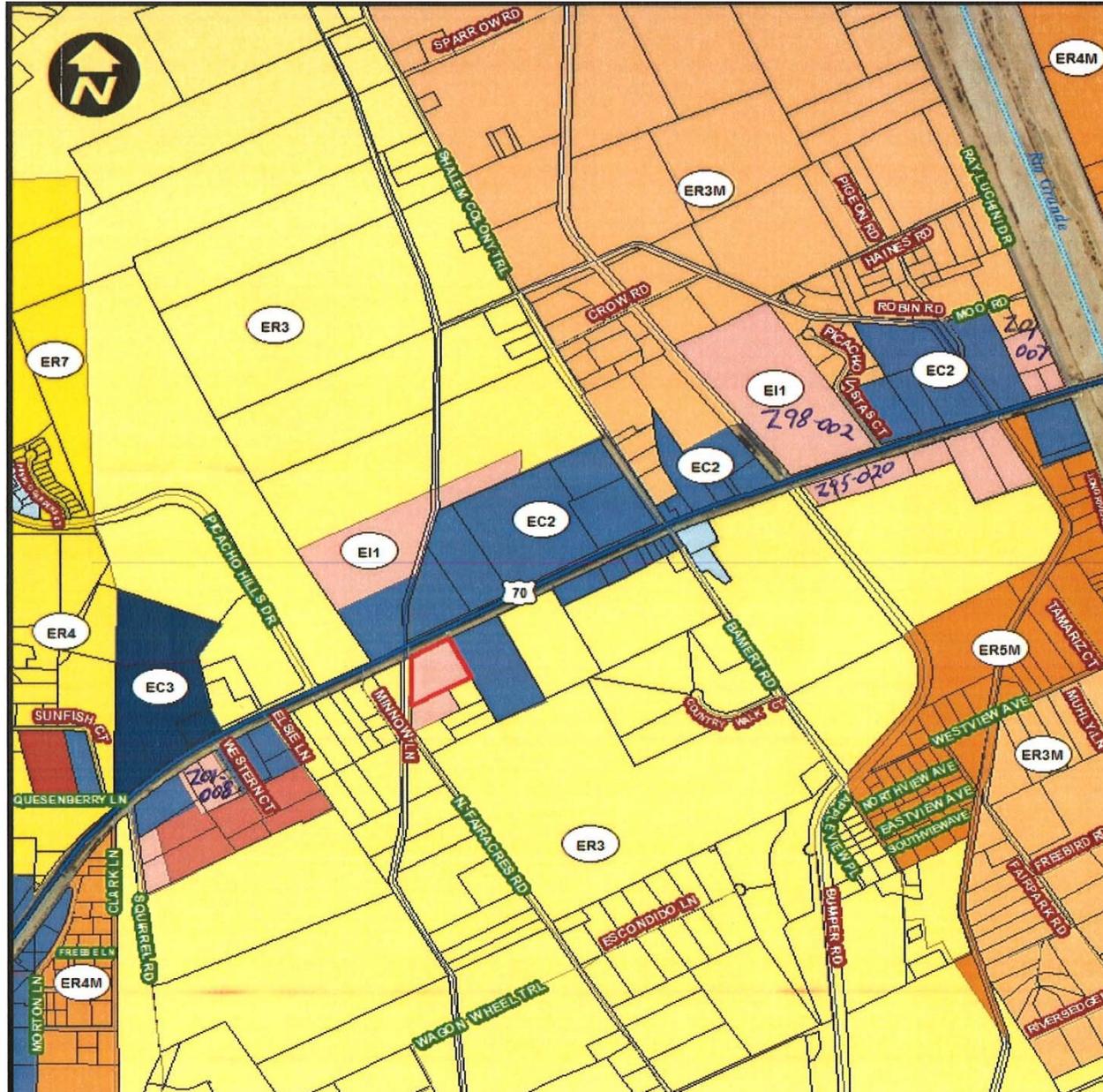
Staff Analysis

“Miller” Criteria

- The proposed Zone Change and use is consistent with the character of zones and uses along the W. Picacho Ave. corridor.
- The industrial and commercial zoning and uses in the area would be compatible with the proposed zone.
- There have been Zone Changes to properties along W. Picacho Ave. (Hwy 70) to industrial zones including Z95-020/Kelley, Z020/Kelley, Z98-002/Oxford, Z01-007/Navarro, and Z01-008/Perry.
- These area Zone Changes demonstrate that a “change in conditions” has occurred and make it necessary to protect the public with the approval of this Zone Change request.

➤ **Does meet the “change of conditions” criteria:**

W. Picacho Ave. Zone Changes



City of San Diego
Planning & Community Development
2014

Area Industrial Zoning/Uses



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Area Industrial Zoning/Uses



Area Industrial Zoning/Uses



Area Industrial Zoning/Uses



Area Industrial Zoning/Uses



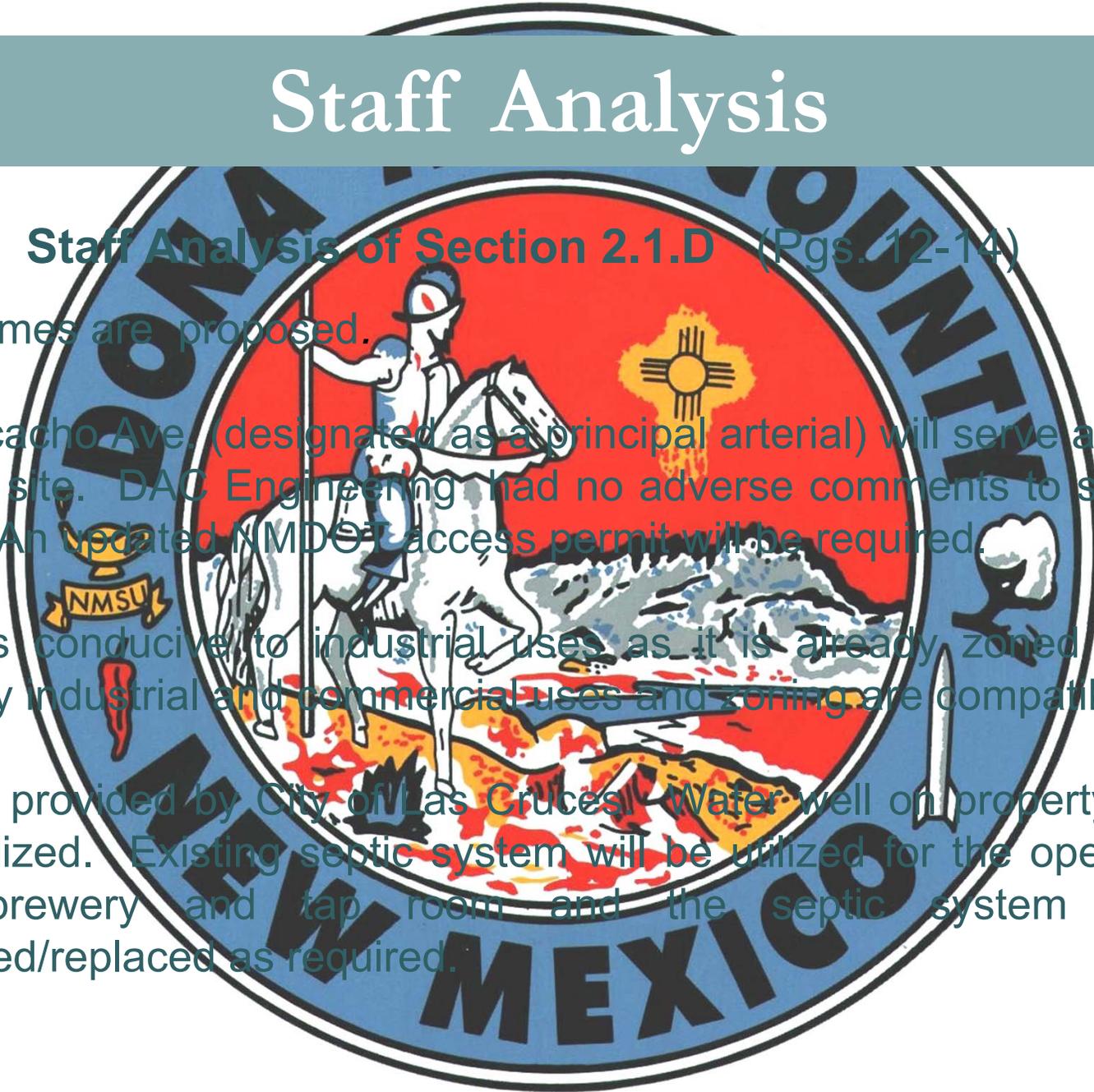
Adjacent Commercial Use



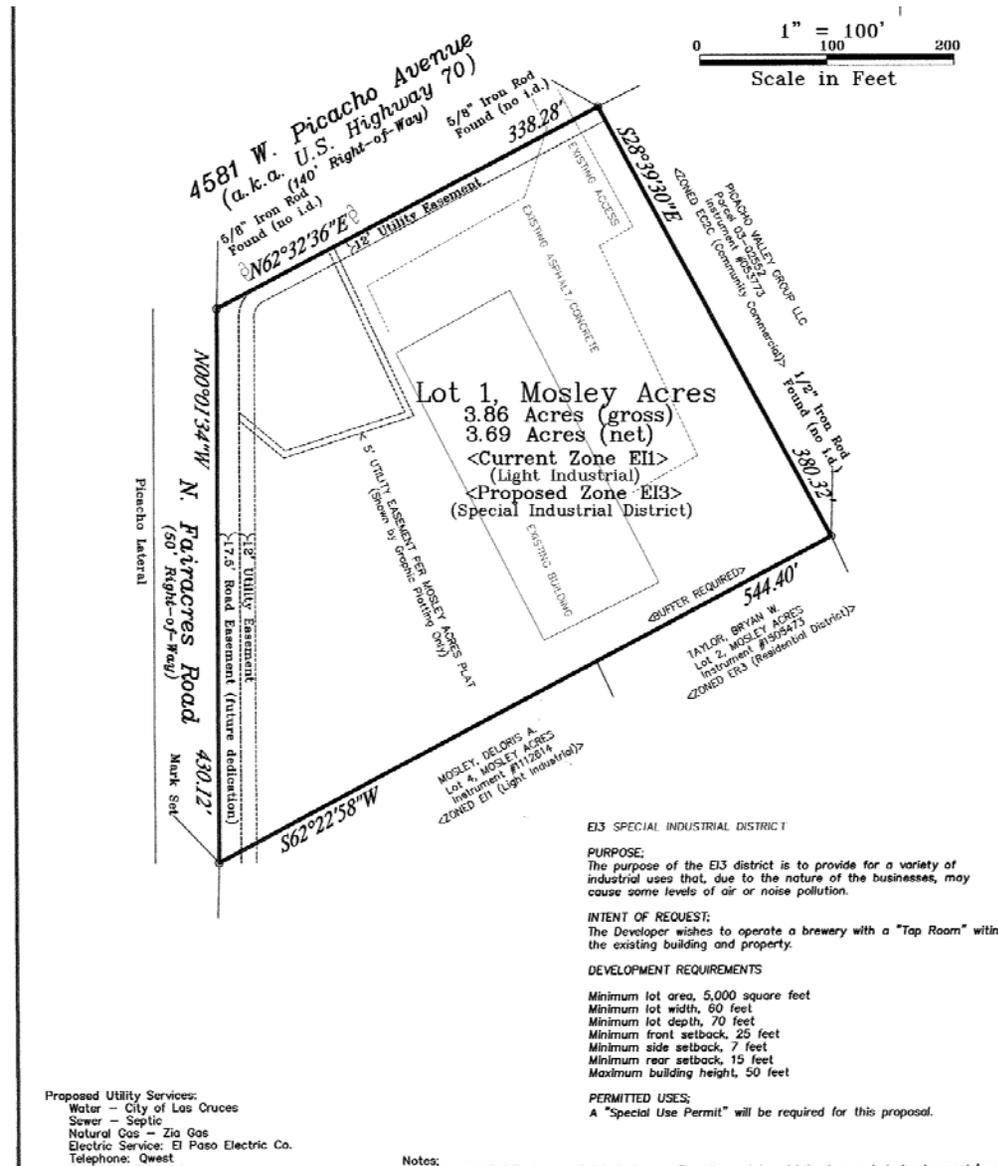
Staff Analysis

Staff Analysis of Section 2.1.D (Pgs. 12-14)

1. No homes are proposed.
2. W. Picacho Ave. (designated as a principal arterial) will serve as access to the site. DAC Engineering had no adverse comments to submitted STA. An updated NMDOT access permit will be required.
3. Site is conducive to industrial uses as it is already zoned EI1 and nearby industrial and commercial uses and zoning are compatible.
4. Water provided by City of Las Cruces. Wafer well on property will not be utilized. Existing septic system will be utilized for the operation of the brewery and tap room and the septic system will be updated/replaced as required.



Survey of Property



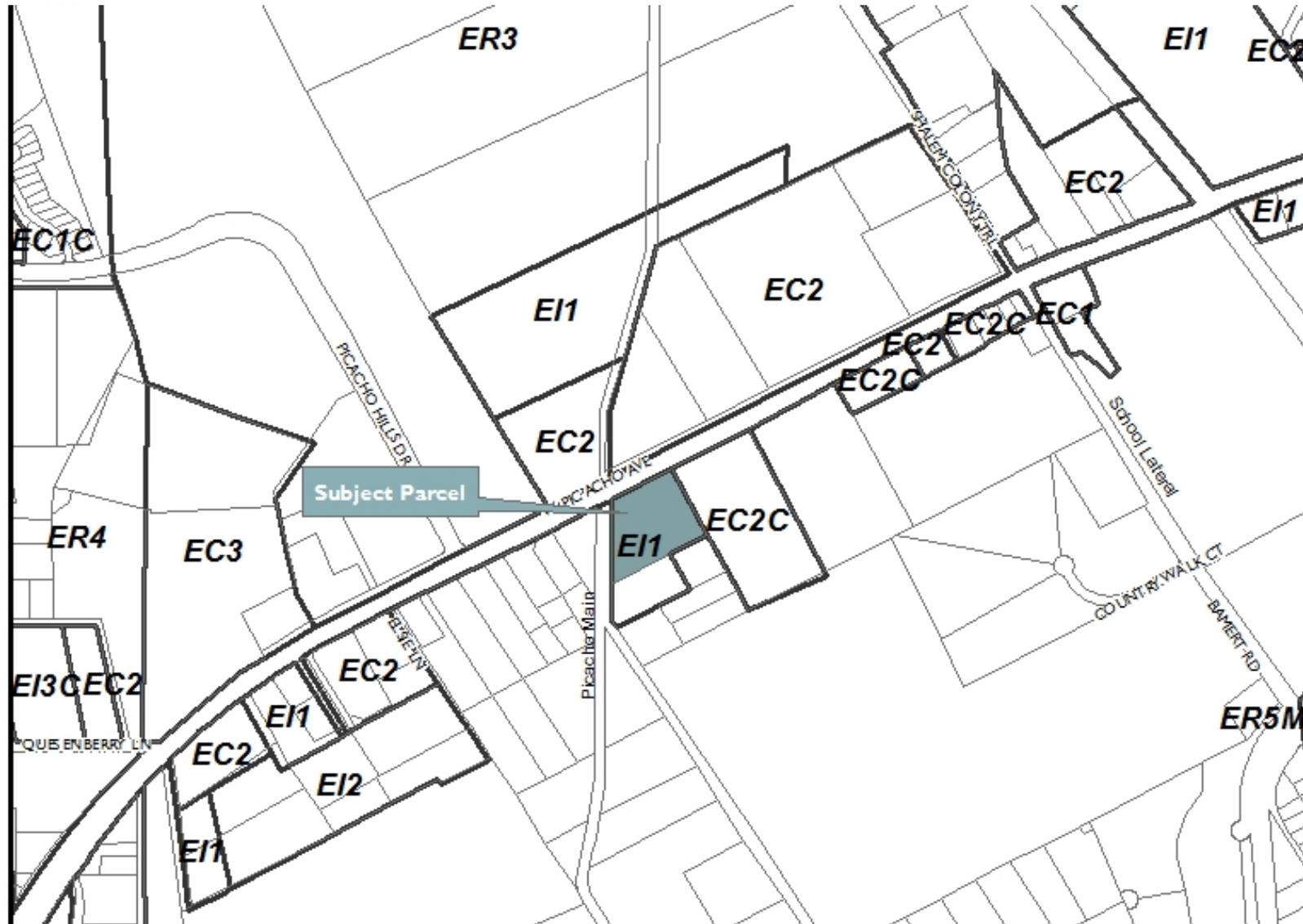
East View of W. Picacho Ave.



West View of W. Picacho Ave.



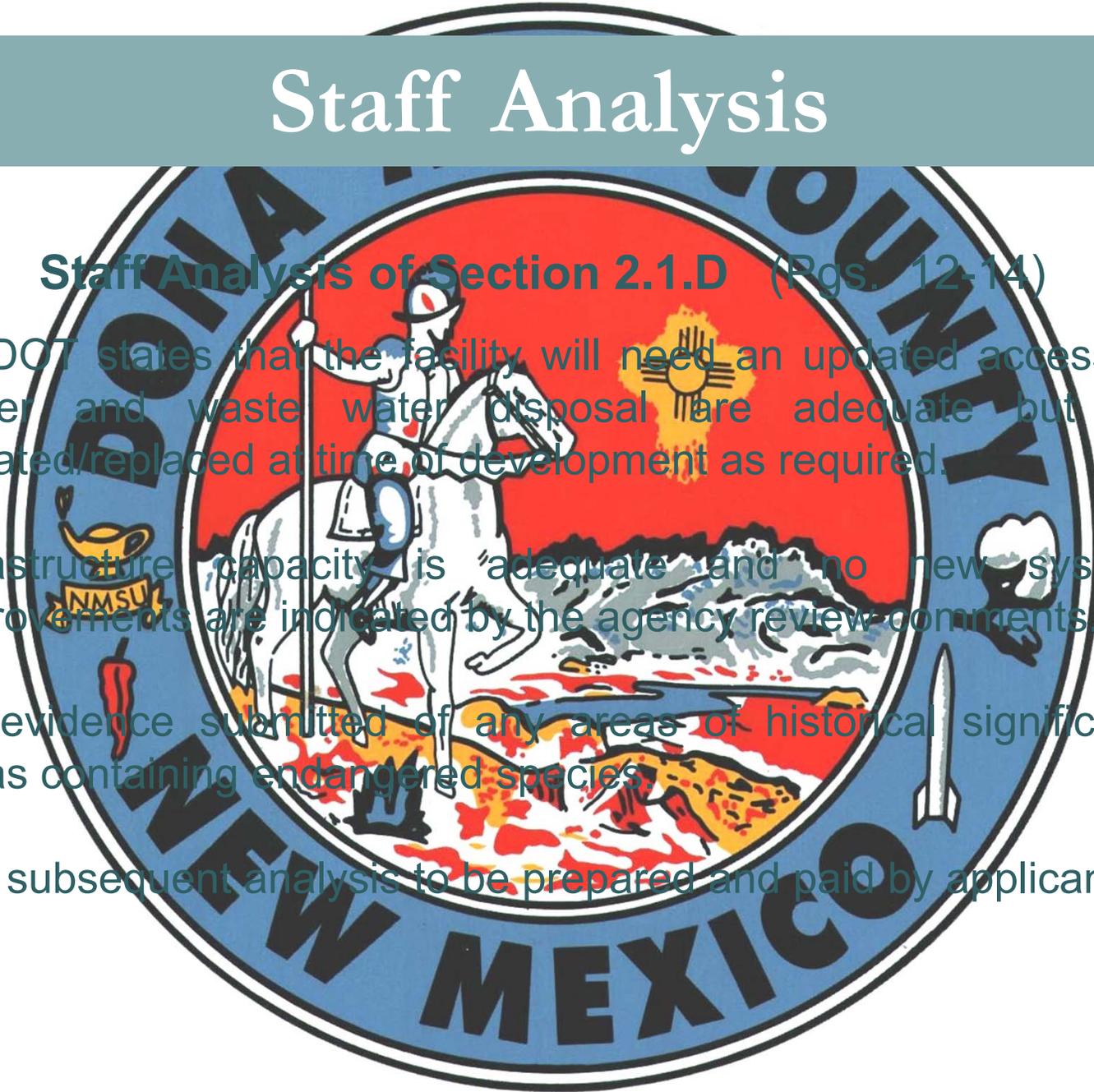
Area Zoning Map



Staff Analysis

Staff Analysis of Section 2.1.D (Pgs. 12-14)

5. NMDOT states that the facility will need an updated access permit. Water and waste water disposal are adequate but will be updated/replaced at time of development as required.
6. Infrastructure capacity is adequate and no new systems or improvements are indicated by the agency review comments.
7. No evidence submitted of any areas of historical significance, or areas containing endangered species.
8. Any subsequent analysis to be prepared and paid by applicant.

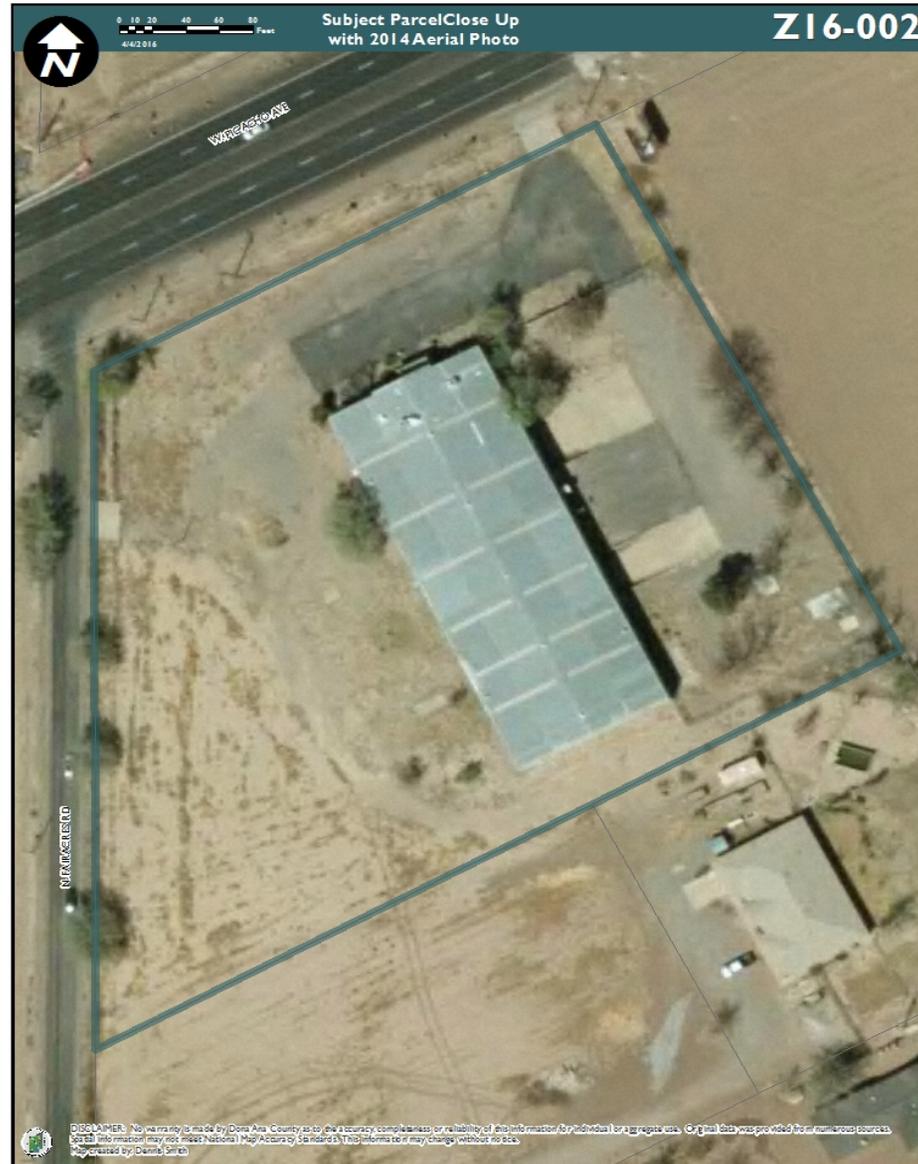


Staff Analysis

Staff Analysis of Section 2.1.D (Pgs. 12-14)

9. Minimal impact to the surrounding properties as the proposed use is compatible with the area uses and zoning.
 - Impacts to the south are mitigated by the intervening E11 Zoning District and required buffering.
 - N. Fairacres Rd. and the EBID Picacho Drain, on the west property line, provide buffering to the residential area to the west of the subject property.
 - EC2c Community Commercial District abutting the east property line is currently utilized for agriculture providing a buffer to the elementary school east of the EC2c Zoning District.
 - The subject parcel is approximately 440' from the elementary school and outside of the 300' minimum distance between a school and a facility producing alcohol products as required by New Mexico Statute Section 60-6B-10, NMSA 7.1.2015.
 - Submitted STA (Page 22) indicates 12 PM Peak Hour trips entering and 6 PM Peak Hour trips based on a 1,500 sq. ft. public tap room area. Engineering staff made no additional comments concerning the

Zoom-in Aerial of Parcel



Map of Dona Ana County, New Mexico

South View of EBID Ditch



SE View of Adjacent Residences



South View of Adjacent Residences



West View of Nearby Residence



SE View of Adjacent EC2c & School



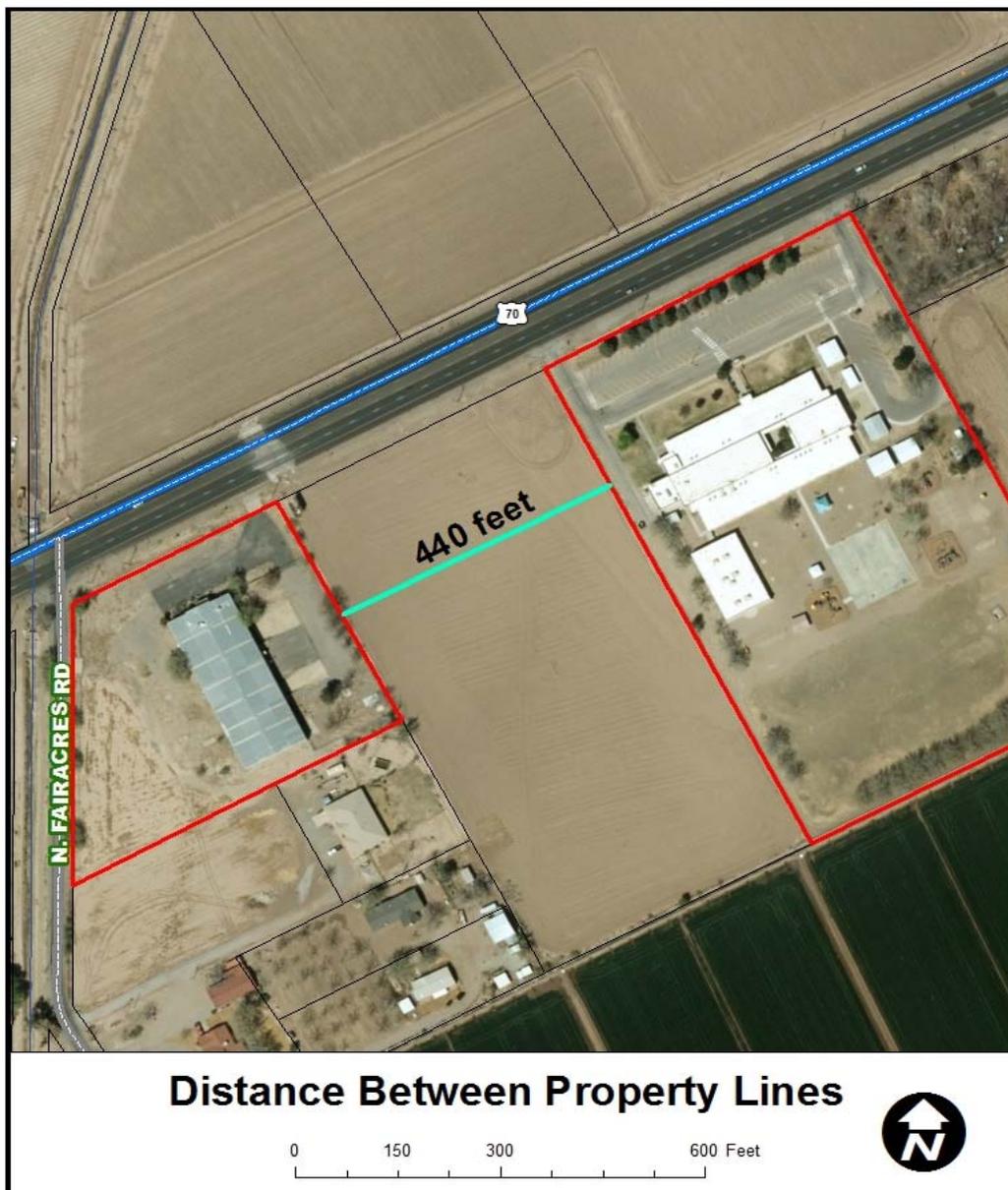
SW View of EC2c & Subject Parcel



East View of EC2c & School



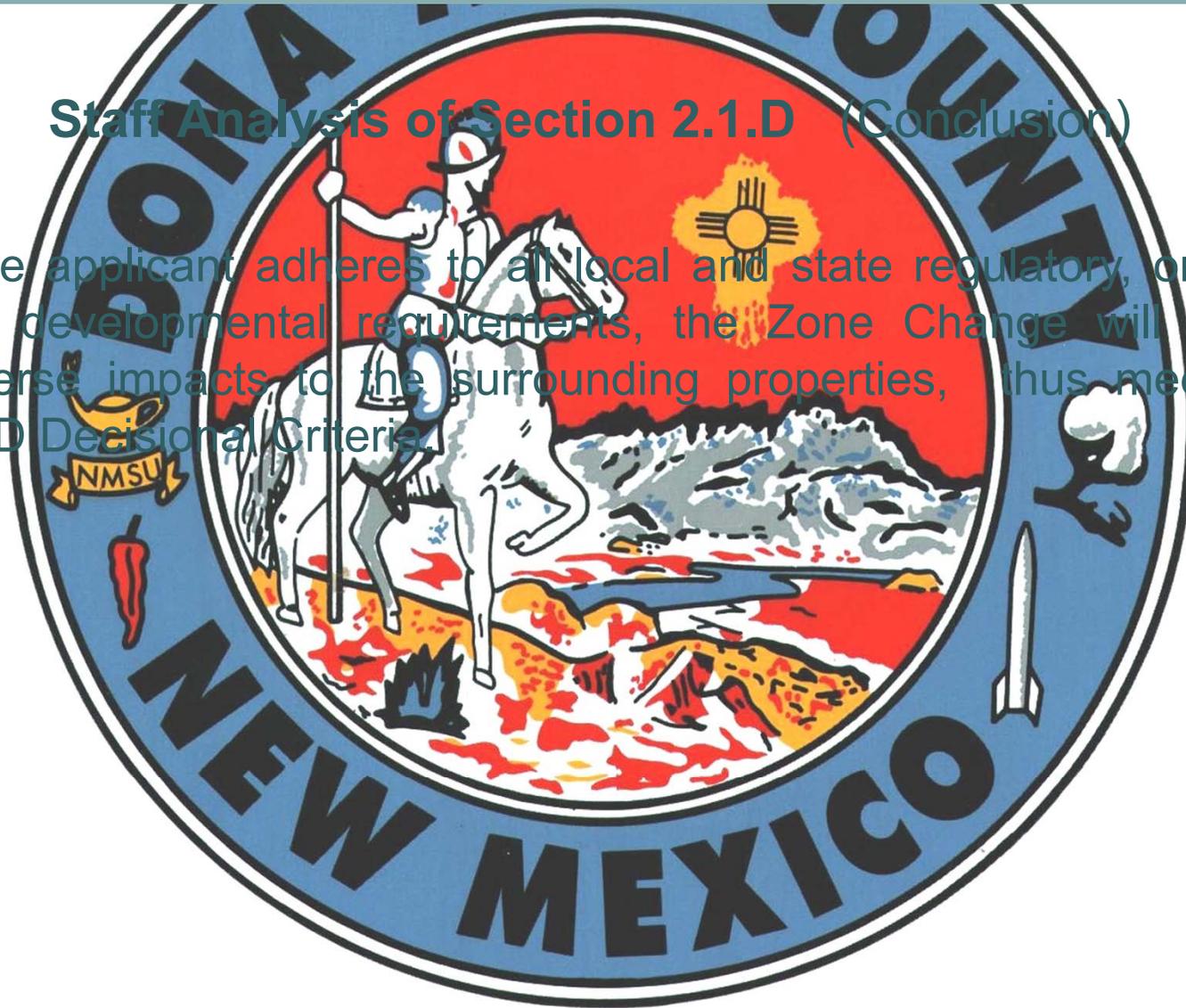
Distance Between Property and School



Staff Analysis

Staff Analysis of Section 2.1.D (Conclusion)

- If the applicant adheres to all local and state regulatory, ordinance, and developmental requirements, the Zone Change will have no adverse impacts to the surrounding properties, thus meeting the 2.1.D Decisional Criteria.



Staff Analysis

Spot Zone

Spot Zoning (*Bennett v. City Council For City of Las Cruces*, 1999-NMCA-15, 126 N.M. 619) is determined on an ad hoc basis, considering:

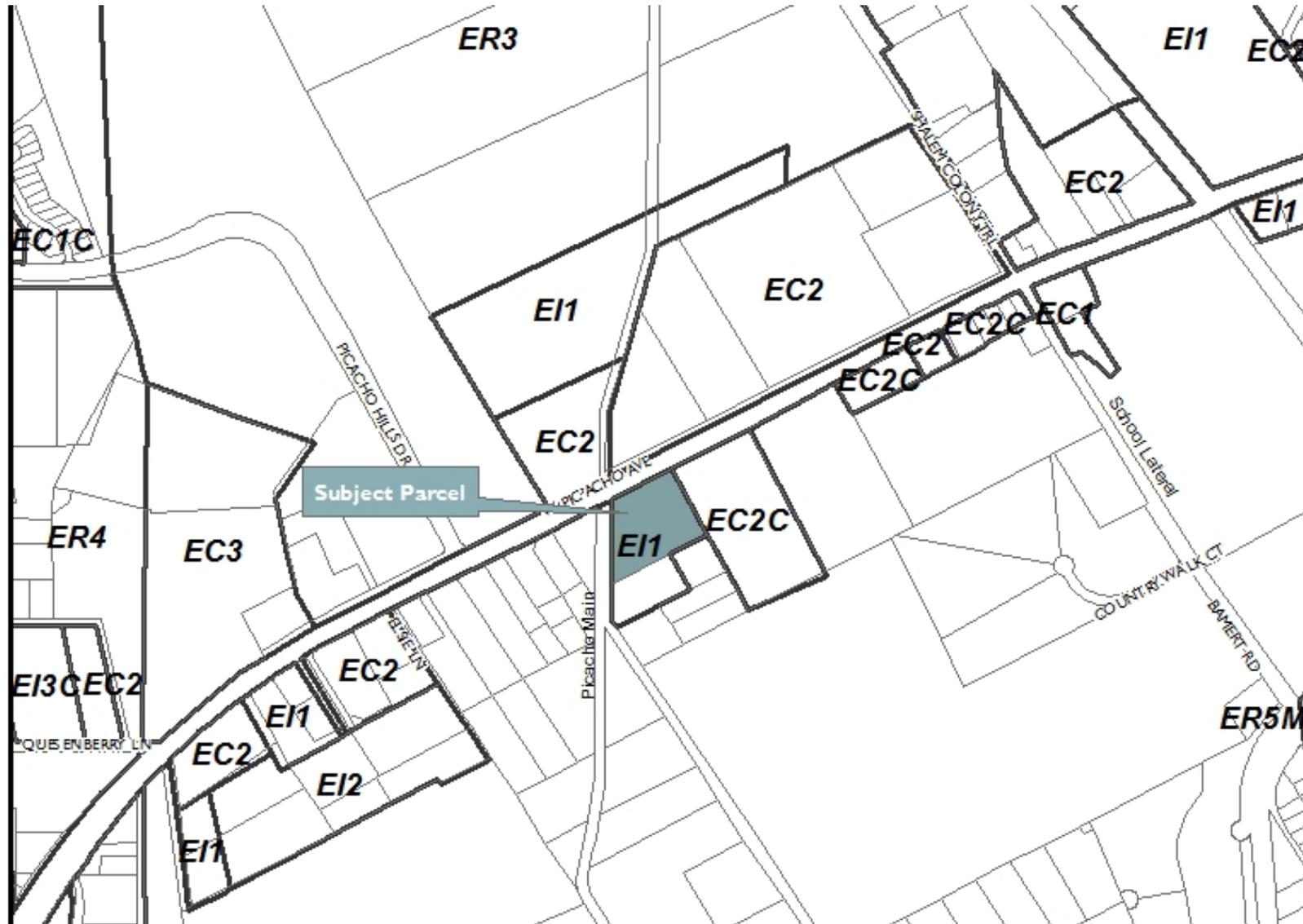
- the disharmony with the surrounding area,
- the size of the area rezoned; and
- the benefit of the rezoning to the community or the owner of the parcel.

Staff Analysis

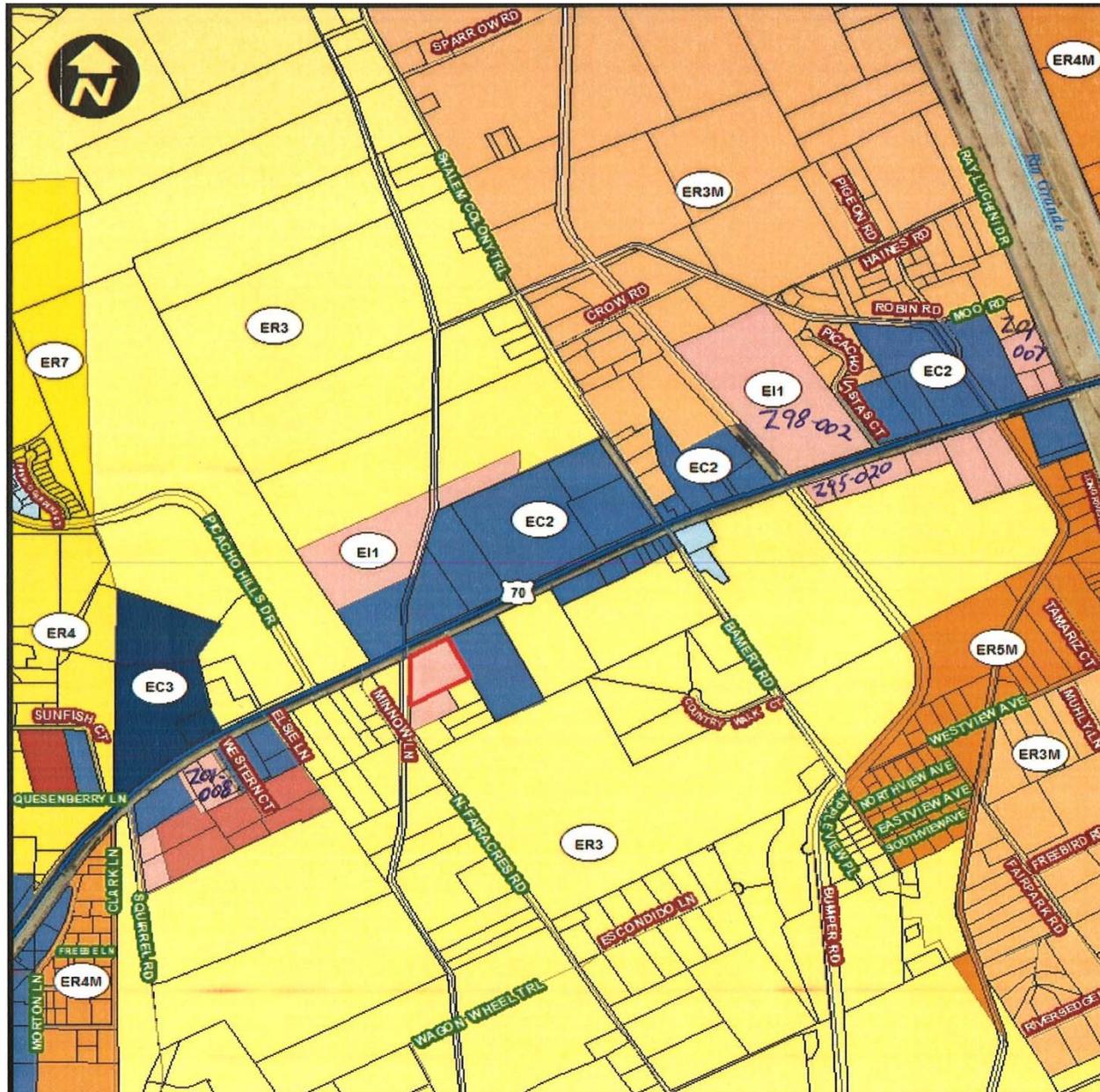
Spot Zone

- The proposed zone change **would not** be considered a “spot zone” per the 1999 Bennett ruling (Page 14).
 - The applicants request for E13 zoning would be in harmony with the industrially zoned properties in the immediate area and along the W. the W. Pinarcho Ave. corridor.
 - If approved, the facility would benefit the general public as it would assist in expanding this type of business in the County without adverse impacts to County resources and add employment opportunities for the area.
 - The 3.86-acres would be a large enough of an area to not be considered a spot zone as the parcel is already zoned E11 Light Industrial District and other area industrially zoned properties are smaller than the subject parcel.
- **These findings provide the basis that the proposed Zone Change would not be considered a “spot zone” per the 1999 Bennett ruling.**

Zoning Map



W. Picacho Ave. Zone Changes



Staff Analysis

Staff Findings

1. The subject property is located outside the corporate limits of the City of Las Cruces, but within the five-mile Extra-territorial Zone (ETZ) as set forth by 3-19-511, NMSA 1978 and the Joint Powers Agreement between Dona Ana County and the City of Las Cruces. Therefore, the Las Cruces ETZ Commission (ETZ-C) has jurisdiction to review this case.
2. The proposed Zone Change Request does meet Policy 7.1.1, Program 8.1.1.1, Policy 8.2 and Policy 8.3.3 of the Goals, Policies, and Objectives of the ETZ Comprehensive Plan 2000-2020.
3. The Zone Change request does satisfy the 2.1.D Evaluation Criteria of the ETZ Ordinance.
4. The Zone Change would be in harmony with industrially zoned properties in the area, would benefit the public with increased employment opportunities, and at 3.86-acres is a large large enough area to not be considered a spot zone.

Staff Analysis

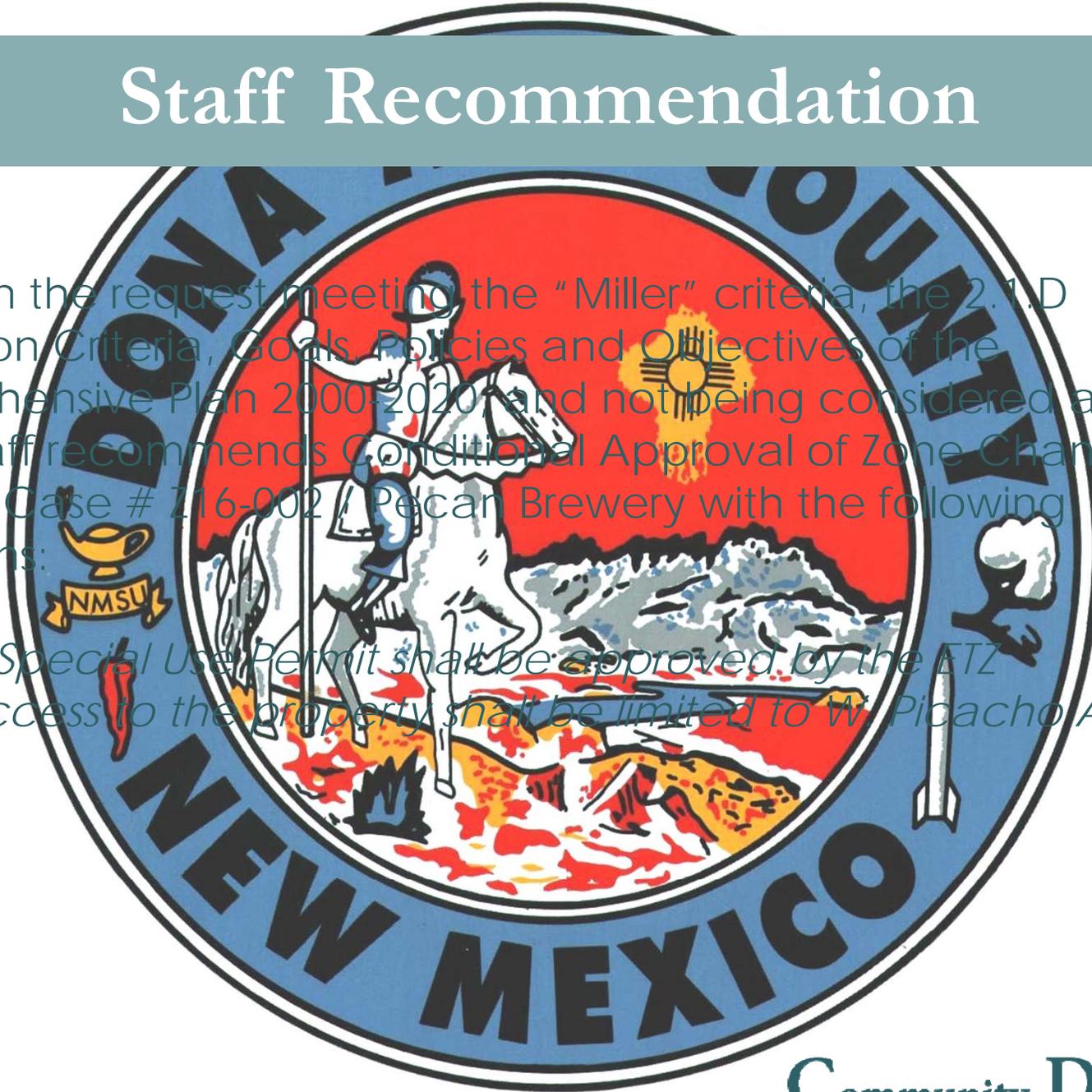
Staff Findings

5. Per the "Miller Criteria," the E13 Zone Change request does meet the change of conditions criteria, as there have been Zone Changes approved for industrial zoning in the area along the W. W. Picacho Ave. transportation corridor.
6. The applicant has overcome the presumption that the existing existing zoning is the most appropriate and the Zone Change is necessary to protect the public.
7. A Special Use Permit is required to be approved by the ETZ Commission per Section 3.1.0.4.4 of the ETZ Ordinance for breweries.

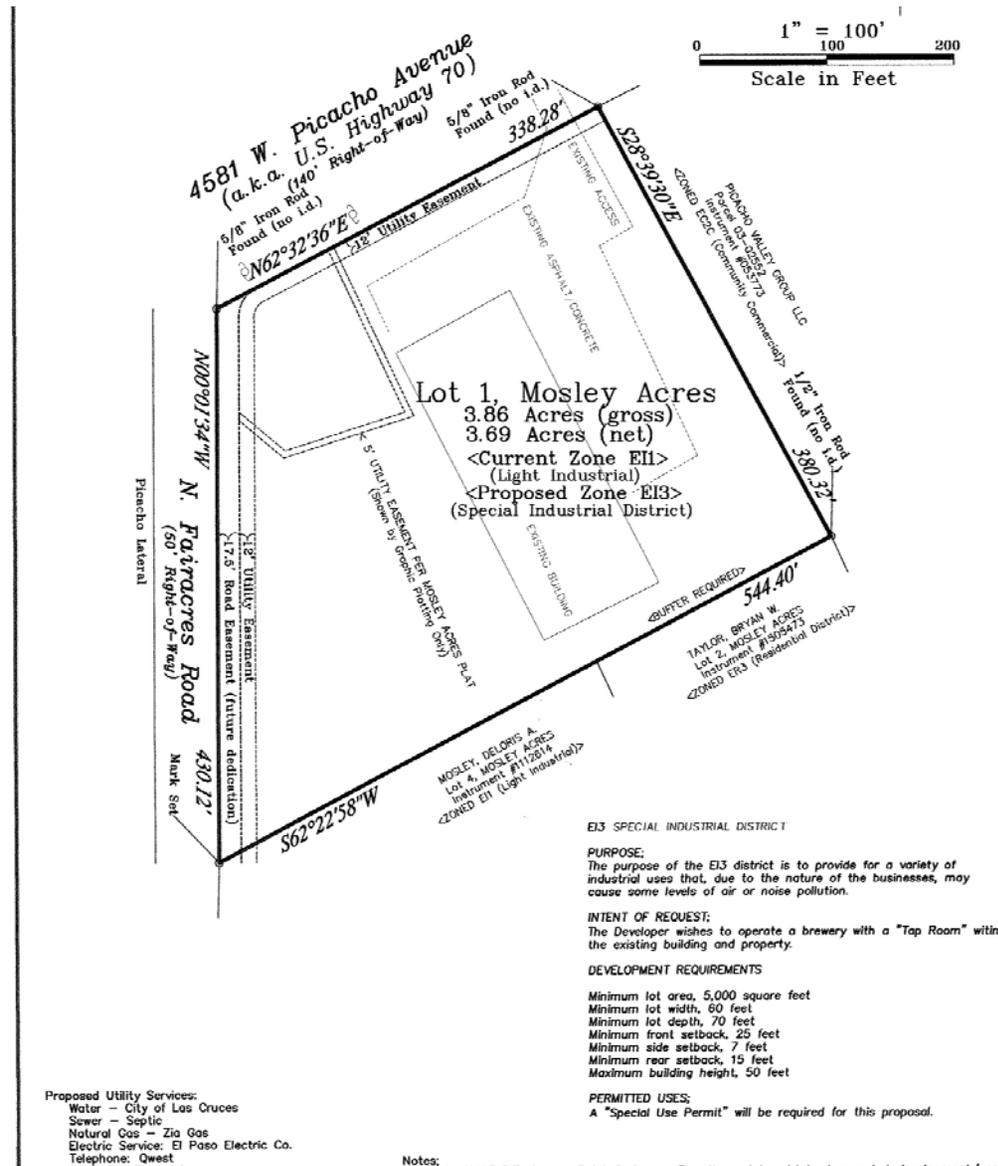
Staff Recommendation

Based on the request meeting the "Miller" criteria, the 2.1.D Evaluation Criteria, Goals, Policies and Objectives of the Comprehensive Plan 2000-2020 and not being considered a spot zone, staff recommends Conditional Approval of Zone Change Request Case # Z16-002 Pecan Brewery with the following conditions:

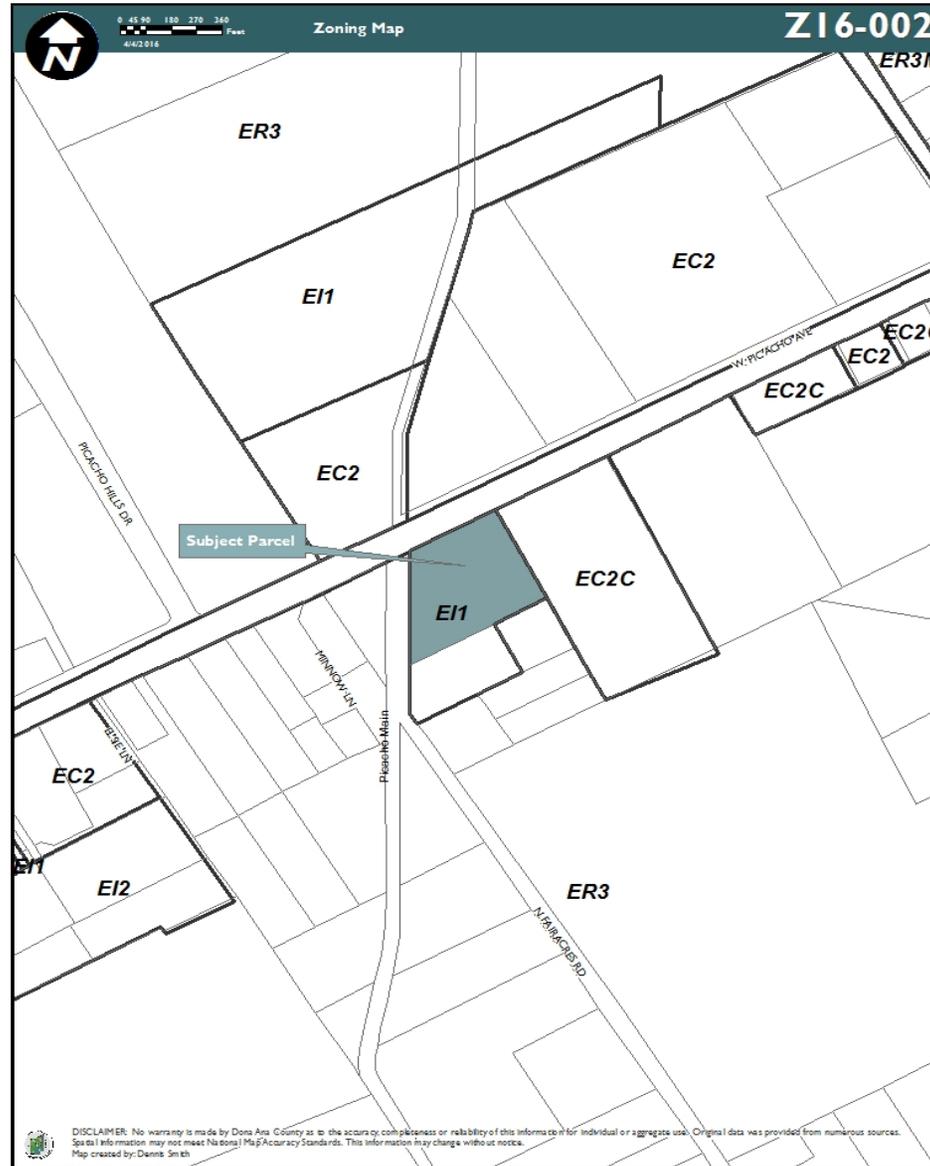
1. *A Special Use Permit shall be approved by the ETZ*
2. *Access to the property shall be limited to W. Picacho Ave.*



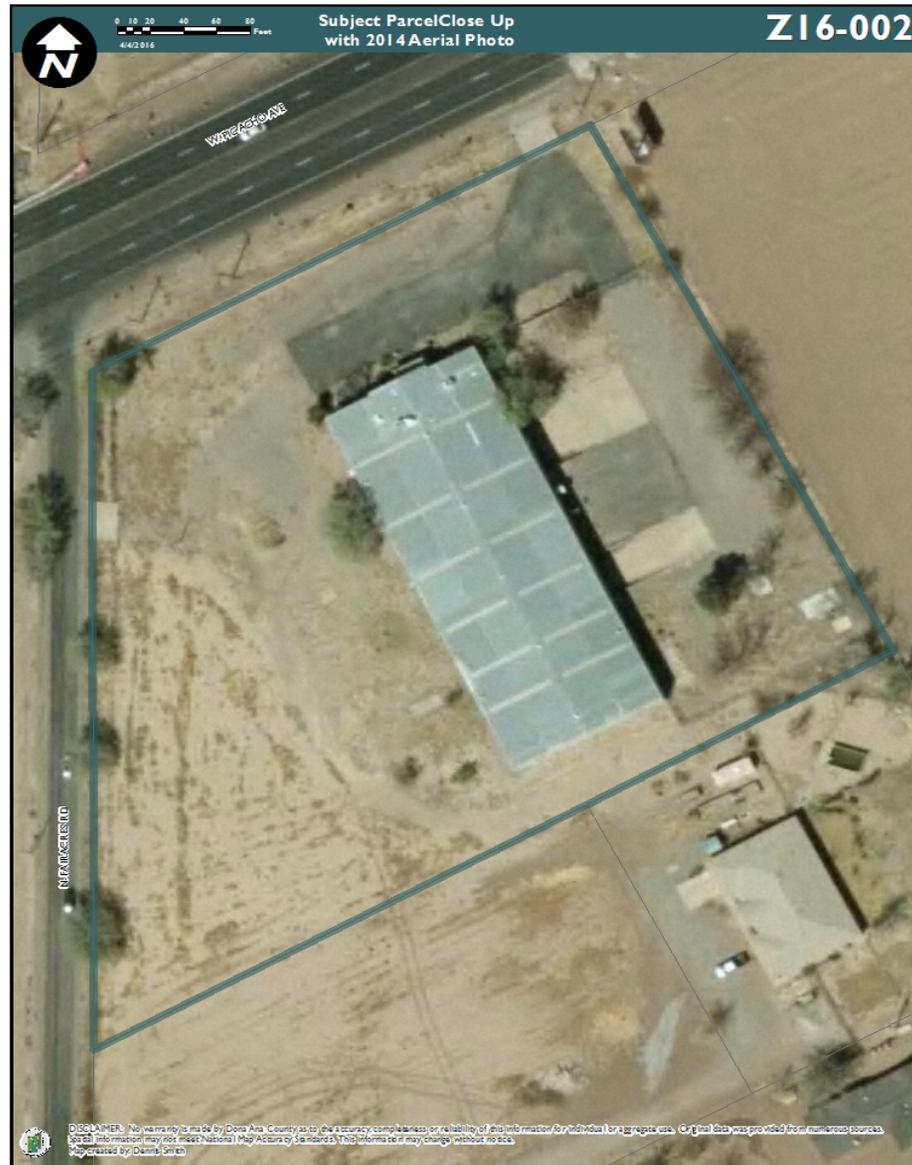
Survey of Property



Zoning Map



Zoom-in Aerial of Parcel



Area of Notification Map

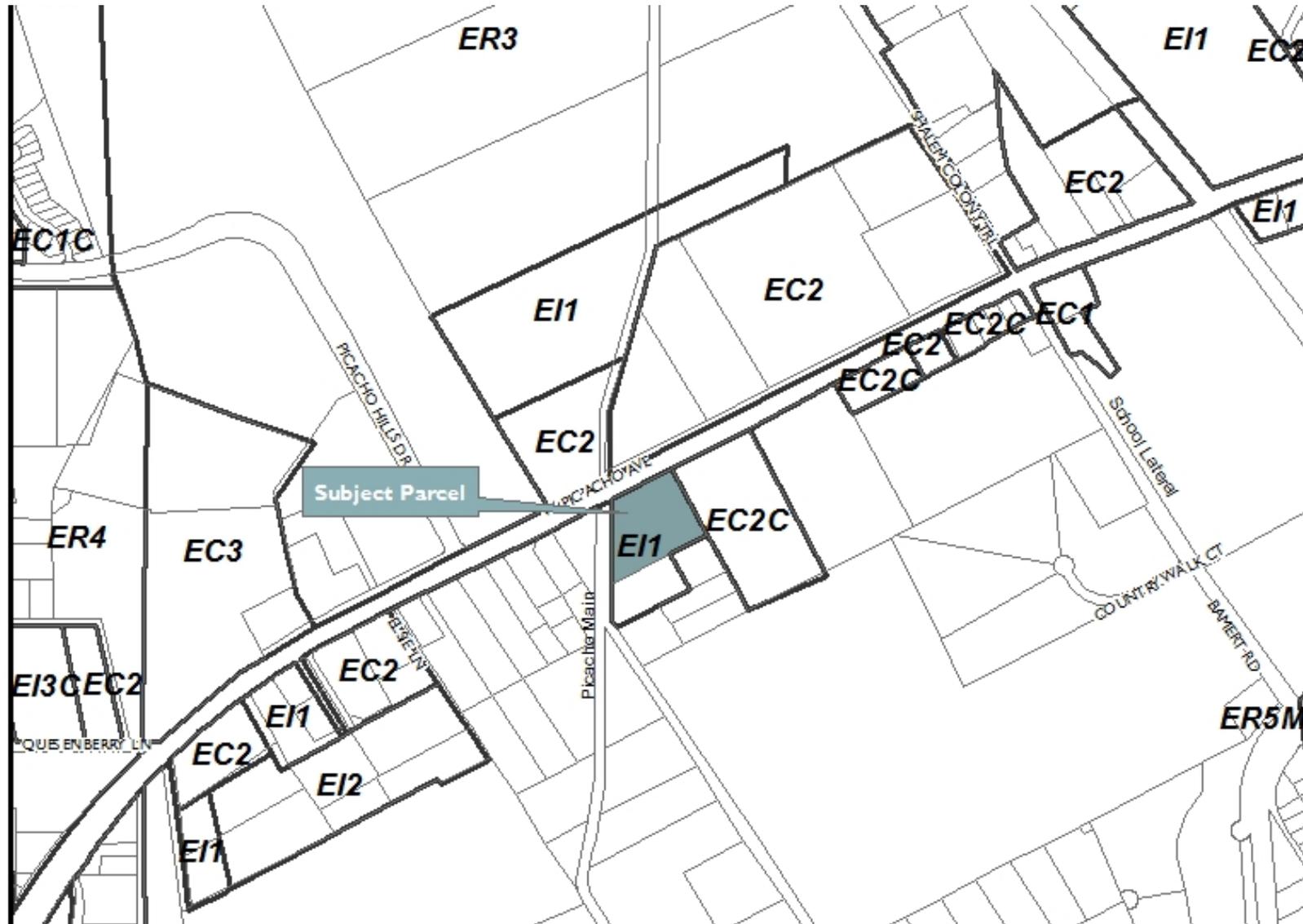


Area of Notification Map

CODE	MAP_CODE	NAME	ADDRESS I	CITY	STATE	ZIP
1	4-003-135-258-420	SCHAFFER FAMILY TRUST	C/O INDUSTRY CONSULTING GROUP INC	DALLAS	TX	75381
2	4-003-135-212-313	SCHUMACHER WILLIAM JAMES SUCC TRSTE	701 S VALLEY DR	LAS CRUCES	NM	88005
3	4-003-135-282-323	JOHNSON RICHARD K JR	925 DALRYMPLE RD	LAS CRUCES	NM	88007
4	4-003-135-256-358	JOHNSON GREG S	432 S FAIRACRES RD	LAS CRUCES	NM	88005
5	4-003-135-317-441	PICACHO VALLEY GROUP LLC	2185 W AMADOR STE I	LAS CRUCES	NM	88005
6	4-003-135-030-240	ISMOND CRISTAN M ET AL CO-TRUSTEES	2225 PEPPER RD	LAS CRUCES	NM	88007
7	4-003-135-232-456	COUNTY OF DONA ANA	845 N MOTEL BLVD	LAS CRUCES	NM	88007
8	4-003-135-222-476	MORALES MARIO	880 MINNOW LN	LAS CRUCES	NM	88007
9	4-003-135-285-440	TAYLOR BRYAN W	804 N FAIRACRES RD	LAS CRUCES	NM	88005
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13	4-003-135-285-458	YOUNGS EVELYN D & TODD W	806 N FAIRACRES RD UNIT 2	LAS CRUCES	NM	88005
14	4-003-135-234-492	WILLIAMS HAROLD GLENN &	HC 35 BOX	ARREY	NM	87930
15	4-003-135-291-469	TAYLOR KENDRA	806 N FAIRACRES RD # 3	LAS CRUCES	NM	88005
16	4-003-135-215-390	ORTEGA PAT A & IRENE M	855 MINNOW LN	LAS CRUCES	NM	88007
17	4-003-135-225-496	TRUJILLO MARIO A & ALICIA G	835 MINNOW LN	LAS CRUCES	NM	88007
18	4-003-135-215-508	RODRIGUEZ LUIS V	PO BOX 148	FAIRACRES	NM	88033-0148
19	4-003-136-250-009	BOMBACH FAMILY TRUST	749 N FAIRACRES	LAS CRUCES	NM	88005
20	4-003-136-226-010	GARCIA ELEUTERIO R	4619 W PICACHO AVE	LAS CRUCES	NM	88007
21		NM STATE HWY DEPT.	8070 BATAAN MEMORIAL EAST	LAS CRUCES	NM	88012
22		DAC ROAD DEPT.	2025 E. GRIGGS	LAS CRUCES	NM	88001
23		EBID	530 S. MELENDRES	LAS CRUCES	NM	88001

STATE OF NEW MEXICO
 DEPARTMENT OF REVENUE
 TAXPAYER SERVICES

Zoning Map



South View of Building



PECAN BREWERY









**MINUTES OF THE
EXTRA-TERRITORIAL ZONING COMMISSION (ETZ) MEETING**

June 16, 2016

1. CALL TO ORDER

6:08:32

Chairman Villescás called the regular meeting of the Extra-Territorial Zoning Commission to order at 6:08 p.m. Thursday, June 16, 2016 in the Doña Ana County Government Center, 845 N. Motel Blvd., Las Cruces, NM.

2. ROLL CALL

6:11:11

Led by: Janet Acosta, Secretary

<i>Kenneth Allin, Vice-Chairman</i>	Here
<i>Mark Best, Commissioner</i>	Here
<i>John Townsend, Commissioner</i>	Here
<i>Janet Acosta, Secretary</i>	Here
<i>Tim Sanders, Commissioner</i>	Here
<i>Robert Hearn, Commissioner</i>	Here
<i>John Villescás, Chairman</i>	Here

3. ANNOUNCEMENTS

6:11:28

None.

4. APPROVAL OF MINUTES

6:11:30

Motion to approve the May 19, 2016 Meeting Minutes.

Motion: John Townsend

Second: Robert Hearn

<i>Kenneth Allin</i>	Yes
<i>Mark Best</i>	Yes
<i>John Townsend</i>	Yes
<i>Janet Acosta</i>	Yes
<i>Tim Sanders</i>	Yes
<i>Robert Hearn</i>	Yes
<i>John Villescás</i>	Yes

Passed.

5. CHANGES TO THE AGENDA

6:12:02

None.

**OLD BUSINESS
REVIEW / DISCUSSION / ACTION**

6. CASE #Z16-002/PECAN BREWERY

6:12:15

Motion to approve a zone change on a 3.86-acre parcel from E11 to E13 to establish and operate a brewery and tap room. Steve Meadows, Planner, Community Development, will discuss.

Motion: Tim Sanders

Second: John Townsend

The motion to approve a zone change was made with the following conditions: 1) a Special Use Permit shall be approved by the ETZ Commission, and 2) access to the property shall be limited to W. Picacho Avenue.

An amendment was proposed that if the property ceased to be used for a brewery with a special use permit, the E13 zoning would revert to the original zoning of E11.

Motion: Robert Hearn

Second: Mark Best

A vote was taken on the amendment:

<i>Kenneth Allin</i>	Yes
<i>Mark Best</i>	Yes
<i>John Townsend</i>	No
<i>Janet Acosta</i>	No
<i>Tim Sanders</i>	No
<i>Robert Hearn</i>	Yes
<i>John Villescas</i>	Yes

Passed.

A vote was taken on the main motion that included the approved amendment as the third condition as follows: 1) a Special Use Permit shall be approved by the ETZ Commission, 2) access to the property shall be limited to W. Picacho Avenue, and 3) if the property ceases to be used for a brewery, the zoning will revert to the original E11 zoning.

<i>Kenneth Allin</i>	Yes
<i>Mark Best</i>	Yes
<i>John Townsend</i>	Yes
<i>Janet Acosta</i>	Yes
<i>Tim Sanders</i>	Yes
<i>Robert Hearn</i>	Yes
<i>John Villescas</i>	Yes

Passed.

Chair Villescas called for a short recess at 8:04 p.m. and reconvened the meeting at 8:14 p.m.

**NEW BUSINESS
REVIEW / DISCUSSION / ACTION**

**7. CASE #SU16-004/MARTIN
8:14:29**

Motion to approve a special use permit to erect a 75 foot cell tower on a 12.9-acre parcel within an ER3M Zoning District. Steve Meadows, Planner, Community Development, will discuss.

Motion: John Townsend
Second: Robert Hearn

The motion to approve the special use permit was made based on findings of fact, staff analysis, and the approval complying with Section 2.1.D.

<i>Kenneth Allin</i>	Yes
<i>Mark Best</i>	Yes
<i>John Townsend</i>	Yes
<i>Janet Acosta</i>	Yes
<i>Tim Sanders</i>	Yes
<i>Robert Hearn</i>	Yes
<i>John Villescas</i>	Yes

Passed.

**8. CASE #SU16-005/DAVIET FARMS, LLC
9:03:12**

Motion to approve a special use permit to erect a 75 ft. telecommunications tower on a 5.0-acre parcel within an ER3 Zoning District. Steve Meadows, Planner, Community Development, will discuss.

Motion: Janet Acosta
Second: John Townsend

Motion to approve a special use permit for Case #SU16-005 in order to erect a 75 foot telecommunications tower on the subject parcel.

<i>Kenneth Allin</i>	Yes
<i>Mark Best</i>	Yes
<i>John Townsend</i>	Yes
<i>Janet Acosta</i>	Yes
<i>Tim Sanders</i>	Yes
<i>Robert Hearn</i>	Yes

John Villescás

Yes

Passed.

9. ADMINISTRATIVE APPROVALS

10:04:23

Steve Meadows reported on Administrative Approvals for the month of May.

10. PUBLIC INPUT

10:08:50

None.

11. STAFF INPUT

10:09:00

Commissioner Hearn discussed the need for better information citing the traffic analysis on the first case as well as a site threshold analyses that was filled out incompletely in pencil at the last minute and wasn't signed.

Janine Divyak gave an update on the status of the UDC.

Steve Meadows discussed that in the traffic information analysis, the peak a.m. and p.m. hours show trips during a specific one-hour timeframe, not the total of trips for the entire day. Commissioner Hearn said that method of analysis is totally unrepresentative of what will happen in that area.

Commissioner Townsend asked about postponing cases and if a motion failed. Steve Meadows said that Legal responded it's a motion to postpone or not and if you say "no, we're going to hear it," you are going to hear it.

12. COMMISSION INPUT

10: _____

None.

13. ADJOURNMENT

10:16:00

Motion for adjournment at 10:16 p.m.

Motion: John Townsend

Second: Mark Best

The motion was passed by a vote of all ayes from the Commissioners present.

Officer: Extra-Territorial Zoning Commission