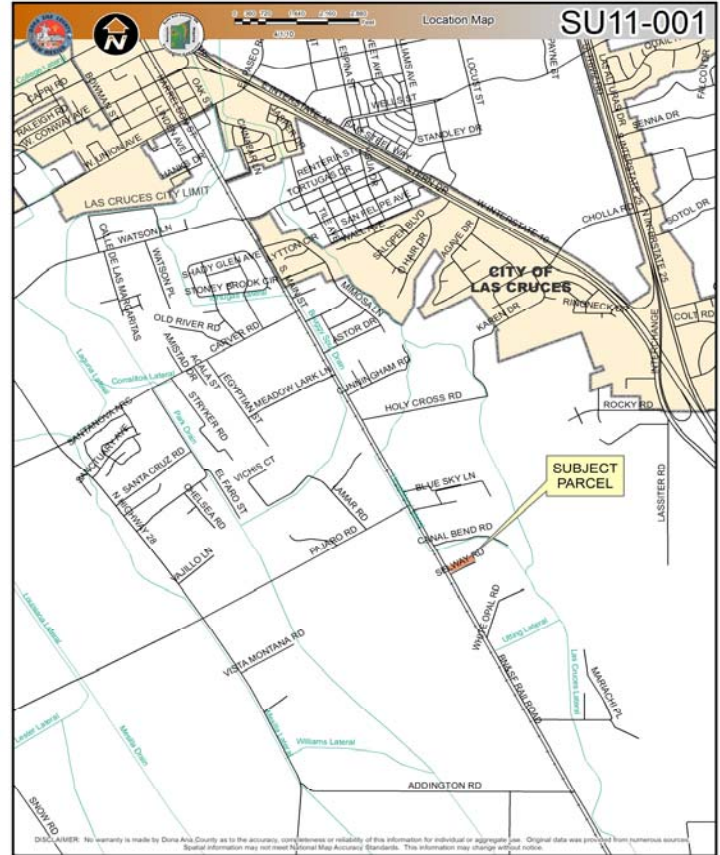




EXTRA-TERRITORIAL ZONING COMMISSION

DOÑA ANA COUNTY COMMUNITY DEVELOPMENT DEPT.
Doña Ana County Government Complex
845 N. Motel Blvd., Las Cruces, New Mexico 88007
Office: (575) 647-7250

MEETING DATE: April 21, 2011
CASE #: SU11-001
REQUEST: To establish and operate a dance hall / event center (Bella Ballroom)
APPLICANT: Casa Mexicana Tile, Martha Orta, Agent
LOCATION: 5585 S. Main St.
EXISTING ZONING: EC1 Neighborhood Commercial
PROPERTY SIZE: 2.5-acres
RECOMMENDATION: DENIAL
STAFF CONTACT: Steve Meadows



SUMMARY: The applicant, Casa Mexicana Tile, Martha Orta, Agent, is requesting a Special Use Permit to establish and operate a Dance Hall / Event Center (Bella Ballroom). The request is in conjunction with Zone Change Request Case # Z11-001 from EC1 Neighborhood Commercial to EC2 Community Commercial as required by Article 3, Section 3.1.K.4. The 2.5-acre parcel is located south of the City of Las Cruces and is addressed as 5585 S. Main St. It contains a 7,200 sq. ft. structure and is currently zoned EC1 (Neighborhood Commercial, 5-acre maximum new lot size). The property is located within Section 4, Township 24 South, Range 2 East, is described as Part of Lot 2, U.S.R.S. Tract 13-30E1 Replat No. 1 as recorded in the office of the Doña Ana County Clerk on August 1, 2001, in Book 19 Page 696, and can be further identified by Map Code # 4-009-139-185-487.

REPORT CONTENTS: (1) Summary (2) Applicable Policies and Ordinances (3) Staff Analysis, (4) Site Plan and Supporting Documents, (5) GIS Information & Maps, (6) Public Correspondence

SURROUNDING ZONING

| SITE | ZONING | LAND USE |
|-------------|---|--|
| North | EI1 Light Industrial District, 5,000 sq. ft. min. new lot size. | Light Industrial uses |
| South | ER3M Residential District, 1-acre min. new lot size, single family site built and mobile homes. | Commercial, residential and agricultural uses. |
| East | ER3M Residential District, 1-acre min. new lot size, single family site built and mobile homes. | Residential and agricultural uses |
| West | Transportation Corridor | NM Hwy 478 (S. Main St.) and Railroad Right of Way |

BACKGROUND:

The request:

The applicant is requesting approval of the Special Use Permit to establish and operate an Dance Hall / Event Center (Bella Ballroom) on a 2.5-acre parcel currently zoned EC1 (Neighborhood Commercial, 5-acre maximum new lot size). The applicant is also seeking a zone change (Case #Z11-001) to EC2 (Community Commercial, 5,000 sq. ft. minimum new lot size) to allow the proposed use as required by Article 3, Section 3.1.K.4 of the ETZ Ordinance. This Special Use Permit request was brought on by a complaint on the subject property of an unregistered business. The Codes Enforcement Division directed the applicant to the Planning Staff to resolve the issues brought forth in the complaint.

Existing Conditions and Zoning:

The 2.5-acre parcel is a level, rectangular shaped property containing a 7,200 sq. ft. structure, to be utilized as the Dance Hall / Event Center, and an approximate 20,000 sq. ft. storage building. A water well, pump house, and a 750 gallon capacity septic system are in place on the property. The parcel is bounded on the west by S. Main St. (Hwy 478), considered a principal arterial by the Las Cruces MPO, and on the south by Selway Rd. a paved private road.

The subject parcel lies within an EC1 (Neighborhood Commercial, 5-acre maximum new lot size) that was approved on December 20, 2000 by the ETA from ER3M to EC1 with Zone Change Case # Z2000-003 / McDonald. Case # Z11-001 is being sought by the applicant in conjunction with this Special Use Permit to rezone the subject property to EC2 (Community Commercial, 5,000 sq. ft. minimum new lot size) for the proposed dance hall / event center.

APPLICABLE PLANS, POLICIES, AND CRITERIA FOR APPROVAL

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

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.

Section 3.1.K EC2 COMMUNITY COMMERCIAL DISTRICT

3.1.K.1 PURPOSE

The purpose of the EC2 district is to provide sufficient space in appropriate locations for retail and personal service uses and some commercial recreational uses, generally serving an area of several neighborhoods in a given community.

3.1.K.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 | 45 feet |

Residences in the EC2 district shall comply with the development requirements for the ER5 district as outlined in Section 3.1.F.1 of this Article.

3.1.K.3 PERMITTED USES IN EC2 DISTRICT

The following uses are permitted by right in the EC2 district.

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

| | |
|---|--|
| 1. All uses permitted under Section 3.1.J.3.a of this Article | 17. Lawn and garden equipment sales, rentals and service |
| 2. Ambulance services | 18. Locksmith services |

| | |
|---|---|
| 3. Apparel shops | 19. Medical outpatient clinics |
| 4. Automobile service stations | 20. Miniature golf courses |
| 5. Billiard or pool halls | 21. Mortuaries |
| 6. Bowling alleys | 22. Motion picture theaters |
| 7. Burglar alarm services | 23. Musical instrument supplies, sales, rental and service |
| 8. Data processing centers | 24. Newspaper establishments, including distribution offices |
| 9. Department stores | 25. Pawn shops |
| 10. Electrical shops | 26. Painting equipment and supplies, sales and rentals |
| 11. Frozen food lockers | 27. Residences |
| 12. Glass cutting and finishing shops | 28. Retail sales of accessories, antiques, art, art supplies, jewelry, music records and tapes, sporting goods and similar stores and shops |
| 13. Hospital equipment and supplies, sales, rentals and service | 29. Second-hand goods - retail sales |
| 14. Hotels and motels | 30. Taxicab stands |
| 15. Household appliances sales and service | 31. Upholstery shops |
| 16. Juke box and coin machine sales, rentals and service | 32. Weight reduction salons |

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

The following uses are permitted in EC2 in accordance with stated conditions:

1. All permitted uses with conditions allowed under Section 3.1.J.3.b of this Article
2. Amusement parks or enterprises
Temporary amusement enterprises are prohibited within three hundred (300) feet of any residential zoning district. Permanent amusement enterprises are prohibited within five hundred (500) feet of any residential zoning district. Go-cart tracks and other similar facilities must be located at least one thousand (1000) feet from any residence and at least one hundred (100) feet from any public way. The spectator areas shall be protected from the vehicular area by suitable fencing, bumpers or other protective devices.
3. Auction yard, structure or flea market
The off-street parking area must be clearly separated from the sales area. A minimum of one (1) off-street parking space is required for each display stand or area and one (1) space for every two hundred (200) square feet designated as an entire display area. Each display stand requires a minimum of twenty (20) square feet and a minimum of one (1) chemical or standard toilet is required for every twenty (20) display stands or fraction thereof.
4. Automobile, mobile home, trailer or 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 any residential zone
5. 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 (3000) square feet and not exceed thirty (30) percent of the total gross floor area. Welding is permitted only in conjunction with repairs and shall not be used for the purpose of heavy equipment assembly.
6. Mini storage units
Units shall not be used for commercial sales of products, merchandise, service or repair

7. Welding (accessory use)
Welding shall be permitted only as an incidental or accessory use necessary for the repair of vehicles or equipment. Welding for the purpose of assembly is prohibited. Welding uses shall be approved by the County Codes Compliance Division.

3.1.K.4 EC2 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. Adult entertainment uses
Uses such as adult bookstores, adult photo studios, adult theaters and adult news racks as defined under Section 1.6 of this Ordinance, shall be permitted provided such use is located a minimum of one thousand (1,000) feet from a property line of any school, church, public park or recreational facility or residential zoning district. There shall be no public display of adult pictures or materials within a grocery store, bookstore or other retail or wholesale outlet and the pictures and materials must be concealed from public view at all time.
2. Mobile homes on a temporary basis during construction period for the purpose of housing security guards, pursuant to Section 3.1. of this Article. Conditions shall be attached regarding unobtrusive siting and screening.

| | |
|--|--|
| 3. All uses requiring a Special Use Permit under Section 3.1.J.3.c of this Ordinance | 13. Drive-in theaters |
| 4. Airport and heliports | 14. Major facilities for generation of energy |
| 5. Animal hospitals and clinics | 15. Nursing or convalescent homes |
| 6. Auditorium or assembly halls | 16. Racetracks |
| 7. Bus passenger terminals | 17. Recreational vehicle parks |
| 8. Cemeteries and crematoriums | 18. Recycling purchase centers |
| 9. Commercial kennels | 19. Skating rink: roller or ice skating |
| 10. Commercial parking garages | 20. Stadiums or athletic fields: baseball, football, soccer, track or similar sports |
| 11. Convention or exhibition halls | 21. Mobile home units for security guards on temporary basis during construction period only |
| 12. Dance halls | |

2.1.D CRITERIA AND RESPONSES:

The Planning Director and 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 Article II, Section 2.1.D/Evaluation Criteria [*Applicant's responses in italics*]:

2.1.D.1 Determination of the number of homes, population, and population demographics. *N/A*

2.1.D.2 Determination of potential traffic flows (average daily traffic) and where they will impact the transportation system. *There would be minimal impact if any on the traffic flow in this area. Casa Mexicana Tile is opened Mon-Fri 8am-5pm and Sat. 8am-3pm, Sunday-closed. Most of the events held at the Bella Ballroom usually begin after 6pm starting Friday night through Sunday, with an average of 20-50 vehicles per event.*

2.1.D.3 Determination of need for new commercial activity. *We have held various businesses in the past at this location. Due to economic and personal reasons we were forced to close the last one in March of 2008. Being that it was a bridal store before, it was suggested that having bridal events would be a good idea. We had the parking space, we had the capacity inside the building, and we had a good contact with an event planner. Many of the events planned in hotels were not giving the option to cater your own food. We do, and by doing this, we do not limit it to just one caterer but open it to many of the Las Cruces Caterers to increase their business. So this is a win-win situation for Las Cruces.*

2.1.D.4 Determination of potential water and sewage needs. *Currently we have our own well and septic tank with adequate capacity for the business we had for the past 33 years. The current septic tank has a minimum of 750 gallon capacity. Our water well capacity is for 11.48 acres.*

2.1.D.5 Evaluation of existing infrastructure capacities and an analysis of the ability of the existing system to accommodate the new development. *The existing infrastructure capacities are the same.*

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. *There is not much impact and is negligible.*

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. *We are not aware of any environmentally sensitive areas, historical significance, or 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. *We will pay all permit fees.*

2.1.D.9 Determination of impact of a proposed zone change on surrounding properties. *We are located 4 miles south of Mesilla Park and there is very little impact on surrounding residences. The events are held indoors and because the noise is almost obsolete. The events usually employ 5-8 in wait staff. We hire local security guards, caterer, and party vendors creating a positive impact financially. We create minimal traffic because of our parking capacity.*

STAFF ANALYSIS:

A Special Use Permit is required to operate a dance hall / event center within the EC2 Zoning District by Article 3, Section 3.1.K.4 of the ETZ Ordinance 88-02, as amended. The applicant is also seeking approval for a zone change to EC2 with Zone Change Case # Z11-001 in conjunction with this Special Use Permit request. Special Use Permits are evaluated by the ETZ Commission based on the Evaluation Criteria of Article 2, Section 2.1.D.

The traffic impact due to the proposed use is described by the applicant as approximately 20-50 vehicles per event. Immediately adjacent to the subject parcel is the Casa Mexicana Tile business that is open 6 days per week from 8 am to 5 pm except Saturdays when they close at 3 pm. The applicant also stated that events for the proposed Bella Ballroom will begin at 6 pm Friday thru Sunday so there would be no overlapping of customers and the parking would be adequate. A Site Threshold Assessment (STA) was requested by DAC Engineering (See

Page 8) in their original comments. It was submitted on March 7 for their evaluation and the 2nd review comments have been included in this report.

Water well Permit No. LRG-8054-A-S-2 (See Pages 13-14) issued 9/17/1992 by the Office of the State Engineer is located on the parcel. The Office of the State Engineer evaluated the proposal and has made favorable comments (See Page 9). They state that water service at the existing structure is “not expected to change.”

The 750 gallon capacity septic system on the subject property (Permit # 45556) is being evaluated by the NMED and the applicant. Any modifications necessary to keep the system in compliance as requested by NMED (See Page 9) will be undertaken by the applicant to satisfy the requirements.

The applicant states that the infrastructure and parking are adequate, and there are no known environmentally sensitive areas, areas of historical significance or endangered or rare species on the property. They also state that all fees will be paid by the applicant.

The calculation for the number of parking spaces for the 7,200 sq. ft. structure per Article 6, Section 6.2.F.2 Off-Street Parking – Restaurants and Entertainment Establishments, is seventy-two (72) (one space per 100 sq. ft. gross floor area) plus eight (8) additional spaces for peak time staff (one (1) per each employee at maximum shift) equaling eighty (80) total parking spaces. The site plan (See Page 10) indicates a total of sixty-seven parking spaces, which is deficient by thirteen (13) spaces.

The DAC Fire Marshal’s office submitted comments (See Pages 8-9) requiring fire flow information, a sprinkler system installation and a letter from the water provider indicating adequate fire hydrants and water supplies in the area would need to be submitted for their review and approval. These requirements have not been met by the applicant at the time of this analysis.

The applicant stated in the 2.1.D Evaluation Criteria, that the noise impact will be minimal due to events being held indoors, and that a positive financial impact will be realized by the community as they will employ 5-8 wait staff as well as security staff, caterers and vendors. The subject parcel is surrounded by farmland to the east and north, a commercial business and residence to the south and the west boundary abuts the NM Hwy. 478 R-O-W. The impact to the surrounding neighborhood would be minimal because of the ongoing land uses surrounding the subject property.

STAFF RECOMMENDATION

Based on the findings of fact, the evaluation of the 2.1.D Evaluation Criteria of the ETZ Ordinance No. 88-02, as amended, and the failure of the applicant to receive approval from the critical agency reviews submitted by the Fire Marshal recommends DENIAL of the Special Use Permit Case # SU11-001.

FINDINGS:

1. The request of this application is consistent with the requirements of the Las Cruces Extra-territorial Zoning Ordinance Article II, Section 2.1.C/Application Procedures and Section 2.1.G/Public Hearing and Notice Requirements.

2. 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 (ETZC) has jurisdiction to review this case.
3. The property is located within an EC1 (Neighborhood Commercial) Zoning District.
4. A zone change to EC2 Community Commercial Zoning District is required for an Event Center/Dance Hall as per Article III, Section 3.1.K of the ETZ Ordinance 88-02, as amended.
5. A Special Use Permit is required within the EC2 Zoning District for an Event Center/Dance Hall as per Article III, Section 3.1.K.4 of the ETZ Ordinance 88-02, as amended.
6. Zone Change Case # 2000-003/McDonald was approved by the ETA on December 20, 2000, changing the zoning on the subject parcel from ER3M to EC1.
7. The submitted site plan does not include the proper amount of parking as required in the Ordinance.
8. The DAC Fire Marshal has denied the Special Use Permit request because the proposal has not satisfied the requirements of the Fire Code.

AGENCY COMMENTS

DAC Engineering: 1.) All storm water runoff from all impervious areas including existing must be contained within lot. Provide ponding calculations. 2.) Secure all permits from all regulatory agencies. 3.) Follow all minimum setbacks. 4.) If approved, additional parking may be required with paved surface. 5.) Provide a STA.

2nd Review: STA provided by applicant and evaluated by the DAC Engineering Dept. **New Comments:** 1.) Refer to previous comments except comment #5. 2.) Does it meet fireflow?

DAC Flood Commission: **General Comments:** 1.) The subject property found to not be within a FEMA Special Flood Hazard Area and can be further identified on FIRM No. 35013C0650 E. 2.) Please be aware that the property is still susceptible to localized flooding despite not being identified within a FEMA Special Flood Hazard area. **Applicant's Responsibility:** 1.) Drainage runoff from increases to impervious area(s) needs to be maintained within drainage facilities on the property. 2.) Proposed additions/improvements to the facility will entail submitting a grading and drainage plan with the County Building Permit. Grading and drainage plans need to be prepared by a licensed professional engineer within the State of New Mexico.

DAC Environmental Codes: No violations.

DAC Zoning Codes: Case No. 10-0100 - Outstanding violations: 1.) Business Registration 2.) Improper zoning.

DAC Fire Marshal: The fire protection plans shall be submitted along with the final plat and shall be stamped by a registered engineer indicating the fire plans meet the specifications of 1,500 GPM for a duration of 2 hours at 20 PSI. A letter from the local water district shall be submitted with the plans indicating the water supplies and fire hydrants shall be maintained by the district with required fire flow as listed above. 903.2.1.2 Group A-2. An automatic sprinkler system shall be provided for Group A-2 occupancies where one of the following

conditions exists: 1.) The fire area exceeds 5,000 sq. ft. (465 m²), 2.) The fire area has an occupant load of 100 or more.

DAC Building Services: No permits are required.

DAC Rural Addressing Coordinator: No comments.

NMED: **Food Program** – If food service is to be provided by the Event Center/Dance Hall, the appropriate food handling permit must be obtained from the NMED. **Wastewater Treatment and Disposal** – The Event Center and Dance Hall will need to ensure the liquid waste permit/system is amended/modified to reflect the usage of the facility. The usage of the facility must meet the lot size requirements under 20.7.3.301. **Water Supply/Water Quality** – No comment. **Solid Waste Disposal** – No comment. **Surface Drainage/Land Clearing/Dust Control** – No comment.

NMDOT: How will this zone change affect the number of traffic generated now w/what they proposed? Is this dance hall/event center only on weekends or also during regular working hours. The driveway on Selway Dr. needs to be better defined, so people know exactly where the driveway is.

2nd Review: STA provided by applicant and evaluated by NMDOT. **New Comments:** No significant impact to state's highway system.

CLC MPO: South Main is a principal arterial, please ensure there is adequate parking for the proposed use.

CLC Planning Dept: There are no outstanding issues w/existing ETZ Subdivision; however, the records indicate there are two deeds represented by the tax assessor's map for lot 2. Please refer to the attachment (U.S.R.S. Tract 13-3051, Replat No. 1: 1. Existing subdivision 2. Existing ownership.)

NM State Engineer's Office: The existing structure on the subject parcel is expected to have existing water service for essential drinking and sanitary purposes which should satisfy the water needs for the proposed change. Accordingly, the State Engineer has no comment concerning the proposed Zone Change and Special Use Permit as long as the applicant understands that water use at the existing structure is not expected to change.

EBID: No objections.

PUBLIC NOTICE / NOTIFICATION

19 letters of notification were sent out.

Legal Notification was posted in the Las Cruces Sun News on Sunday, February 27, 2011.

Signs were posted on the property.

Agenda was posted on County Web Site.

Support correspondence: None received.

Opposition correspondence: None received.

Applicant's Narrative

December 20, 2010

After 33 years of operating a small business, our family has sacrificed much. No one knows this more than my parents Isidro and Bertha Pena. As one of their four children, I learned this early on and I have always taken pride in it. The many businesses we have tried at our 5585 South Main location have been quite diverse. We previously operated a wholesale plant nursery, a fiberglass repair facility, and finally a bridal store, which was closed in March 2008.

Over a year ago, we were approached by an experienced event planner with an idea for an event hall. We believed there existed a need for reasonably priced special event space and we quickly moved on making it possible. I called the Dona Ana County Building Codes Inspector and asked what was necessary to bring the building up to code. Given that we had invested 3 years earlier to have a local builder, Soledad Canyon Earth Builders remodel our building for the bridal storefront, and not much was required. I was told the building needed to have push bar doors and more emergency exits. Once this was accomplished, I was given a Certificate of Occupancy for 285 people.

Two months ago, I was made aware that our building was not properly zoned. Never did I think that I was operating incorrectly. As soon as I found out, we took all the actions necessary to make sure we complied with the law. This is why we stand before you. We want to assure the authority that we expect to operate in compliance of all regulations, just as we have strived to do for the past 33 years. As a family, we take pride and dignity in everything we do, especially the way we run our businesses. We feel we offer something that the community needs. Bella Ballroom offers competitive prices, at a beautiful location, first class designs, and the ability to select your own caterer. We believe we provide a service that the community can take advantage of.

We thank you for your consideration and ask you take into account our reputation as a business but most of all as a family and member of our community.

Applicant's 2.1.D Responses

Extra-Territorial Zoning Ordinance Ordinance No. 88-02

2.1. D Evaluation Criteria

- 2.1. D.1** N/A
- 2.1. D.2** There would be minimal impact if any on the traffic flow in this area. Casa Mexicana Tile is opened Monday-Friday 8am-5pm and Saturday 8am-3pm Sunday -Closed. Most of the events held at the Bella Ballroom usually begin after 6pm starting on Friday Night thru Sunday, with an average of 20-50 vehicles per event.
- 2.1.D.3** We have held various businesses in the past at this location. Due to economic and personal reasons we were forced to close the last one in March of 2008. Being that it was a bridal store before, it was suggested that having bridal events would be a good idea. We had the parking space, we had the capacity inside the building, and we had a good contact with an event planner. Many of the events planned in hotels were not giving the option to cater your own food. We do, and by doing this, we do not limit it to just one caterer but open it many of the Las Cruces Caterers to increase their business. So this is a win-win situation for Las Cruces.
- 2.1. D.4** Currently we have our own well and septic tank with adequate capacity for the business we have had for the past 33 years. The current Septic Tank has a minimum of 750 gallon capacity. Our water well capacity is for 11.48 acres.
- 2.1. D.5** The existing infrastructure capacities are the same.
- 2.1. D.6** There is not much impact and is negligible.
- 2.1. D.7** We are not aware of any environmentally sensitive areas, historical significance, or endangered or rare species of animal or plant life.
- 2.1. D.8** We will pay all permit fees.
- 2.1. D.9** We are located 4 miles South of Mesilla Park and there is very little impact on surrounding residences. The events are held indoors and because the noise is almost obsolete. The events usually employ 5-8 in wait staff. We hire local security guards, caterer, and party vendors creating a positive impact financially. We create minimal traffic because of our parking capacity.

Water Well Permit

157602LC \$25.00

Revised August 1967

IMPORTANT-READ INSTRUCTIONS ON BACK BEFORE FILLING OUT THIS FORM

QRN 157377

SUPPLEMENTAL APPLICATION FOR PERMIT

To Appropriates the Underground Waters of the State of New Mexico

92 SEP 21 AM 10 18
STATE ENGINEER OFFICE
SANTA FE, NEW MEXICO

- Date Received July 22, 1992 File No. LRG-8054-A-S-2
1. Name of applicant Isidro M. Pena dba Fruit Land
 Mailing address P. O. Box 1327
 City and State Mesilla Park, NM 88047
2. Source of water supply shallow water aquifer, located in Lower Rio Grande
 (artesian or shallow water aquifer) (name of underground basin)
3. The well is to be located in the 1/4 SE 1/4 SW 1/4 Section 4 Township 24 South
 Range 2 East N.M.P.M., or Tract No. 30E1(Tr2) No. 13 of the USRS/EBID District,
 on land owned by Applicant (under sales contract)
4. Description of well: name of driller drilled under permit LRG-8051
 Outside Diameter of casing 6-5/8 inches; Approximate depth to be drilled 350 feet;
5. Quantity of water to be appropriated and beneficially used 68.88 acre feet,
 (consumptive use, diversion) for irrigation purposes.
6. Acreage to be irrigated or place of use 11.48 acres.

| Subdivision | Section | Township | Range | Acres | Owner |
|---|---------|----------|-------|-------|-----------------------------------|
| Pt. SE 1/4 SW 1/4 | 4 | 24S | 2E | 6.98 | Glenn McDonald |
| Also described as Tract 30E1(Tr1) of USRS/EBID Map No. 13 | | | | | |
| Pt. SW 1/4 SE 1/4 SW 1/4 & Pt. SE 1/4 SE 1/4 SW 1/4 | 4 | 24S | 2E | 2.50 | Glenn McDonald c/o Isidro M. Pena |
| Also described as Tract 30E1(Tr2) of USRS/EBID Map No. 13 | | | | | |
| Pt. SW 1/4 SE 1/4 SW 1/4 & Pt. SE 1/4 SE 1/4 SW 1/4 | 4 | 24S | 2E | 2.0 | Isidro M. Pena |
| Also described as Tract 30E5 of USRS/EBID Map No. 13 | | | | | |

7. Additional statements or explanations Well to be used is being drilled under Permit LRG-8051 for drinking and sanitary purposes. Well will supplement existing well LRG-8054 owned by Glenn McDonald for portions of the described acreage as they are purchased by the applicant. Well LRG-8054 also irrigates other acreage.

All of the 11.48 acres have Elephant Butte Irrigation District surface water rights.

I, Isidro M. Pena, affirm that the foregoing statements are true to the best of my knowledge and belief and that development shall not commence until approval of the permit has been obtained.

Isidro M. Pena, Permittee,

By: _____

Subscribed and sworn to before me this 22 day of July, A.D., 19 92

My commission expires 8-4-92

Margie C. Morales
Notary Public

Water Well Permit (cont.)

ATTACHMENT

APPLICATION FOR SUPPLEMENTAL
WELL PERMIT NO. LRG-8054-A-S-2

1. This application is approved to use well drilled under permit LRG-8051, renumbered LRG-8054-A-S-2, as a supplemental well for the irrigation of up to 11.48 acres described in the application and by this action the State Engineer does not accept or reject the amount of water claimed diverted from well LRG-8054 for irrigation purposes in Declaration No. LRG-8054-A filed on July 22, 1992.
2. The amount of water diverted under this permit from combined sources for irrigation purposes shall be limited to that quantity of water required for beneficial use for the irrigation of said 11.48 acres.
3. The appropriation of ground water under this permit from Well LRG-8054, LRG-8054-A-S and LRG-8054-A-S-2 for the irrigation of 11.48 acres of land shall be supplemental to the surface water delivered by the Elephant Butte Irrigation District; in the event of transfer or abandonment of any part of the surface water right on said land, the appropriation of ground water for that part shall cease.
4. The conditions of approval of this permit shall apply only to use of the described wells on acreage owned or under purchase contract by the applicant. These conditions shall apply to additional portions of the described acreage as it is acquired.
5. Proof of Completion of Well shall be filed on or before September 30, 1994.

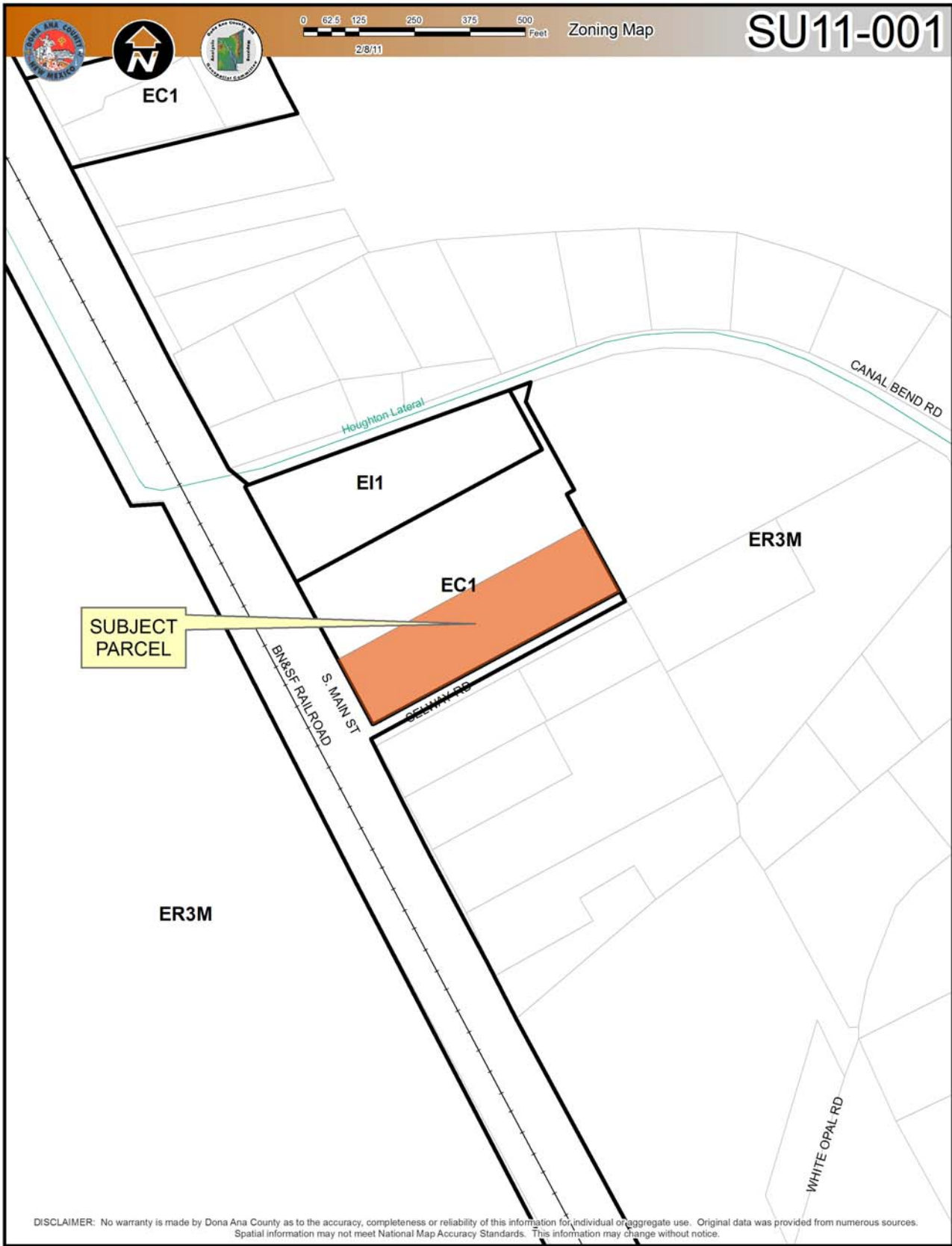
Date: _____

9/17/92

J. B. Nixon
J. B. Nixon, Supervisor, District 4







Notification List

| CODE | MAP_CODE | NAME | ADDRESS1 | CITY | STATE | ZIP |
|------|-------------------|-----------------------------------|-------------------|--------------|-------|------------|
| 1 | 4-009-139-185-487 | PENA ISIDRO M & BERTHA E M | PO BOX 87 | MESILLA PARK | NM | 88047-0087 |
| 2 | 4-009-139-233-410 | MATANCILLAS OSCAR J & ERNESTINA J | 285 CANAL BEND RD | MESILLA PARK | NM | 88047 |
| 3 | 4-009-139-164-454 | ENRIQUEZ ALBINO L & REBECCA | PO BOX 1026 | LAS CRUCES | NM | 88004-1026 |
| 4 | 4-009-139-177-471 | PENA BERTHA | RR BOX 9 | MESILLA PARK | NM | 88047 |
| 5 | 4-009-139-215-405 | HERNANDEZ ALFREDO & ALMA A | STAR RT BOX 53C | MESILLA PARK | NM | 88047 |
| 6 | 4-009-139-141-428 | SAPIEN CLAUDE & ELIZABETH | 4141 STRYKER RD | LAS CRUCES | NM | 88005 |
| 7 | 4-008-140-415-013 | BIAD FARMS LLC | PO BOX 66 | MESILLA | NM | 88046 |
| 8 | 4-009-139-192-406 | GONZALEZ DIMAS & MARIA P | PO BOX 2026 | MESILLA PARK | NM | 88047 |
| 9 | 4-009-139-162-432 | SAPIEN CLAUDE L & ELIZABETH | 414 STRYKER RD | LAS CRUCES | NM | 88005 |
| 10 | 4-009-139-178-428 | CALDERON ISIDRO B | RR1 BOX 10 1/2 | MESILLA PARK | NM | 88047 |
| 11 | 4-009-139-155-417 | RUIZ MAURICIO & ELENA | PO BOX 1905 | MESILLA PARK | NM | 88047 |
| 12 | 4-009-139-172-413 | RAMIREZ RUBEN P & BERNADINA | 191 CANAL BEND RD | MESILLA PARK | NM | 88047 |
| 13 | 4-009-139-231-441 | THOMAS JAMES L ET UX | PO BOX 878 | MESILLA PARK | NM | 88047-0878 |
| 14 | 4-009-139-209-496 | PENA BERTHA | RR BOX 9 | MESILLA PARK | NM | 88047 |
| 15 | 4-009-139-180-510 | PENA BERTHA | STAR RT BOX 9 | MESILLA PARK | NM | 88047 |
| 16 | 4-009-139-215-506 | PENA ISIDRO | PO BOX 1327 | MESILLA PARK | NM | 88047 |
| 17 | 4-009-139-247-482 | THEROUX ROBERT & LA NATTE | HC 30 BOX 9-A | MESILLA PARK | NM | 88047-9701 |
| 18 | 4-009-139-265-477 | PENA ISIDRO | PO BOX 1327 | MESILLA PARK | NM | 88047 |
| 19 | 4-009-139-186-522 | BUSTOS DAVID & ELEANOR | 2424 W UNION AVE | LAS CRUCES | NM | 88005 |
| 20 | 4-009-139-220-520 | PENA ISIDRO | PO BOX 1327 | MESILLA PARK | NM | 88047 |
| 21 | 4-009-140-220-015 | PENA ISIDRO | PO BOX 1327 | MESILLA PARK | NM | 88047 |
| 22 | | BNSF RR | 3001 LOU MENK | FORT WORTH | TX | 76131 |
| 23 | | NM STATE HWY. DEPT. | 8070 BATAAN MEMOR | LAS CRUCES | NM | 88001 |
| 24 | | EBID | 530 S. MELENDRES | LAS CRUCES | NM | 88001 |