MEETING DATE: April 11, 2018

CASE #: SU19-003

REQUEST: Special Use Permit

PURPOSE: A 1,056 sq. ft. accessory dwelling

PROPERTY OWNER/ APPLICANT: Eduardo Reyes

LOCATION: 1554 Pelicano Trail
Las Cruces, NM

EXISTING ZONING: D1-L

PROPERTY SIZE: 1.70-acres

PARCEL ID#: R0315494

RECOMMENDATION: Conditional Approval

CASE MANAGER: Albert Casillas

SUMMARY: Submitted by Eduardo Reyes, a request for a Special Use Permit for a 1,056 sq. ft. accessory dwelling within a D1-L (Low Density Residential Limited) Zone. The 1.70-acre parcel is located at 1554 Pelicano Trail, north of Las Cruces, NM and is within Section 24, Township 22 South, Range 1 East, was recorded on June 5, 2015, in the Doña Ana County Clerk’s office under Instrument #1511724, and can be further identified by Parcel # R0315494.

REPORT CONTENTS: (1) Cover Page, (2) Applicable Policies and Ordinances, (3) Staff Analysis, (4) Site Plan and Supporting Documents, (5) GIS Information & Maps
Surrounding Zoning and Land Uses

<table>
<thead>
<tr>
<th>SITE</th>
<th>ZONING</th>
<th>LAND USE</th>
</tr>
</thead>
<tbody>
<tr>
<td>North</td>
<td>D1 &amp; D1-L</td>
<td>Residential</td>
</tr>
<tr>
<td>South</td>
<td>D1-L</td>
<td>Residential</td>
</tr>
<tr>
<td>East</td>
<td>D1-L</td>
<td>Residential</td>
</tr>
<tr>
<td>West</td>
<td>D1-L &amp; I2</td>
<td>Residential</td>
</tr>
</tbody>
</table>

BACKGROUND:

Existing Conditions/Zoning
The 1.7-acre subject property is a nearly rectangular residentially developed parcel containing a 1,215 sq. ft. (27’ X 45’) double-wide manufactured home, a 1,056 sq. ft. double-wide manufactured home (proposed accessory dwelling), and a small storage shed. The southern portion of property lies within an arroyo (Pg 13). The subject property is located within a D1-L (Low Density Residential, Limited) Zoning District. Moongate Water Co. Inc. provides water to the property. Wastewater disposal for the two dwellings is handled by an approved existing septic system and a new septic system for the accessory dwelling has been applied for. The parcel is accessed by Pelicano Trail, an unpaved, private road classified as a local road by the Mesilla Valley MPO (Page 4).

The Las Cruces Extra-Territorial Zoning Commission (ETZ), at a public hearing on December 15, 2016, tabled indefinitely a request for a Special Use Permit, Case #SU16-011. During the hearing, issues regarding ownership of the property arose and the case was postponed until the issue was resolved. The applicant has now re-applied under the new requirements of the UDC.

The Request:
The applicants originally requested an Administrative Special Use Permit for a 1,056 sq. ft. (24’ X 44’) double-wide manufactured home as an accessory dwelling for family members. An email in opposition (Pgs. 11-12) was received by staff prior to the February 25, 2019 deadline for public input resulting in the Special Use Permit being heard by the P&Z Commission as required by the Doña Ana County Unified Development Code (UDC).

AGENCY COMMENTS

DAC Engineering: No comments.

DAC Flood Commission: Pursuant to FEMA Flood Insurance Rate Map (FIRM) No. 35013C0893 G, the subject property is not located in a FEMA Special Flood Hazard Area. The property can be further identified as being in FEMA “Other Areas” Zone “X”, “Areas
determined to be outside the 500-year floodplain”, Please be aware the lot is susceptible to flooding despite not being located in a Special Flood Hazard Area. Increases to impervious area will require storm water runoff to be contained within the property.

**DAC Fire Marshal:** Special Use Permit approved only. Any future structures will be required to meet all fire code requirements.

**DAC Building Services:** Mobile Home Installation Permit will be required. Triple fee will apply.

**DAC Advanced Planning:** No landscaping per UDC is required, but any fencing must comply with the requirements in UDC 350-507.R-U.

**DAC Addressing Coordinator:** No comments.

**DAC Zoning Codes:** Open case #16068 for moving in w/o MHIP.

**DAC Codes:** The property has some debris that needs to be cleaned up and an inoperable vehicle. Approve request as far as Codes is concerned.

**NMED:** The septic permit No. is LC980461. Water Supply/Water Quality: The Drinking Water Bureau has no concerns about this project at this time. Solid Waste Disposal: The NMED’s Solid Waste Bureau has no comment nor concern regarding solid waste issues. Surface Water Bureau: The Surface Water Bureau has no concerns about this project at this time. The second home will need to apply for new liquid waste permit.

**Mesilla Valley MPO:** Pelicano Trl. is a local road.

**CLC Planning Department:** No Comments/issues.

### PUBLIC NOTICE / NOTIFICATION

- Sixteen (12) letters of notification mailed to area properties on March 15, 2019.
- Agenda was posted in the Las Cruces Sun-News on March 17, 2019.
- Signs were posted on the property in a timely manner.
- Email was received by staff in opposition (Pg. 12) of the Special Use Permit request.

### APPLICABLE PLANS, POLICIES, AND CRITERIA FOR APPROVAL

**Chapter 350, Unified Development Code**
**Ordinance No. 287-2016**

**§350-204 SPECIAL USE PERMITS (SUP)**

**§350-204.A General Provisions and Procedures**

An applicant has the option of either applying for an administrative SUP or proceeding directly to the P&Z to consider the SUP at a public hearing. The Zoning Administrator may administratively approve a special use permit if no written objections are received within 21 days from the date that notice is provided consistent with § 350-204C provided all agency
review comments are satisfactorily addressed. The notice shall identify the property and state the nature of the SUP requested, and shall also state that if no written objections to the SUP are received within 21 days of the date of the notice, the SUP may be granted administratively without a hearing. If written objections are received within the twenty-one-day period, the SUP will be submitted to the P&Z for a public hearing. Special use permits shall not be considered a zone change.

§350-204.C Notice Procedure for Special Use Permits

2. SUPs Decided by Public Hearing:
   a) Signs supplied by the CDD shall be posted for a minimum of 21 days on the subject property, in conspicuous locations, in a manner that is reasonably calculated to notify adjacent property owners and passersby of the hearing for the proposed special use permit.

   b) Notice of public hearing shall be published one time at least 21 days prior to the date of the hearing in a newspaper of general circulation in the jurisdiction of the County.

   c) Notice of the SUP shall be mailed by first-class mail to the adjacent property owners, as shown by the records of the County Assessor, of properties within 300 feet of any lot line of the site in question, excluding streets, alleys, channels, canals or other public rights-of-way and railroad rights-of-way. A minimum of 10 different owners shall be required to be notified.

§350-204.D Decisional Criteria for Special Use Permits

A proposed SUP must be consistent with the health, safety, and general welfare of the residents of the County per the intent of this chapter. The Zoning Administrator, P&Z, and BOCC shall use the following general criteria when reviewing special use permits but are not limited to:

1. Potential traffic flows and impacts;
2. Need for new commercial or residential activity;
3. Potential water and sewer needs;
4. Existing infrastructure capacities and the ability of existing systems to accommodate new development;
5. Environmentally sensitive areas in the vicinity, areas of historical significance, or areas that contain endangered or rare species of animal and plant life;
6. The impact of a proposed SUP because of its size and intensity on surroundings properties; and
7. Implementation of best management practices for the development

ARTICLE 7: GLOSSARY

ACCESSORY DWELLING
A separate, complete unit with a separate entrance, kitchen, sleeping area, and full bathroom facilities, which is detached from the primary dwelling on the lot and shall not be used for the commercial sheltering or rental for individuals or families.

SPECIAL USE PERMIT (SUP)
Authorization for a specific land use that is potentially appropriate in, and compatible with other uses in its zoning district, but due to the scale and nature of the use, has the potential to make a major negative impact on other uses in the district.

**Current Zoning District:**
D1-L (Low Density Residential-Limited, 1.0-acre minimum new lot size, single family site-built and manufactured homes) Zoning District.

**STAFF ANALYSIS**

The Zoning Administrator may administratively approve a special use permit if no written objections are received within 21 days from the date that notice is provided consistent with § 350-204C. The notice shall identify the property and state the nature of the SUP requested, and shall also state that if no written objections to the SUP are received within 21 days of the date of the notice, the SUP may be granted administratively without a hearing. If written objections are received within the twenty-one-day period, the SUP will be submitted to the P&Z for a public hearing. Special use permits shall not be considered a zone change.

**Special Use Permit (ETZ):**

An application for Administrative Special Use Permit was received on September 30, 2016, after the applicant was cited by Codes Enforcement on a complaint, #16068, for an illegal mobile home. Staff research discovered there was no MHIP approved or a Special Use Permit for the accessory dwelling. Additionally, Codes noted violations for accumulations of trash, junk tires, inoperable vehicles, and an RV being lived in. Codes re-inspected the property on October 25, 2016, and found it to be in compliance. A site visit performed by Community Development staff on Dec. 8 verified that no RVs were on the property, and the accumulations of trash, tires, inoperable vehicles, and debris had been removed.

The Las Cruces Extra-Territorial Zoning Commission (ETZ), at a public hearing on December 15, 2016, tabled indefinitely a request for a Special Use Permit, Case #SU16-011. During the hearing, issues regarding ownership of the property arose and the case was postponed until the issue was resolved. The applicant re-applied under the new requirements of the UDC.

**Special Use Permit (UDC):**

Application for Administrative Special Use Permit was received on January 25, 2018. The original Public Notices mailed to the area triggered one opposition email. Each of the opposition emails were received prior to C.O.B. on Friday, February 22, 2019. Written correspondence in opposition received by the advertised deadline requires the Administrative Special Use Permit Request to be heard by the Planning and Zoning Commission (P&Z).

Below is a brief recap of §350-204.D Decisional Criteria as submitted by the Applicant for the Special Use Permit: 1.) Home is for parents in law, only one car will be added. 2.) Second home will be for parents in law. 3.) Septic tanks will handle waste water and water is provided by Moongate Water. 4.) Septic system for second home has been applied for. 5.) No known areas of historical significance, environmentally sensitive areas, or any endangered species have been found on this property. 6.) No impact, only one additional home. 7.) Applicant will work with staff to implement reasonable Best Management Practices as identified.
§350-204.D Decisional Criteria Analysis
Staff analysis in bold.

1. Potential traffic flows and impacts:
   Applicants are requesting the Special Use Permit for a 1,056 sq. ft. double-wide manufactured home for family members.

2. Need for new commercial or residential activity:
   No commercial activity is being proposed. Additional traffic (1 vehicle) will be added to Pelicano Trail, an unpaved private, local road. No negative comments from DAC Engineering. Additional home will be for in-laws.

3. Potential water and sewer needs:
   Ready, Willing, and Able letter from Moongate Water Co., Inc. on file, an approved septic system and an application for the 2nd system will be sufficient to handle the water and sewage needs.

4. Existing infrastructure capacities and the ability of existing systems to accommodate new development:
   Additional home and one 1 vehicle will impact Pelicano Trl., a private, unpaved local road, should be adequate for the additional traffic. The existing and new septic system is sufficient for the property. Water is available from Moongate Water Co., Inc.

5. Environmentally sensitive areas in the vicinity, areas of historical significance, or areas that contain endangered or rare species of animal and plant life:
   Applicant has indicated, with his response and by the submitted site plan (Pg 13), that the accessory dwelling will not impact the arroyo along the southern boundary of the parcel. The accessory dwelling meets the setbacks and is not impacting the arroyo. No evidence was submitted to staff that demonstrates any rare or endangered species, or areas of historical significance at this residential site.

6. The impact of a propose SUP on surrounding properties:
   Minimal additional residential impact anticipated with the additional dwelling with two people and one car. There should be no significant impact to surrounding properties due to the limited impact of an additional residence on the property.

   The applicant has stated that they will “work with staff to implement reasonable Best Management Practices for the development of the site.” At the time of the Building Permit review by DAC staff, any Best Management Practices that are identified will be noted and included in the reviews and staff will work with the applicant and their contractor to ensure implementation of those practices.

Staff’s analysis of §350-204.D Decisional Criteria indicates that the request complies with the Decisional Criteria of the UDC Ordinance.
STAFF FINDINGS:

1. The property is outside of any incorporated municipal zoning authority and is within Doña Ana County; therefore, the Planning & Zoning Commission has jurisdiction to hear this case.
2. Pursuant to §350-104.C.2 the Doña Ana County Planning & Zoning Commission shall receive, hear and make final determinations on applications for variances and special use permits as prescribed by, and subject to, the procedures established herein.
3. Notice requirements have been met as prescribed in §350-204.C Public Hearing and Approval.
4. The proposed accessory dwelling meets the Decisional Criteria for Special Use Permits per §350-204.D.
5. The 1.70-acre parcel was recorded on June 5, 2015, in the Doña Ana County Clerk’s office under Instrument #1511724.
6. The subject property is located within a D1-L (Low Density Residential-Limited) Zone.
7. Ready, Willing, and Able letter from Moongate Water Co., Inc. on file, an approved septic system and an application for the 2nd system will be sufficient to handle the water and sewage needs.

STAFF RECOMMENDATION:

Based on the Findings, staff analysis, and the proposed accessory dwelling meeting §350-204.D Decisional Criteria for Special Use Permits, staff recommends **Conditional Approval** of Case #SU19-003, with the following conditions, the applicant shall:

1. Apply and receive approval of a Mobile Home Installation Permit and pay a Triple fee for moving the mobile home without a permit.
2. Install the manufactured home on a permanent foundation to be classified as real property.
3. Finalize septic permit for two dwellings and install septic system as approved by NMED.
4. Not use the accessory dwelling for the commercial sheltering of individuals.
5. Ensure that the location of the accessory dwelling does not adversely impact the arroyo along the southern boundary of the property.
6. Remove inoperable vehicle and clean debris from property.
February 20, 2019

Dear Mr. Casillas:

We object to the special use permit requested by Mr. Reyes for the property at 1554 Pelicano Trail for the following reason:

We are not zoned for high density housing, therefore he is asking for a change in the zoning designation which we object to.

Sincerely,

Andrew Walch

Lisa Walch

Alicia Stull
Mr. Casillas: We are in receipt of your letter dated March 15 regarding the request for the special use permit submitted by Mr. Eduardo Reyes. We still object based upon the zone change required for this permit, we purchased our home in 2001 based upon low density housing. We will attend the meeting on April 11th and respectfully request that we be allowed to speak directly to the commission to address our issues with the special use permit.

Regards,
Andrew & Lisa Walch
Area of Notification Aerial
Area of Notification Map
## Area of Notification List

**SU19003**

<table>
<thead>
<tr>
<th>CODE ACCOUNTN</th>
<th>OWNERNAME</th>
<th>MAILADDR1</th>
<th>CITY</th>
<th>STATE</th>
<th>ZIP</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>REYES EDUARDO &amp; MIRIAM H</td>
<td>2015 SANDHILL RD</td>
<td>LAS CRUCES</td>
<td>NM</td>
<td>88001</td>
</tr>
<tr>
<td>2</td>
<td>VENTURA GEORGE &amp; MARICRUZ</td>
<td>5135 DEL REY BLVD</td>
<td>LAS CRUCES</td>
<td>NM</td>
<td>88012</td>
</tr>
<tr>
<td>3</td>
<td>COHORN KENNETH E</td>
<td>5155 DEL REY BLVD #1</td>
<td>LAS CRUCES</td>
<td>NM</td>
<td>88012</td>
</tr>
<tr>
<td>4</td>
<td>STILL ALICIA B</td>
<td>1561 TECOLOTE TRL</td>
<td>LAS CRUCES</td>
<td>NM</td>
<td>88012</td>
</tr>
<tr>
<td>5</td>
<td>O'KEEFE THOMAS M</td>
<td>3 DEER RUN</td>
<td>CLOUDCROFT</td>
<td>NM</td>
<td>88317</td>
</tr>
<tr>
<td>6</td>
<td>GWALTNEY JAMES L &amp; RUTH S</td>
<td>1571 TECOLOTE TRL</td>
<td>LAS CRUCES</td>
<td>NM</td>
<td>88012</td>
</tr>
<tr>
<td>7</td>
<td>WAINWRIGHT ALLAN L</td>
<td>800 LOMAS BLVD NW</td>
<td>ALBUQUERQUE</td>
<td>NM</td>
<td>87102-1974</td>
</tr>
<tr>
<td>8</td>
<td>STILL ALICIA B</td>
<td>1561 TECOLOTE TRL</td>
<td>LAS CRUCES</td>
<td>NM</td>
<td>88012</td>
</tr>
<tr>
<td>9</td>
<td>DEMCHOK PAT</td>
<td>1525 TECOLOTE TRL</td>
<td>LAS CRUCES</td>
<td>NM</td>
<td>88012-9727</td>
</tr>
<tr>
<td>10</td>
<td>WALCH LISA &amp; ANDREW J</td>
<td>1551 TECOLOTE TRL</td>
<td>LAS CRUCES</td>
<td>NM</td>
<td>88012</td>
</tr>
<tr>
<td>11</td>
<td>COHORN LARRY OR NITA</td>
<td>5185 DEL REY BLVD</td>
<td>LAS CRUCES</td>
<td>NM</td>
<td>88012</td>
</tr>
<tr>
<td>12</td>
<td>MORROW LEO &amp; FAYE REVOCABLE TRUST</td>
<td>PO BOX 13008</td>
<td>LAS CRUCES</td>
<td>NM</td>
<td>88013</td>
</tr>
</tbody>
</table>