

**A G E N D A**  
**CITY OF AZTEC**  
**CITY COMMISSION MEETING**  
**September 9, 2014**  
**201 W. Chaco, City Hall**  
**6:00 p.m.**

**I. CALL TO ORDER**

**II. INVOCATION**

**III. PLEDGE OF ALLEGIANCE**

**IV. ROLL CALL**

**V. AGENDA APPROVAL**

**VI. PROCLIMATION**

A. Constitution Week

**VII. CITIZEN RECOGNITION**

**VIII. EMPLOYEE RECOGNITION**

**IX. CONSENT AGENDA**

A. Commission Meeting Minutes, August 25, 2014

B. Travel Requests

C. Airport Maintenance Grant and Entitlement Funds Transfer

D. Morris Right of Way Purchase

*Items placed on the Consent Agenda will be voted on with one motion. If any item proposed does not meet the approval of all Commissioners, a Commissioner may request that the item be heard under "Items from Consent Agenda"*

**IX. ITEMS FROM CONSENT AGENDA**

**X. CITIZENS INPUT (3 Minutes Maximum)**

*(Citizens who wish to speak will sign up prior to the meeting – this section is for items not otherwise listed on the agenda)*

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**ATTENTION PERSONS WITH DISABILITIES:** The meeting room and facilities are fully accessible to persons with mobility disabilities. If you plan to attend the meeting and will need an auxiliary aid or service, please contact the City Clerk's Office at 334-7600 prior to the meeting so that arrangements can be made.

**Note:** A final agenda will be posted 24 hours prior to the meeting. Copies of the agenda may be obtained from City Hall, 201 W. Chaco, Aztec, NM 87410

**XI. BUSINESS ITEMS**

- A. Intent to Adopt Ordinance 2014-439 Amending Articles II and IV of Chapter 20 Signs

**XII. LAND USE HEARING**

- A. Application 2014-149 Variance Request (Big O Tires)
- B. Application 2014-134 Zone Change ( Parker)

**XIII. CITY MANAGER/COMMISSIONERS/ATTORNEY REPORTS**

**XIV. DEPARTMENT REPORTS**

*(When this item is announced, all Department Heads who wish to give a report will move to the podium)*

**XV. ADJOURNMENT**

CITY OF AZTEC  
COMMISSION MEETING MINUTES  
August 25, 2014

**I. CALL TO ORDER**

Mayor Burbridge called the Meeting to order at 6:05pm at the Aztec City Commission Room, City Hall, 201 W. Chaco, Aztec, NM.

**II. INVOCATION**

The Invocation was led by Chief, Mike Heal

**III. PLEDGE OF ALLEGIANCE**

The Pledge of Allegiance was let by Community Development Director, Bil Homka

**IV. ROLL CALL**

Members Present: Mayor, Sally Burbridge; Mayor Pro-Tem, Sherri Sipe; Commissioner Katee McClure; Commissioner, Sheri Rogers

Members Absent: Commissioner Roberta Locke

Others Present: City Manager, Joshua Ray; City Clerk, Karla Sayler, Project Manager, Edward Kotyk (see attendance sheet)

**V. AGENDA APPROVAL**

MOVED by Mayor Pro-Tem Sipe, SECONDED by Commissioner McClure to Approve the Consent Agenda

**VI. CITIZEN RECOGNITION**

None

**VII. EMPLOYEE RECOGNITION**

None

**VIII. CONSENT AGENDA**

MOVED by Commissioner Rogers, SECONDED by Mayor Pro-Tem Sipe to Approve the Consent Agenda with the exceptions of Item L, Animal Care and Control Intergovernmental Agreement, Item N, Installation and Maintenance Agreement between City of Aztec and New Mexico Department of Transportation for Community Way Finding Signs, and Item R, Resolution 2014-944 Adopting the 2016-2020 Infrastructure Capital Improvement Plant (ICIP)

- A. Commission Workshop Minutes, July 8, 2014
- B. Special Commission Meeting Minutes, August 18, 2014
- C. Travel Requests
- D. Appointment of 2014 New Mexico Municipal League (NMML) Annual Conference Voting Delegates-Annual Business Meeting
- E. FY15 Annual Budget Approval Acknowledgement
- F. Bid 15-438 KSB Submersible Pump
- G. Bid 15-0418 Aztec Remote SCADA Project
- H. RFQ 14-0413 Arroyo Easement Services
- I. Resolution 2014-943 Project No. SP-5-14(187) Funding Extension Request (Simons Road)
- J. RFP2014-228 Animas River Diversion Smith Engineering Contract Amendment #1
- K. Annual MOU for FY15 CDWI Application
- L. Pulled
- M. General Services/Parks - Copier Lease Agreement
- N. Pulled
- O. City Manager Agreement
- P. RFQ-15-0420 Municipal Collection Services
- Q. Visitor Center Document Destruction
- R. Pulled

#### **IX. ITEMS FROM CONSENT AGENDA**

- L. Animal Care and Control Intergovernmental Agreement

Mayor Burbridge questioned what the charges to the agreement were. Josh stated that there was nothing substantial in the change of the contract. Josh also mentioned that the City Attorney viewed the contract and approved it to go to Commission for approval.

MOVED by Mayor Burbridge, SECONDED by Mayor Pro-Tem Sipe to Approve Animal Care and Control Intergovernmental Agreement between City of Aztec and Bernalillo County

N. Installation and Maintenance Agreement between City of Aztec and New Mexico Department of Transportation for Community Way Finding Signs

Commissioner McClure questioned the costs and type of signs for this item. Ed Kotyk mentioned that the signs will be metal framing with the City Logo on them. The cost includes the design and the installation of the signs.

MOVED by Commissioner McClure, SECONDED by Commissioner Rogers to Approve Installation and Maintenance Agreement between the City of Aztec and New Mexico Department of Transportation for Community Way Finding Signs

R. Resolution 2014-944 Adopting the 2016-2020 Infrastructure Capital Improvement Plan (ICIP)

Josh mentioned that this item is upgrading the priority lists of projects that are in the infrastructure capital improvement plan. He stated that the ICIP must be annually adopted by resolution and the top 5 priorities will be submitted to the state by the deadline on September 2, 2014 which are the East Aztec Arterial, Outfall Line Replacement, North Main Corridor, Blanco Arroyo Mitigation and the South Aztec Water System Rehabilitation. Josh also mentioned that the City added the San Juan County Dispatch Software and Hardware installation to the plan mentioning that all the surrounding governments put it in their plans as well hoping to get funding for the costs from the legislature.

MOVED by Mayor Pro-Tem Sipe, SECONDED by Commissioner McClure to Approve the Resolution 2014-944 adopting the 2016-2020 Infrastructure Capital Improvement Plan (ICIP)

**X. CITIZENS INPUT**

None

**XI. BUSINESS ITEMS**

A. Russell Planning & Engineering, Contract Change Order #1

Josh mentioned that this change order comes from the City of Aztec to develop the crossing at Hampton Arroyo that was not included in the original North Main Corridor design.

MOVED by Commissioner McClure, SECONDED by Mayor Pro-Tem Sipe to Approve Russell Planning and Engineering Contract Change Order #1 in the amount of \$9,025

B. H.O. Construction, Contract Change Order #1

Josh mentioned H.O. Construction is the company developing the trail that comes back from the bridge to Martinez Lane. He mentioned that the change order is for the rails and the finish on the rails to cover the section of the trail. The hand railing will be of galvanized pipe that will require less maintenance and the finish would match the hand rails currently on the bridge.

MOVED by Mayor Pro-Tem Sipe, SECONDED by Commissioner McClure to Approve H.O. Construction, Contract Change Order #1 in the amount of \$1,760 plus GRT

**XII. CITY MANAGER/COMMISSIONERS/ATTORNEY REPORTS**

Josh reported that the Frontiers Community Initiative Meeting at mentioned that there were 36 people in attendance. He mentioned that Commissioner McClure served as board member for the meeting. The members chose a task item being River Access Development. He mentioned that he will be attending the NMML Annual Conference this week. Josh mentioned that Senator Heinrich will be doing a walkthrough of the trail system and the Pedestrian Bridge on Friday August 29 at 3:30pm.

Mayor Burbridge reported that on Friday, August 29 Four Corners Economic Development will have a press release on a local business will be announcing a major expansion. She also mentioned that the Economic Development Growth and Excellence Banquet will be on October 21, 2014. They will be accepting nominations for businesses at that banquet. She mentioned that she will be attending the National League of Cities in November.

Mayor Pro Tem Sipe mentioned that the EDAB meeting was cancelled this month. She also attended the Northwest New Mexico Senior Meeting. She mentioned that they met with the people that are against the Lagoon for the RV park that is going to be close to the ditches and encourages people to attend the San Juan County Commission meeting to voice their options on the Lagoon. She mentioned that the environmental department has already approved the permit and it will now go to San Juan County for approval.

Commissioner Rogers mentioned that she visited the Airport with Josh. She mentioned that she attended the San Juan County Safe Community Meeting. She mentioned that she attended the orientation for Leadership San Juan.

Commissioner McClure reported that as of September 1, 2014 the Talon is under new ownership Joe Sykes. They will continue to have the same email and contact numbers. She has asked to be removed from the San Juan

Water Commission Board and suggested that Bob Oxford replace her. She also mentioned that she will be running for Aztec Sorehead.

**XVII. ADJOURNMENT**

MOVED by Mayor Burbridge to adjourn the meeting at 6:45 pm.

\_\_\_\_\_  
Mayor, Sally Burbridge

ATTEST:

\_\_\_\_\_  
Karla Sayler, City Clerk

MINUTES PREPARED BY:

\_\_\_\_\_  
Karla Sayler, City Clerk

DRAFT

# Staff Summary Report

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<b>MEETING DATE:</b>	September 9, 2014
<b>AGENDA ITEM:</b>	VIII. CONSENT AGENDA (B)
<b>AGENDA TITLE:</b>	Travel Requests

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<b>ACTION REQUESTED BY:</b>	Electric, Water & City Hall
<b>ACTION REQUESTED:</b>	Approval of Employee/Public Official Travel Requests
<b>SUMMARY BY:</b>	Cheryl Franklin

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## PROJECT DESCRIPTION / FACTS (Leading Department)

- Resolution 2003-603 identifies the requirement for employee/public official travel requests to be pre-approved by the commission. All travel requests will be submitted to the commission for approval prior to the travel occurring except in unusual circumstances when the City Manager may approve as provided in resolution 2003-603.
- The attached log is sorted by dates of travel and then by department. Two requests for travel had already occurred. The Electric and Water department is requesting approval for travel on the date of this meeting; however, the remaining request is dated for future.
- If travel/training is to be reimbursed or some of the costs will be paid by another entity, those notes have been included on the log.

## FISCAL INPUT (Finance Department)

- All departments requesting travel have sufficient funds budgeted within their travel/training budgets

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**SUPPORT DOCUMENTS:** Travel Log September 9, 2014

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**DEPARTMENT'S RECOMMENDED MOTION:** Approve Employee/Public Official Travel Requests

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**EMPLOYEE/PUBLIC OFFICIAL TRAVEL REQUESTS FOR COMMISSION APPROVAL**

**MEETING DATE: SEPTEMBER 9, 2014**

Dates of Travel	Department	Employee	Purpose of Travel/Location	Over-night	Out of State	Costs	Explanation of Cost	FY15 Budget Available
08/25-26/14	Electric	Greg Mizell	Management & Leadership Skills for Managers & Supervisors Durango, CO.	Yes	Yes	54.00 299.00 25.00	Meal & Gratuity Allowance Registration Estimated Fuel Expense	Yes
09/07-12/14	Water	Tyrome Begay	NM Water & Wastewater Assoc. Central Short School Albuquerque, NM.	Yes	No	194.40 250.00 30.00 75.00 467.39	Meal & Gratuity Allowance Registration Test Fee Estimated Fuel Expense Lodging	Yes
09/11-17/14	City Hall	Josh Ray	ICMA annual Conference Charlotte, NC.	Yes	Yes	252.00 645.00 389.43 832.00	Meal & Gratuity Allowance Registration Airfare Lodging	Yes

# Staff Summary Report

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**MEETING DATE:** September 9, 2014  
**AGENDA ITEM:** IX. CONSENT AGENDA(C)  
**AGENDA TITLE:** Airport Maintenance Grant and Entitlement Funds Transfer

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**ACTION REQUESTED BY:** Finance Department  
**ACTION REQUESTED:** Approval  
**SUMMARY BY:** Kathy Lamb

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## PROJECT DESCRIPTION / FACTS

- Maintenance Grant
  - NMDOT Aviation Division provides funds for annual maintenance. Funding applications must be received by the Aviation Division by September 30, 2014. Maximum funds available from the Aviation Division is \$9,000 with a 10% local match for a total of \$10,000.  
The funding application for 2015 includes weed control and runway light maintenance.  
Final costs have not yet been identified for repair of the runway end lights.
  
- Entitlement Funds Release
  - The Aztec Airport is entitled to federal funds annually. These annual funds are allowed to accumulate for a maximum of four years, after which the oldest entitlement reverts back to the FAA. The Aztec Airport currently has four years available (FY11, FY12, FY13, FY14) which will not be expended by September 30, 2014. NM State Aviation Division has requested the City consider transferring the FY11 entitlement of \$150,000 to the Aviation Division. If not transferred, the funds will revert to the FAA to be used in any manner.
  - The runway improvements completed in 2010 exceeded the entitlement funds which had accumulated for the Aztec Airport. Funding was provided through the federal funds available through the Aviation Division, the result of entitlement transfers from other New Mexico airports to the Aviation Division.
  - The Aztec Airport does have use for the funds but the project (airport apron) will not be ready for construction funds in the near future.

## FISCAL INPUT / FINANCE DEPARTMENT (if applicable)

- Maintenance Grant
  - The FY15 Adopted Budget, Airport Fund, includes sufficient funds to meet the match requirement of the maintenance grant at the maximum funds available through the State. Grant funds for the repair of the runway end lights will reduce the impact of the repairs to the Airport Fund.
  
- Entitlement Funds
  - Transfer of the entitlement funds that will not be expended by the City will revert to the FAA during federal fiscal year 2015. The actual date those funds would

revert will depend on Congress funding of the FAA entitlement programs at which time the Aztec Airport would have accumulated five years. The FY14 entitlement occurred in November of 2013 but in prior years, the entitlement funding has not occurred until several months into the new federal fiscal year.

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**SUPPORT DOCUMENTS:** NM State Aviation Grant Application  
FAA Agreement for Entitlement Transfers

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**DEPARTMENT'S RECOMMENDED MOTION:** Move to Approve the submittal of FY15  
Airport Maintenance Grant and Entitlement Funds Transfer

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U.S. Department  
of Transportation  
Federal Aviation  
Administration

**AGREEMENT FOR TRANSFER OF ENTITLEMENTS**

In accordance with section 47117(c)(2) of Title 49 U.S.C. (hereinafter called the "Act).

City of Aztec, NM

*(Name of Transferor Sponsor)*

Hereby waives receipt of the following amount of funds apportioned to it for each fiscal year specified under section 47114(c) or 47114(d)(3)(A) of the Act.

<u>Amount</u>	<u>Fiscal Year</u>
\$ 150,000.00	2011
\$	20
\$	20
<b>TOTAL \$</b> <u>150,000.00</u>	

On the condition that the Federal Aviation Administration makes the waived amount available to:

State of New Mexico Aviation Division

*(Name of Transferee Sponsor)*

for eligible projects under section 47104(a) Act. This waiver shall expire on earlier of October, 1<sup>st</sup> 2015 or when the availability of apportioned funds would lapse under section 47117(b) of the Act.

**FOR THE UNITED STATES OF AMERICA  
FEDERAL AVIATION ADMINISTRATION**

**FOR THE CITY OF AZTEC, NM**

\_\_\_\_\_  
*(Signature)*

\_\_\_\_\_  
*(Typed Name)*

\_\_\_\_\_  
*(Title)*

\_\_\_\_\_  
*(Date)*

\_\_\_\_\_  
*(Signature)*

Sally Burbridge  
*(Typed Name)*

Mayor  
*(Title)*

9/9/14  
*(Date)*

**CERTIFICATE OF SPONSOR'S ATTORNEY**

I, Larry T. Thrower acting as Attorney for the Sponsor do hereby certify:

That I have examined the foregoing Agreement and find that the Sponsor has been duly authorized to make such transfer and that the execution thereof is in all respects due and proper and in accordance with the laws of the State of New Mexico and the Act

Dated at this 9th day of September, 2014 .

By \_\_\_\_\_  
*(Signature of Sponsor's Attorney)*

DATE

# STATE GRANT AGREEMENT FOR AIRPORT PROJECTS



*New Mexico* DEPARTMENT OF  
**TRANSPORTATION**  
MOBILITY FOR EVERYONE

## AVIATION DIVISION

Sponsor

Respond to:  
NMDOT - AVIATION DIVISION  
PO Box 9830  
Albuquerque, NM 87119  
505-244-1788 phone  
505-244-1790 fax

Contract No. \_\_\_\_\_

Project No. \_\_\_\_\_

Vendor No. \_\_\_\_\_

Expiration Date \_\_\_\_\_

Purchase Order No: \_\_\_\_\_

**PROJECT AGREEMENT**

This Project Agreement / Application is between  , New Mexico (Sponsor) and The State of New Mexico, acting through the New Mexico Department of Transportation, Aviation Division (Division) for the purpose of carrying out the provisions of Section 64-1-13, NMSA 1978 of the Aviation Act (Act) and Sections 3-39-1 et. seq., NMSA 1978 of the Municipal Airport Law

**NOW THEREFORE, IT IS MUTUALLY AGREED BETWEEN THE PARTIES:**

**SECTION ONE - PURPOSE**

The purpose of this Agreement / Application is to provide funding, authorized in Section 64-1-13, NMSA 1978, to the Sponsor to assist in financing an airport or aviation project at

Based on the Sponsor's request, the Division has granted state funding to pay  % of the Sponsor's share of all allowable costs for the project.

**Project Description:**

The site of development is more particularly described on the property map, attached as "Exhibit A"

**Items of work, cost and source of funds as stated in "Exhibit B", of this Agreement.**

**FUNDING**

STATE	SPONSOR	OTHER	TOTAL
\$ <input type="text" value="9,000"/>	\$ <input type="text" value="1,000"/>	\$ <input type="text"/>	\$ <input type="text" value="10,000"/>

**ROUND TO THE NEAREST DOLLAR**

## SECTION TWO - PROJECT FUNDING

1. The funding for this project is set forth in EXHIBIT B.
2. The maximum obligation of the State payable by the Division under this Agreement is set forth in EXHIBIT B.
3. Funding approved under this Agreement / Application shall be paid subject to the availability of funds from the the State Aviation Fund. Any unexpended portion of funds subject to this agreement shall revert to the State Aviation Fund.

## SECTION THREE - SPONSOR SHALL

1. Pay all costs, perform all labor, and supply all material, except as described in EXHIBIT B of this Agreement, for the purpose as described in SECTION ONE.
2. Provide a representative from its organization who shall serve as the single point of contact for the Division.
3. Maintain in force a **Maintenance Resolution** by which the Sponsor agrees to establish an airport maintenance program and appoint an individual to be responsible for its effectuation.
4. Initiate engineering, survey, and all other design activities, inspect Project construction and, coordinate all meetings.
5. Be responsible for all design and pre-construction activities.
6. Initiate and cause to be prepared all necessary documents including plans, specifications, and estimates (PS&E), and reports for this Project.
7. Assure that all design and PS&E are performed under the direct supervision of a Registered New Mexico Professional Engineer.
8. Design the Project in accordance with State and Federal guidelines and/or advisory circulars, hereby incorporated into this Agreement. The work will be accomplished in accordance with the Federal Aviation Administration's Standards for Specifying Construction of Airports (Advisory Circular 150/5370-10, current edition).
9. Notify the Division when the plans and specifications are sufficiently complete for review.
10. Make no changes in design or scope of work without documented approval of the Aviation Division.
11. Advertise for and contract for the construction of the Project.
12. Require the Engineer to prepare a final detail estimate of the work, indicating the bid items, the quantity in each item, the unit bid price and cost of the items based on low acceptable bid prices. Progress estimates shall be submitted to the Division in acceptable form so that details of quantities allowed on various items of work shall be shown on each progress payment.

13. The Sponsor shall submit to the Division one complete set of plans and specifications which incorporate all comments and recommendations received during pre-bid activities and which have been fully executed by all involved parties.
14. The Sponsor shall take all steps, including litigation if necessary, to recover State funds spent fraudulently, wastefully, or in violation of State statutes, or misused in any other manner on any project upon which State funds have been expended. For the purposes of this Agreement, the term "State funds" means funds, however used or disbursed by the Sponsor, that were paid by the Division pursuant to this Agreement. The Sponsor shall return the recovered State share, including funds recovered by settlement, order, or judgment, to the Division. It shall furnish to the Division, upon request, all documents and records pertaining to the determination of the amount of the State share of any settlement, litigation, negotiation, or the efforts taken to recover such funds. All settlements or other final dispositions by the Sponsor, in court or otherwise, involving the recovery of such State share shall be approved in advance by the Division.
15. The Sponsor shall, upon reasonable notice, allow the Division the right to inspect the project for the purposes of determining if it is being constructed in a good and workmanlike manner, and if the approved plans and specifications are being satisfactorily complied with. If such inspection discloses a failure to substantially meet such requirements and standards as agreed to by the Division, the Division may terminate payment or payments until a mutually satisfactory remedy is agreed upon.

#### **SECTION FOUR - DIVISION SHALL**

1. Assign a contact person for this project.
2. Provide timely reviews of all submittals of scopes, plans, specifications, investigations or other documents.
3. The Division shall not provide an extensive check of any plans submitted by the Sponsor. Acceptance of plans by the Division does not relieve the Sponsor or its Consultant of their responsibility for errors and omissions.

#### **SECTION FIVE - BOTH PARTIES AGREE**

1. If upon termination of this Agreement there remain any properties, materials or equipment belonging to the Division, the Sponsor shall account for the same and dispose of them as directed by the Division.
2. The allowable costs of the Project shall not include costs determined by the Division to be ineligible for consideration under the Act.
3. The expenditure of any State money is subject to approval by the Division.

4. The Local Governments Road Fund, established pursuant to Section 67-3-28.2, NMSA 1978, shall not be used to administer this project.
5. A Sponsor that has received a distribution pursuant to Section 67-3-28.2, NMSA 1978, may not use this distribution to meet its match required for this project.

## SECTION SIX - DISPOSITION OF PROPERTY

1. **Disposition of Property** - Any equipment, materials or supplies procured under this Agreement shall be used solely for aviation purposes and must be stored at the airport.

## SECTION SEVEN - REPRESENTATIONS

The Sponsor hereby represents and certifies the following by signing this Agreement:

1. **Legal Authority** - The Sponsor has the legal power and authority: (1) to do all things necessary in order to undertake and carry out the Project in conformity with the provisions stated in the New Mexico Aviation Act and Rules and Regulations pursuant thereto; (2) to accept, receive and disburse grants of funds from the State of New Mexico in aid of the Project; and (3) to carry out all provisions stated in this "Grant Agreement for Airport Projects."
2. **Defaults** - The Sponsor is not in default on any obligation to the State of New Mexico relative to the development, operation or maintenance of any airport or aviation project.
3. **Possible Disabilities** - The Sponsor states, by execution of this Agreement, there are no facts or circumstances (including the existence of effective or proposed leases, use agreements, or other legal instruments affecting use of the airport or the existence of pending litigation or other legal proceedings) which in reasonable probability might make it impossible for the Sponsor to carry out and complete the Project.
4. **Land** - The Sponsor holds the property interest in the areas of land which are to be developed or used as part of or in connection with the Project and is identified in a current Airport Property Map. The Sponsor further certifies that the aforementioned is based on a title examination by a qualified attorney or title company who has determined that the Sponsor holds the stated property interests.

## SECTION EIGHT - ASSURANCES

The Sponsor hereby covenants and agrees with the Division the following by signing this Agreement

1. The Sponsor agrees that it will operate the airport receiving aid under this application for the use and benefit of the public on fair and reasonable terms, and without unjust discrimination.
2. The Sponsor specifically agrees that it will keep said airport open to all types, kinds and classes of aeronautical use without discrimination between such types, kinds, and classes: **provided**, that the Sponsor establish such fair, equal and not unjustly discriminatory conditions to be met by all users of the airport as may be necessary for the safe and efficient operation of the airport;

3. The Sponsor agrees that in its operation of the airport and all facilities. Neither it nor any person or organization occupying space on facilities thereon will discriminate against any person or class of persons by reason of race, color, creed, or national origin in the use of the facility provided for the public on the airport; and further that any person, firm or corporation rendering service to the public on the airport will do so on a fair, equal and not unjustly discriminatory basis to all users thereof.
4. The Sponsor will operate and maintain in a safe and serviceable condition the airport and all facilities connected therewith which are necessary to serve the aeronautical users and will not permit any activity which would interfere with its use for airport purposes.
5. The Sponsor will, by acquisition of land interest, acquisition of easements, airspace zoning, or other accepted means, protect the runway approaches and the airspace in the immediate vicinity of the airport from the construction, alteration, erection or growth of any structure which would interfere with the use or operation of the airport.
6. The Sponsor agrees that no landing fee shall be charged any owner or operator of aircraft using said airport; which would be in violation of Section 64-1-16, NMSA 1978, as amended.
7. If said airport is on private land, the Sponsor shall attach a duly executed agreement permitting public use of this land for airport purposes without limit as to time, titled "Exhibit C".
8. The Sponsor agrees to comply with the New Mexico Aviation Act and the rules and regulations promulgated there under.
9. The Sponsor hereby specifically agrees that it shall not award the contract for which this grant is given, nor shall bidding documents be given to any contractor which or who is subject to suspension or debarment by the U.S. Department of Transportation or any of its agencies, or the New Mexico Department of Transportation at the time of the bidding or award of the contract. Violation of this provision shall void this grant.

#### **SECTION NINE - COMPLIANCE WITH LAW**

The Sponsor shall comply with all Federal, State, and local laws and ordinances applicable to the project.

#### **SECTION TEN - THIRD PARTY BENEFICIARY CLAUSE**

This Agreement is not intended by any of the provisions of any of its parts to create in the public, or any member thereof, a third party beneficiary or to authorize anyone not a party to this Agreement to maintain a suit for wrongful death, bodily and or personal injury to persons, damage to property, and/or any other claim(s) whatsoever pursuant to the provisions of this Agreement.

## **SECTION ELEVEN - COMPLIANCE WITH EMPLOYMENT LAW AND COOPERATION WITH DEPARTMENT INVESTIGATIONS**

The Sponsor shall comply with all applicable Federal, State, and Department laws, regulations and policies, including, but not limited to laws governing, civil rights, equal opportunity compliance, environmental issues, workplace safety, employer-employee relations and all other laws governing operation of the workplace, including laws and regulations hereafter enacted. The Sponsor shall furnish all information and reports required by, or pursuant to, the rules, regulations, and policies of the Department, and will permit access to, and the interview of, its employees, and the, except for legally privileged material, examination and copying of its employee records by investigators for the Department's Equal Opportunity Programs Bureau, Office of Inspector General, and Risk Management Bureau, the New Mexico Attorney General's Office, the New Mexico Department of Labor, and all branches of the United States Department of Transportation; and will otherwise fully cooperate with all such investigations.

## **SECTION TWELVE - NEW MEXICO TORT CLAIMS ACT**

By entering into this Agreement, neither party shall be responsible for liability incurred as a result of the other party's acts or omissions in connection with this Agreement. Any liability incurred in connection with this Agreement is subject to the immunities and limitations of the New Mexico Tort Claims Act, Sections 41-4-1, et seq., NMSA 1978, as amended. This paragraph is intended only to define the liabilities between the parties hereto and it is not intended to modify, in any way, the parties' liabilities as governed by common law or the New Mexico Tort Claims Act. The Sponsor and its "public employees" as defined in the New Mexico Tort Claims Act, and the Department and its "public employees" as defined in the New Mexico Tort Claims Act, do not waive sovereign immunity, do not waive any defense and/or do not waive any limitation of liability pursuant to law. No provision in this Agreement modifies and/or waives any provision of the New Mexico Tort Claims Act.

## **SECTION THIRTEEN - ACCOUNTABILITY OF RECEIPTS AND DISBURSEMENTS**

There shall be strict accountability for all receipts and disbursements relating hereto. The Sponsor shall maintain all records and documents relative to the Project for a minimum of three (3) years after completion of said Project. The Sponsor shall furnish the Division or State Auditor, upon demand, all records relevant to this Agreement and allow them the right to audit all records which support the terms of this Agreement.

## **SECTION FOURTEEN - REIMBURSEMENTS**

Funds expended by the Sponsor in accordance with the terms of this Agreement shall be reimbursed to the Sponsor. The Sponsor shall not be reimbursed for any costs incurred prior to the full execution of the Agreement, after the expiration of the Agreement or in excess of the maximum dollar amount of the Agreement unless the maximum dollar amount is duly amended prior to incurring the service or deliverable. Claims for reimbursement requests shall be completed on a (State) form A-1159, Request for Reimbursement.

Each request for reimbursement shall contain proof of payment for valid expenditures for services rendered by a third party or items of tangible property received by the Sponsor for the implementation of the Project. The Division reserves the right to withhold reimbursement on requests that are incorrect and/or incomplete. The Final reimbursement request must be received no later than thirty (30) days after completion of the project or the expiration of this Agreement.

Any unexpended portion of funds subject to this Agreement shall revert to the State Aviation Fund.

## **SECTION FIFTEEN - AUTHORIZATION OF EXPENDITURES**

The terms of this Agreement are contingent upon sufficient appropriations and authorizations being made by the Legislature of New Mexico for the performance of this Agreement. If sufficient appropriations and authorizations are not made by the State Legislature this Agreement shall terminate upon written notice given by the Division. The Division is expressly not committed to the expenditure of any funds until such time, as they are programmed, budgeted, encumbered and approved for expenditure by the Division. The Division's decision as to whether its funds are sufficient for the fulfillment of this Agreement shall be final.

## **SECTION SIXTEEN - TERM**

The Agreement shall not take effect until executed by all of the parties hereto. This Agreement shall not exceed two (2) years. This agreement shall expire two (2) years from complete execution.

## **SECTION SEVENTEEN - TERMINATION**

If the Sponsor fails to comply with any provision of this Agreement, the Division has the option to terminate this Agreement. By such termination, neither party may nullify obligations already incurred for performance or failure to perform prior to termination of this Agreement.

## **SECTION EIGHTEEN - MERGER**

This Agreement incorporates all the agreements, covenants, and understandings between the parties hereto concerning the subject matter hereof, and all such covenants, agreements and understandings have been merged into this written Agreement. No prior agreement or understandings, verbal or otherwise, by parties or their agents shall be valid or enforceable unless embodied in this Agreement. The terms of this Agreement are lawful; performance of all duties and obligations herein shall conform with and do not contravene any State, local, or Federal statutes, regulations, rules, or ordinances.

## **SECTION NINETEEN - SEVERABILITY**

In the event that any portion of this Agreement is determined to be void, unconstitutional, or otherwise unenforceable, the remainder of this Agreement shall remain in full force and effect.

## **SECTION TWENTY - AMENDMENT**

This Agreement shall not be altered, modified, or amended except by an instrument in writing by the Sponsor and documented acceptance by the Division.

## **SECTION TWENTYONE - RATIFICATION AND ADOPTION**

The Sponsor's execution of this Agreement is evidence of acceptance of the offer of state funding from the Division and ratification and adoption of the terms and conditions of this Agreement, including but not limited to all assurances, statements, representations, warranties and covenants herein.

IN WITNESS WHEREOF, THE PARTIES HERETO HAVE EXECUTED THIS AGREEMENT ON THE DATE AND YEAR WRITTEN BELOW

Recommended by AVIATION DIVISION

New Mexico Department of Transportation

By: \_\_\_\_\_  
Aviation Division Director or  
Designee

By: \_\_\_\_\_  
Cabinet Secretary or  
Designee

Date: \_\_\_\_\_

Date: \_\_\_\_\_

SPONSOR:

City of Aztec, Sally Burbridge, Mayor

PRINT NAME

By: \_\_\_\_\_

Date: \_\_\_\_\_

Approved as to form and legal sufficiency by the NMDOT Office of General Counsel

By: \_\_\_\_\_  
Assistant General Counsel

Date: \_\_\_\_\_

**EXHIBIT B PROJECT COSTS**

**GRANTEE**

City of Aztec

ITEM NO.	ITEM OF WORK AND DESCRIPTION	STATE FUNDS	SPONSOR FUNDS	OTHER FUNDS	TOTAL ESTIMATED COSTS
1	Weed Control, Bi-Annual	\$ 1,495	\$ 166	\$	\$ 1,661

ITEM NO.	ITEM OF WORK AND DESCRIPTION	STATE FUNDS	SPONSOR FUNDS	OTHER FUNDS	TOTAL ESTIMATED COSTS
2	Runway end light maintenance	\$ 7,505	\$ 834	\$	\$ 8,339

ITEM NO.	ITEM OF WORK AND DESCRIPTION	STATE FUNDS	SPONSOR FUNDS	OTHER FUNDS	TOTAL ESTIMATED COSTS
		\$	\$	\$	\$

ITEM NO.	ITEM OF WORK AND DESCRIPTION	STATE FUNDS	SPONSOR FUNDS	OTHER FUNDS	TOTAL ESTIMATED COSTS
		\$	\$	\$	\$

<b>TOTALS</b>	\$ 9,000	\$ 1,000	\$	\$ 10,000
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# Staff Summary Report

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**MEETING DATE:** 9 September 2014  
**AGENDA ITEM:** IX. CONSENT AGENDA (D)  
**AGENDA TITLE:** Morris Drive Right of Way Purchase

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**ACTION REQUESTED BY:** Joshua W. Ray, City Manager  
**ACTION REQUESTED:** Approval  
**SUMMARY BY:** Joshua W. Ray, City Manager

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## PROJECT DESCRIPTION / FACTS (Leading Department)

The City of Aztec has been working on acquiring the right of way on Morris Drive as a permanent access into Florence Park. This issue arose approximately one year ago when then property owner began posting "No Trespassing" signs along the roadway. The property owner also began to use pieces of heavy equipment to create dirt road bumps along this roadway.

City staff contacted the property owner concerning the posting of the signs and was not able to come to an acceptable agreement with the property owner. Staff then consulted with City Attorney Larry Thrower and he took over the negotiation process for us.

Mr. Thrower negotiated the purchase of this right-of-way in the amount of \$6,000 with the property owner.

You will please find attached the deed of right-of-way for public roadway and the right-of-way purchase agreement for this transaction.

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**SUPPORT DOCUMENTS:** Deed of Right-of-Way for Public Roadway, Right-of-way purchase agreement

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**DEPARTMENT'S RECOMMENDED MOTION:** Move to approve the Deed of Right-of-way for public roadway and the right-of-way purchase agreement.

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\_\_\_\_\_, 2014, by FRANCIE M. HAWKINS.

\_\_\_\_\_  
Notary Public

My Commission Expires:

**RIGHT-OF-WAY  
PURCHASE AGREEMENT**

**THIS AGREEMENT** made and entered into this 21<sup>st</sup> day of August, 2014, by and between FRANCIE M. HAWKINS, 1207 Morris Drive, Aztec, New Mexico 87410, hereinafter called "Seller", and THE CITY OF AZTEC, NEW MEXICO, a municipal corporation, 201 West Chaco, Aztec, New Mexico 87410, hereinafter called "Purchaser".

**WITNESSETH:**

1. That for and in consideration of the sum of Six Thousand Dollars (\$6,000.00), to be paid in the manner hereinafter provided, the Seller agrees to sell and convey to Purchaser, and Purchaser agrees to buy, the following described real property in fee simple as a right-of-way for use as an easement for the public access roadway known as Morris Drive over the land of Seller:

The easement granted is hereby more particularly described as follows:

See Exhibit "A" which is attached hereto and made a part hereof.

2. Purchaser agrees to pay said consideration of Six Thousand Dollars (\$6,000.00) in the following manner:

- a. Six Thousand Dollars (\$6,000.00) to be delivered to Seller in full by check at closing.

3. Closing shall be on or before \_\_\_\_\_, at Aztec City Hall, 201 West Chaco, Aztec, New Mexico.

4. Seller shall furnish a good and sufficient special warranty deed at closing evidencing clear and marketable title to the property.

5. Purchaser shall pay all closing costs, including recording fees.

6. Seller shall have the right to the continued use and maintenance of the domestic irrigation water line which presently runs beneath the described roadway right-of-way from the northern portion of Seller's property to the southern portion of same. Any repair, maintenance or other costs of any kind associated with said water line shall be borne solely by Seller. Prior to commencing any work on said water line in, under or near the roadway right-of-way, Seller shall coordinate same with the City of Aztec Public Works Department.

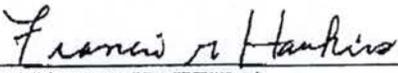
7. At such future time as Purchaser elects to pave the roadway, Purchaser shall construct in the roadway such vehicle speed control devices as are deemed reasonably necessary to discourage excessive vehicle speed on the roadway.

8. Time is of the essence. If any payment or any other condition hereof made, tendered or performed by either the Seller or the Purchaser as herein provided is in default, then this Agreement, at the option of the Party who is not in default, may be terminated by such Party, in which case the non-defaulting party may recover such damages as may be proper. In the event of such default by the Seiler and the Purchaser elects to treat the agreement as terminated, then all payments made hereon shall be returned to the Purchaser. In the event of such default by the Purchaser and the Seller elects to treat the agreement as terminated, then all payments made hereunder shall be forfeited and retained on behalf of the Seller. In the event, however, the non-defaulting Party elects to treat the Agreement as being in full force and effect, the non-defaulting party shall have the right to an action for specific performance and/or damages.

9. All notices to be given to the Purchaser shall be given in writing and deposited in the United States mail, postage prepaid, addressed to Purchaser at 201 West Chaco, Aztec, NM 87410, or at such other address as Purchaser may from time to time designate in writing. Notices by Purchaser to the Seller shall be in writing and deposited in the United States mail, postage prepaid, addressed to Seller at 1207 Morris Drive, Aztec, NM 87410.

IN WITNESS WHEREOF the parties hereto have set their hands the day and year first above written.

SELLER:

  
\_\_\_\_\_  
FRANCIE M. HAWKINS

**PURCHASER:  
CITY OF AZTEC**

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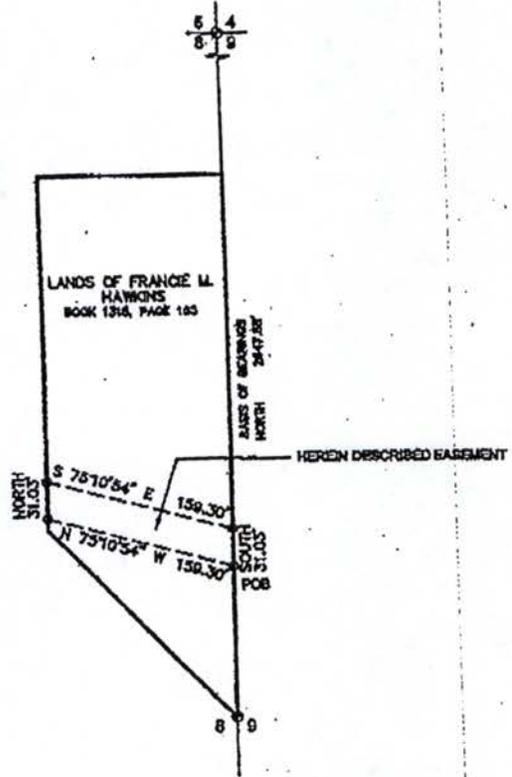
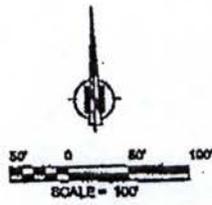
By: SALLY BURBRIDGE  
Mayor

ATTESTED:

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Karla Sayler  
City Clerk

INGRESS AND EGRESS EASEMENT WITHIN  
 LANDS OF FRANCIE M. HAWKINS  
 BOOK 1315, PAGE 165  
 LOCATED IN THE SE¼ NE¼ OF SECTION 8,  
 T30N, R11W, N.M.P.M.,  
 CITY OF AZTEC  
 SAN JUAN COUNTY, NEW MEXICO.



A Thirty (30) foot wide Easement for Ingress and Egress situate within Lands of Francie M. Hawkins, as described in Quitclaim Deed, filed in the Office of the County Clerk of San Juan County, New Mexico in Book 1315, Page 165, situated within the Southeast Quarter of the Northeast Quarter (SE¼/NE¼) of Section Eight (8), Township Thirty (30) North, Range Eleven (11) West, of the New Mexico Principal Meridian, City of Aztec, San Juan County, New Mexico and said Easement being more particularly described as follows:

BEGINNING, for a Tie, at the East Quarter Corner of said Section 8, also being the Southeast Corner of said Lands of Francie M. Hawkins; THENCE: North, along the East Section Line of said Section 8 and the East Line of said Lands of Francie M. Hawkins, a distance of 123.07 feet to the True Point of Beginning for the herein described Easement;

- THENCE: departing from said East Line, North 75°10'54" West, a distance of 159.30 feet to a Point on the West Line of said Lands of Francie M. Hawkins;
- THENCE: North, along said West Line, a distance of 31.03 feet;
- THENCE: departing from said West Line, South, 75°10'54" East, a distance of 159.30 feet to a Point on said East Line;
- THENCE: South, along said East Line, a distance of 31.03 feet to the True Point of Beginning.

The above described Ingress and Egress Easement contains 4,943 Sq.Ft. or 0.11 Acres, more or less.



# Staff Summary Report

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<b>MEETING DATE:</b>	September 9, 2014
<b>AGENDA ITEM:</b>	XI. BUSINESS ITEM (A)
<b>AGENDA TITLE:</b>	Intent to Adopt Ordinance 2014-439 Amending Articles II and IV of Chapter 20 Signs

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<b>ACTION REQUESTED BY:</b>	William M. Homka AICP, Community Development Director
<b>ACTION REQUESTED:</b>	Approve Intent to Adopt Ordinance 2014-439 Amending Articles II and IV of Chapter 20 Signs
<b>SUMMARY BY:</b>	William M. Homka AICP

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## PROJECT DESCRIPTION / FACTS

At the regularly scheduled Commission Agenda on April 22, 2014 the Community Development requested a moratorium on fees charged to sign permits for Garage Sale Signs. The moratorium is still in effect and the Community Development Department has been waiving both the \$10 Administrative Fee as well as the \$25 Sign fees since the Commission imposed the moratorium. The Community Development Department proposes several changes to the Sign Code to address the garage sale sign, some other issues discovered while reviewing the code, as well as removing the formula/table assigning sign development standards based on the adjacent roadway speed. The last issue is not a matter for a community as small as Aztecs, and confuses some applicants due to other criteria that could be interpreted as contradictory.

A copy of the proposed sign code amendments is attached. The code illustrates the areas with proposed changes using the Microsoft Word 'change tracking' option. Staff will be present at the meeting to discuss the proposed changes, their intent, effect and reason for inclusion in this amendment. The Community Development Department intends to conduct further amendments to the Sign Code as well as the Zoning Code. However at this time it is imperative the garage sale moratorium be addressed to meet the moratorium's 180 deadline as imposed in April. Community Development has issued 31 sign permits for garage sales since April 22, 2014.

## PROCUREMENT / PURCHASING (if applicable)

N/A

## FISCAL INPUT / FINANCE DEPARTMENT (if applicable)

N/A

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**SUPPORT DOCUMENTS:** Ordinance 2014-439

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**DEPARTMENT'S RECOMMENDED MOTION:** Move to Approve Intent to Adopt Ordinance 2014-439 Amending Articles II and IV of Chapter 20 Signs.

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**City of Aztec  
Ordinance 2014-439**

**Amending Chapter 20 Signs, Article II and Article IV**

**WHEREAS,** Chapter 20, Signs, was last revised in 2012; and

**WHEREAS,** Chapter 20, Signs, there had been discussion regarding permitting and charging fees for garage/yard sale signs and a 180 moratorium was passed through resolution; and

**WHEREAS,** the Community Development Department proposes several changes to the Sign Code to address the garage sale sign, some other issues discovered while reviewing the code, as well as removing the formula/table assigning sign development standards based on the adjacent roadway speed.

**NOW, THEREFORE BE IT ORDAINED** by the Governing Body of the City of Aztec, New Mexico that Chapter 20, Article II and Article IV, has been amended as follows:

## ARTICLE II. ADMINISTRATION

### Sec. 20-2-1. Permitting.

1. Applicants who wish to erect new permanent or temporary signs, or those seeking to complete significant modifications (i.e., a modification that costs 50% or more than the replacement cost of the original sign) of existing signs, must obtain a permit from the City prior to installation/modification of the signs. Review of applications for sign permits shall be concurrent in the instance that multiple departments must approve applications.
2. Upon submission of a completed application, the City shall have 10 ~~standard~~-business days to review the application for a sign permit. ~~Standard-b~~Business days are identified as Monday through Friday and do not include holidays, as recognized by the City of Aztec.
3. A permit shall be issued on or before the end of the 10 business day review period if the application for a new sign or sign modification complies with the regulations contained in Sign Code.
4. Issuance of a City of Aztec Sign Permit does not exempt the applicant from the rules and regulations of the Highway Beautification Act identified in NMSA 67-12-1 et. seq., as amended. Applicants may be required to obtain an outdoor advertising permit from the New Mexico Department of Transportation ~~Depending on the proposed sign location, an applicant may be required to obtain an outdoor advertising permit from the New Mexico Department of Transportation.~~ Approval of a sign permit by the City of Aztec does not guarantee approval of a New Mexico Department of Transportation permit for outdoor advertising.
5. If the City does not issue a determination within the 10 business day period, the sign permit ~~is shall be deemed automatically~~ approved.
6. If An application for a sign permit may-is be denied within the 10 business day review period, by the City shall inform the applicant of the reasons the application fails to comply with the standards contained in Sign Code. within the 10 business day review period if the application fails to comply with the standards contained in Sign Code. The City's decision may be delivered in person, or by certified mail or other form of signature confirmation. shall inform the applicant of the reasons for denying the application for a sign permit by certified mail or other form of signature confirmation. Once the City has provided the applicant with the reasons for denying the sign permit, the application request will be considered closed by the City unless it is resubmitted per Section 7 or appealed per Section 8 below.
7. Upon receiving a denied sign permit application denial of an application for a sign permit, the applicant ~~has shall have~~ 15 ~~standard~~-business days (from date of signature receipt of for denial letter) to revise and resubmit the application for review by the City.
- 7-8. In the alternative, tThe applicant may also appeal the decision of the City to the City Commission within the 15 ~~standard~~-business days ~~time period~~. Appeals shall be made in writing to the Aztec City Commission and shall be delivered to the Aztec City Clerk. The City Commission shall review the City's denial of ~~said the applicant's~~

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application via a Quasi Judicial Hearing process at a regularly scheduled Commission Meeting.

8-9. Upon a final determination by the City Commission, unsuccessful applicants may seek to appeal to the court of competent jurisdiction.

9-10. All approved Permits shall expire 180 calendar days from the date of issue, at which time the permit shall be considered voidexpired. Failure to complete construction and installation of approved sign(s) within the 180 calendar day time period shall require submission of a new application and payment of all associated fees.

### **Sec. 20-2-2. Comprehensive Sign Plan (CSP).**

A Comprehensive Sign Plan (CSP) may be submitted that permits consideration of unique conditions, flexibility and creativity to address a particular locations site and its constraints, special circumstances. ~~Such All CSPs is must be submitted for subject to approval by to the City Commission via a Quasi Judicial Hearing process. The CSP application of such plan cannot be viewed as imposing impose more restrictive requirements than permitted by than the basic standards allow. The CSP may result in permitting, but rather, may permit additional signs, and/or permitting greater sign display area, or increasing other basic limitations. The approval may be subject to conditions such as increased landscaping or fencing on the site to mitigate potential impacts resulting from an approved CSP, based on the applicant's demonstration of unique characteristics of the design, building, and/or site and appropriate landscaping associated with the signs. Once approved, subsequent applications for specific signs may be approved administratively when the proposed sign is in compliance with the approved CSP.~~ a CSP has been approved, subsequent applications for specific signs shall be approved administratively when the proposed sign is in compliance with the approved CSP. It is important to note a CSP approval Approval of a CSP for a development site does not remove the requirement of to obtain sign applications, permits, or pay associated requiried fees.

### **Sec. 20-2-3. Enforcement.**

1. Inspection. All signs for which a permit is required shall be subject to inspection. The Community Development Department may inspect all permitted signs during construction and installation, or upon completion of construction and installation, to ensure adherence to the stipulations of the sign permit, as approved by the City. All signs may be re-inspected at the discretion of the Community Development Department.
2. Revocation. A sign permit may be revoked by the Community Development Department for a permit holder's failure to construct/install a sign as approved by the City or for attempts to construct/install a sign utilizing an expired/void permit. Any subsequent reapplication for a sign permit shall be subject to all applicable fees, as identified in Chapter 16, Article 9, Division 1 of Aztec Municipal Code.
3. Stop Work Orders. The Community Development Department shall issue a Stop Work Order to any person or organization attempting to construct/install a sign in the City without a valid permit. Persons or organizations in receipt of a Stop Work Order shall cease development activities immediately; failure to do so shall result in a penalty assessment as identified in 20-2-8.

4. Removal of Signs. The City Engineer, City Public Works Director or the New Mexico Department of Transportation (on applicable streets) may require signs extending into the right-of-way to be modified or moved if streets are widened, or other improvements are made in the right-of-way, which result in the creation of unsafe conditions. The modification or moving of signs in the right-of-way will be at the owner's expense. If a nonconforming sign is moved under this requirement, it may be re-erected on the site without being brought into conformance but may not be altered in any way.
  - 1) Temporary Signs. The City shall have the authority to remove, without notice, any temporary signs within the public right-of-way or on public property.

#### **Sec. 20-2-4. Disposal of Signs; Costs, Prohibition.**

Any sign removed by the City pursuant to the provisions of this article shall be considered refuse and become the property of the City. The City shall dispose of the sign as it deems appropriate. The cost of removal, storage and/or disposal of the sign by the City shall be considered a debt owed to the City by the owner of the sign and/or the owner of the property as identified using information obtained the San Juan County Assessor's, and may be recovered in appropriate court action by the City. The cost of removal shall include any and all incidental expenses, including legal fees, incurred by the City in connection with the sign's removal, storage and/or disposal.

#### **Sec. 20-2-5. Exemptions.**

The following are exempt from the regulations of this Sign Code and do not require sign permits, but may be subject to other codes adopted by the City of Aztec, where applicable:

1. Any public purpose/safety sign or any other notice or warning required by a valid and applicable federal, state or local law, regulation or resolution.
2. Works of art, such as murals, that do not include a commercial message.
3. Cultural, religious and other holiday lights and decorations containing no commercial message.
4. Flags.
5. Building markers.
6. Scoreboards on athletic fields.
7. Signs inside a building, not visible from a public roadway or public access.
8. Decals and/or logos affixed to windows or door glass panels, such as those indicating membership in a business group or identifying credit cards accepted at the establishment.
9. Signs displayed during the course of a special event by an organization that has been issued a Special Event Vendor Permit by the City. This exemption shall only apply to

signs displayed at the location for which the Special Event Vendor Permit has been issued.

10. The use of business logos, identification or advertising on vehicles primarily and actively used for business purposes or personal transportation and that, when parked, are not parked in such a manner as to constitute a violation of code under 20-2-6.5(c).--.

11. A maximum of three (3) temporary, noncommercial, accessory signs are allowed on all zoned lots; in the case of Mobile Home Parks, each mobile home space is permitted the same sign allowance. Such signs may not exceed (3) square feet each in area and must be anchored to prevent movement from wind.

#### **Sec. 20-2-6. Prohibited Signs.**

The following signs are prohibited in the City:

1. Abandoned signs.
2. Billboards.
3. Animated, flashing, rotating signs and festoons, signs containing strobe lights, inflatable signs, tethered balloons, banners, pennants, searchlights, streamers, exposed light bulbs, strings of lights not permanently mounted to a rigid background, and any clearly similar features employed to advertise or draw attention to a commercial activity, except those specifically permitted by Sign Code in Section 20-2-5, or special event signs or banners permitted in Section 20-4-7, or electronic message centers as permitted in Section 20-4-5.
4. Signs placed on or painted on a motor vehicle or trailer parked with the primary purpose of providing signage not otherwise allowed by the Sign Code; prohibited is any sign displayed on a parked trailer or truck or other vehicle where the primary purpose of the vehicle is to advertise a product, service, business, or other activity. Also prohibited is any sign temporarily, attached or displayed on a trailer and driven through the City with the primary purpose of advertising a product, service, business, or other activity. This prohibition on vehicle signs shall include but not be limited to:
  - 1) Vehicle signs for which the advertising medium utilized on the vehicle is a sign, device, or structure separate from the vehicle.
  - 2) Vehicle signs for which the copy is readily changeable, including but not limited to repainting such sign, device, or structure.
  - 3) Vehicle signs for which the total sign area exceeds fifty (50) percent of the surface area of the vehicle and the vehicle is parked on the street or on the business premises to which the advertising relates or in reasonable proximity thereto and the location of the advertising is reasonably calculated to direct an observer towards the business. It shall be considered that advertising was the principal purpose of the parking of the vehicle, notwithstanding the fact that the vehicle is driven to and from the business premises on a daily basis.

5. Signs containing any words or symbols that would cause confusion because of their resemblance to highway traffic control or direction signals, or signs that interfere with the effectiveness of any official traffic light, sign or signal.

5-6.

6-7. Merchandise, equipment, products, vehicles or other items which are not available for purchase, but are intended to attract attention, or for identification or advertising purposes.

7-8. Signs, to include snipe signs, posters and handbills, affixed to any structures, fences, trees or other natural vegetation, rocks, utility poles, streetlights or street signs, public benches or any other form of public property or within any public right-of way or on public property unless explicitly permitted by these regulations or explicitly identified as a Public Bulletin or Community Announcement Board.

8-9. Roof signs, unless architecturally incorporated into the façade of the building on a parapet wall or similar extension of an exterior wall. Projecting signs that extend above the roof line are permissible provided they extend no further than three (3) feet above the roof line.

9-10. Signs which emit smoke, visible vapors, particles, sound or odor shall not be permitted. Open flames used to attract public attention to a place of business or to an advertising sign shall not be permitted.

10-11. No mirror device shall be used as part of a sign. Mirror finishes on signs are permitted provided such finishes are not directly illuminated with the intention of creating a reflective surface.

11-12. Signs which encroach upon or otherwise impede any public right-of-way, unless explicitly permitted in this code.

#### **Sec. 20-2-7. Violations.**

It shall be unlawful to erect, construct, install, alter, modify, or move any sign or sign structure in the City or cause or permit the same to be done in violation of any of the provisions of this Sign Code.

#### **Sec. 20-2-8. Penalty.**

Any person, firm, corporation or organization violating any provision of this Sign Code shall be subject to penalties as identified in Sec. 1-8; a separate offense shall be deemed committed on each day during which a violation occurs or continues.

## ARTICLE IV. SIGNS PERMITTED BY ZONE DISTRICT

The signs permitted in each zone district are those indicated in Sec. 20-4-1 and Sec. 20-4-3. All signs permissible are still subject to regulations based on sign type and sign location relative to zone district. All maximum numbers displayed are per lot unless otherwise noted.

### Sec. 20-4-1. Signs Permitted in Agricultural and Residential Zone Districts.

Table 20-4-1.1 Signs Permitted in Agricultural and Residential Zone Districts.

	Types Allowed	Maximum Number Allowed	Permitted Sign Area	Maximum Height	
Single Residential or MH Parcels or Single Spaces in MH Parks <sup>(1)</sup> (R-1, MH)	Freestanding or Monument	1	6 sq ft (total area permitted per lot)	3 ft	Formatted: Centered Formatted Table
	Wall	1	6 sq ft (total area permitted per lot)	N/A	
Entrances to Residential Subdivisions, MH Parks, Multiple-Family Complexes (R-1, R-2, MH)	Freestanding or Monument	1 per ingress/egress to development	64 sq ft each	4 ft	Formatted: Centered Formatted Table
	Wall	1 per building frontage	5% of façade	N/A	
Agricultural Zone Districts (A-1)	Freestanding or Monument	1	48 sq ft	6 ft	Formatted: Centered Formatted Table
	Wall	1	25 sq ft	N/A	
Permitted Non-Residential Uses in R-1, R-2, MH and A-1 <sup>(2)</sup>	Freestanding or Monument	1 per lot, 2 if corner lot (1 per street frontage)	32 sq ft	4 ft	Formatted: Centered Formatted Table
	Wall	1 per building frontage	10% of façade	N/A	
Permitted in O-1 Office/ Institutional					Formatted: Centered Formatted Table
Permitted in C-1, C-2 Lot Width 100' or more	Wall	<u>1 per building frontage</u>	<u>Not to exceed</u>		Formatted: Centered Formatted Table
	Pylon	<u>Not to exceed 200 sq. ft. in area</u>	<u>Maximum Height = 30 ft.</u>		Formatted Table
Permitted in C-1, C-2, & M-1 Lot frontage of <del>400</del> <u>less than 100' or less</u>	Ground Mounted – 1 per each site	Not to exceed 32 square feet	Maximum height = 6 ft.	Not permitted in Downtown	Formatted: Centered Formatted Table

	Wall	1 per building frontage	10% of façade	
	Free Standing- 1 per each site	Not to exceed 50 sq. ft. in area	Maximum height = 30'	
Permitted in C-1, C-2 & M-1 Lot frontage over 100' or with corner lots having frontages each over <b>400'300' or more</b>	Ground mounted – 1 per frontage	Not to exceed 32 square feet	Maximum height = 6 ft	Not permitted in Downtown
	Wall	1 per buiding frontage	10% of facade	
	Free Standing – 2 per each site, 1 per each frontage	Not to exceed 200 sq. ft	Maximum height = 30'	<b>Not permitted in Downtown</b>

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(1) May be subject to private restrictions imposed by Mobile Home Parks.

(2) Instructional signs are permitted with no sign area or number limit, provided such signs meet the definition provided in code.

**Sec. 20-4-2. Development Standards in Agricultural and Residential Zones.**

1. Electronic Message Centers. EMCs are allowed, by Special Use Permit only, on properties with permitted non-residential uses (such as churches and schools) in a residential zone (R-1, R-2 or MH Zone Districts); EMCs are not allowed in agricultural zone districts. Requirements for approved EMCs (such as maximum display area and transition time) for permitted non-residential uses in residential zone districts shall be subject to individual review and approval by City Commission.

1) The following EMC display features and functions are prohibited in residential zone districts: scrolling, traveling, flashing, spinning, rotating, fade, dissolve, any other moving effects, and all dynamic frame effects or patterns of illusionary movement or simulated movement.

2. Illuminated Signs. The only signs which may be illuminated in residential districts are EMCs permitted by Special Use Permit or those freestanding or monument signs identifying entrances to residential subdivisions, mobile home parks or multiple family complexes, as identified in Section 20-4-1; illuminated signs are not allowed in agricultural zone districts. All illuminated signs shall adhere to regulations identified in Section 20-4-6.

**Sec. 20-4-3. Signs Permitted in Commercial Zone Districts.**

Table 20-4-3.1 Signs Permitted in Commercial Zone District.

	Zone District					
	O-1	C-1	C-2	M-1	M-2	PUD <sup>(3)</sup>
Wall Sign	✓ <sup>(1)</sup>	✓ <sup>(1)</sup>	✓	✓	✓	○

Projecting Sign		○	○	○			○
Directory Sign		✓	✓	✓	✓	✓	○
Building Identification Signs		✓	✓	✓	✓	✓	✓
Freestanding Sign:	Multiples Businesses (2)	✓(1)	✓(1)	✓	✓	✓	○
	Single Business	✓(1)	✓(1)	✓	✓	✓	○
Freestanding Sign: For the identification of the project or development		✓	✓	✓	✓	✓	○
Electronic Message Centers		✓	✓	✓	✓	✓	○
Illuminated Signs		✓	✓	✓	✓	✓	○

✓ The sign would generally be permitted.

○ These signs could be permitted depending on the design characteristics (building, parking arrangement, pedestrian circulation, etc.) and whether adequate space is available.

(1) In lieu of wall signs organizations may install one (1) projecting sign per primary building frontage. Organizations electing to utilize a projecting sign in lieu of wall signs may not erect a freestanding sign.

(2) In multiple tenant centers, each business may not be entitled to its own freestanding sign.

(3) Comprehensive Sign Plan is required for sign development/installation in all PUD zone districts.

**Sec. 20-4-4. Development Standards in Commercial Districts.**

1. ~~Wall Signs.~~ The basic allowance for wall signs shall be ~~limited to 'n' square feet of sign area for each lineal foot of building or tenant frontage and shall be determined by the classification of the road upon which the building fronts, based on road speed and type (simple or complex), as follows:~~

~~Table 20-4-4.1. Wall Sign Basic Allowances.~~

		Road Speed (mph)					
		20-30 Simple	20-30 Complex	35-45 Simple	35-45 Complex	50-60 Simple	50-60 Complex
Sign Area (total square feet per lineal feet of building frontage) <sup>(1)</sup>	Minimum	1.5	1.5	2	2	2.5	2.5
	Maximum	2	2	2.5	2.5	3	3

<sup>(1)</sup> Calculation Example: Maximum sign area for a building with 20 feet of building frontage on a 25 mph road (classified as simple) would be 40 square feet (2 x 20).

1) The minimum sign area for each tenant with building frontage shall not be less than 20 square feet.

2) Each tenant may have multiple wall signs as long as the total wall sign area does not exceed five percent (5%) of the gross floor area or 30% of the building façade.

~~whichever is less, the allowances established for wall signs and provided the sign(s) meet all specifications identified in Table 20-4-4.1.~~

- ~~2)~~
- 3) The wall sign or signs, shall not be greater than eighty (80%) percent of the length of the tenant space or the length of the building frontage for single tenant buildings.
- 4) Wall signs may not extend above the top of the building wall upon which they are mounted.
- 5) ~~The area of any wall sign may be increased by twenty-five (25%) percent when the building is setback at least two hundred (200) feet from the public right-of-way and may be further increased an additional twenty five (25%) percent for each additional two hundred (200) feet of setback, or fraction thereof, up to a maximum increase of one hundred (100%) percent.~~
- 6) ~~5) Additional wall sign area is permitted for a secondary frontage which shall be equal to 100%80% of the primary sign area allowance based on allowances selected above in Table 20-4-4.1; a) Additional wall sign area must appear on the secondary frontage and may not be added to the maximum permissible area for the primary frontage.~~
- 7) ~~6) The following additional wall signs may be permitted in excess of the wall sign area permitted in Table 24-4-4.1:~~

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- a) ~~Projecting Signs. Projecting signs are allowed in O-1, C-1 and C-2 zone districts for buildings that have no setback from the street or sidewalk or for buildings with attached canopies. Projecting signs are permitted, in addition to the allowances for wall signs, when designed and placed for the purpose of identifying the businesses for a pedestrian walking along the same side of the street as the business they seek or under a continuous canopy projecting from the building. Projecting signs are allowed in O-1, C-1 and C-2 zone districts for buildings that have no setback from the street or sidewalk or for buildings with attached canopies.~~

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~~i. Design.~~

- ~~a. Projecting signs shall have a maximum area of ten (10) square feet.~~
- ~~b. The bottom of the sign shall be a minimum of eight (8) feet above the sidewalk;~~
- ~~c. the sign shall not project more than three (3) feet from the wall of the building on which the sign is placed (measured as the distance between the building façade and the innermost side of the projecting sign nearest the building);~~
- ~~d. and no two adjacent projecting signs shall not be closer than fifteen (15) feet~~
  - ~~e. Signs should be oriented toward pedestrians passing on the sidewalk of the building rather than automobiles or pedestrians on the other side of the street.~~
  - ~~f. Mounting hardware for blade signs should be attractive and an integral part of the sign design. Metal brackets with decorative and complex~~

shapes are encouraged  
where appropriate to add to the character of the building.

g. Signs should never cover architectural details and should be integrated with

architectural façade elements.

h. Blade signs should have two finished sides that are consistent on both sides.

i. Blade signs should be consistent with downtown wall sign design guidelines.

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~~ii.i. Projecting signs shall have a maximum area of ten (10) square feet; the bottom of the sign shall be a minimum of eight (8) feet above the sidewalk; the sign shall not project more than three (3) feet from the wall of the building on which the sign is placed (measured as the distance between the building façade and the innermost side of the projecting sign nearest the building); and adjacent projecting signs shall not be closer than fifteen (15) feet.~~

b) Directory Sign. In addition to the wall signs otherwise permitted by these regulations, an additional sign may be permitted up to a maximum of sixteen (16) square feet for the purpose of identifying upper floor tenants or first floor tenants that do not have building frontage.

c) Instructional Sign. Instructional signs are permitted with no sign area or number limit, provided such signs meet the definition provided in code.

d) Window Signs. Permanent window signs shall not exceed twenty-five (25) percent of the area of a window or, in cases of buildings with numerous windows, shall not exceed twenty-five (25) percent of the total area of all windows combined. The total area of all window signs, including both permanent and temporary signs, shall not exceed fifty (50) percent of the window area or, in cases of buildings with numerous windows, shall not exceed fifty (50) percent of the total area of all windows combined.

e) Additional Wall Sign Area for Multiple Story Buildings. Additional sign area is permitted on each of the building's primary and secondary frontages according to the following:

i. For a building with two (2) floors the additional permitted sign area is 20 square feet for each eligible frontage.

ii. This additional permitted sign area may be increased by 10 square feet for each additional building floor.

iii. Wall signs utilizing allowances for additional sign area based on multiple building stories must be placed at the height (i.e. the story) for which the bonus has been granted.

2. Projecting Signs. Organizations electing to install a projecting sign in lieu of wall signs may do so with the following provisions:

1) The projecting sign must be installed on the primary building frontage.

- 2) Projecting signs shall have a maximum sign area of two (2) feet per lineal feet of primary building frontage. *Calculation Example: Maximum sign area for a building with 20 feet of primary building frontage would be 40 square feet (2x20).*
  - 3) The bottom of the sign shall be a minimum of eight (8) feet above the sidewalk or walking surface.
  - 4) The sign shall not project more than six (6)) feet from the wall of the building on which the sign is placed (measured as the distance between the building façade and the outermost side of the projecting sign farthest from the building).
  - 5) Projecting signs shall not extend more than three (3) feet above the roof line.
  - 6) Adjacent projecting signs shall not be closer than fifteen (15) feet.
  - 7) The following additional signs may be permitted:
    - a) Directory Sign. In addition to the projecting sign permitted by these regulations, a wall sign may be permitted up to a maximum of sixteen (16) square feet for the purpose of identifying upper floor tenants or first floor tenants that do not have building frontage.
    - b) Instructional Sign. Instructional signs are permitted with no sign area or number limit, provided such signs meet the definition provided in code.
    - c) Window Signs. Permanent window signs shall not exceed twenty-five (25) percent of the area of a window or, in cases of buildings with numerous windows, shall not exceed twenty-five (25) percent of the total area of all windows combined. The total area of all window signs, including both permanent and temporary signs, shall not exceed fifty (50) percent of the window area or, in cases of buildings with numerous windows, shall not exceed fifty (50) percent of the total area of all windows combined.
    - d) Wall Signs. Wall signs are permissible on secondary building frontages, subject to all regulations, as identified in this Code.
3. Freestanding Signs. The sign area, height and location specifications for freestanding signs shall be determined by the ~~zoning district classification of the road upon which the building fronts, based on road speed and type (simple or complex), as identified in Table 20-4-4.2~~
- 1) No portion of a freestanding sign shall be in, or project over, a public right-of-way.
  - 2) Sign Angle. The angle of freestanding signs in relation to the oncoming traffic flow shall be between 45 and 135 degrees.
  - 3) Number of Signs. Freestanding Signs shall be limited to one (1) per lot. If a lot has frontage that exceeds three hundred (300) lineal feet on any given roadway, one (1) additional such sign on such frontage shall be permitted; and for each multiple of three hundred (300) lineal feet of frontage thereafter, one (1) additional such sign shall be permitted for each separate street frontage. Unless otherwise regulated by

specific reference herein, the area and height above grade of any freestanding sign shall not exceed the amounts specified in Table 20-4-4.2.

- 4) Directional Signs. Directional signs shall be permitted in addition to all other signs when they are of such size and location that satisfy the intended Directional purpose and based on their size, location, and intended purpose will not constitute additional advertising. Directional signs shall be permitted without limitation as to number or size and may include the name of the business or logo
- 5) Instructional Sign. Instructional signs are permitted with no sign area or number limit, provided such signs meet the definition provided in code.

Table 20-4-4.2 Freestanding Signs Basic Area Allowances.

		<i>Road Speed (mph)</i>					
		<i>20-30 Simple</i>	<i>20-30 Complex</i>	<i>35-45 Simple</i>	<i>35-45 Complex</i>	<i>50-60 Simple</i>	<i>50-60 Complex</i>
<b>Sign Area (sf)</b>	<i>Minimum</i>	25	35	70	70	160	160
	<i>Maximum</i>	45	50	100	120	200	240
<b>Setback</b>	<i>Minimum</i>	12'	12'	12'	12'	12'	12'
	<i>Maximum</i>	20'	20'	25'	25'	30'	30'
<b>Sign Height</b>	<i>Minimum</i>	12'	12'	12'	12'	12'	12'
	<i>Maximum</i>	25'	25'	30'	30'	35'	35'

1. Accessory Signs. Accessory signs are permissible in commercial zone districts provided the following standards are met:
  - 1) Accessory signs are prohibited in the following forms:
    - a) Wall Signs installed on a primary building frontage (wall signs installed on a secondary building frontage are permissible).
    - b) Window Signs.
    - c) Projecting Signs.
  - 2) Only one accessory sign is allowed per lot.
  - 3) Accessory signs may not exceed fifty (50) percent of the total allowable sign area for a lot.

**Sec. 20-4-5. Changeable Copy Signs/Electronic Message Centers (EMCs).**

1. Changeable copy by non-electronic means may be utilized on any permitted sign.
2. Only one (1) EMC is permitted per lot for each street on which the development fronts and the sign is visible.

3. All EMCs are required to have automatic dimming capabilities in order to bring the EMC lighting level at night into compliance with Section 20-4-6.
4. The following EMC display features and functions are prohibited in O-1 zone districts and any zone district adjacent to a residential zone district: continuous scrolling and/or traveling, spinning, rotating, and similar moving effects, and all dynamic frame effects or patterns of illusionary movement or simulating movement. Scrolling utilized as a function to transition between message frames is permissible.
5. The following EMC display features and functions are prohibited in all zone districts: flashing and full motion video or film display via an electronic file imported into the EMC software or streamed in real time into the EMC.

*Table 20-4-5.1. Electronic Message Centers Basic Allowances.*

<i>Zone District</i>	<i>Minimum Display Time</i>	<i>EMCs as a Maximum % of the Total Freestanding Sign Area Permitted on the Lot</i>	<i>EMCs as a Maximum % of a Single Sign</i>
O-1	30 sec	30%	50%
C-1	30 sec	50%	50%
C-2	15 sec	50%	100%
M-1	15 sec	50%	100%
M-2	15 sec	50%	100%

**Sec. 20-4-6. Sign Illumination Standards.**

Signs may be illuminated consistent with the following standards:

1. Signs that have external illumination, whether the lighting is mounted above or below the sign face or panel, shall have lighting fixtures or luminaries that are fully shielded to ensure that light or glare from the sign does not shine above the horizontal plane of the top of the sign or onto any public right-of-way or adjoining property. Signs that have internal illumination shall have sign faces with opaque, non-reflective backgrounds.
2. The lighting for signs shall not create hazardous or excessive glare to pedestrians and/or motorists, either on a public street or right-of-way or on any private premises, and will not obstruct traffic control or any other public information signs.
3. All illuminated signs must meet the requirements of the New Mexico Night Sky Protection Act [NMSA 1978, Chapter 74, Article 12].

**Sec. 20-4-7. Temporary Sign Regulations.**

1. Signs that meet the standards of this section are exempt from the standards for permanent signs and are not counted in the maximum total square footage of signage allowed on any particular property, site or lot.
2. A permit must be obtained for the display of temporary signs.

3. Temporary signs are signs not intended for permanent installation and are to be used for a limited amount of time. Types of temporary signs include, but are not limited to, real estate signs, construction site signs, banners, special event signs (whether these events are related to commercial or noncommercial activities), advertising vehicles and development signs.

4. Off-premise, temporary signs are permissible, subject to landowner approval.

4.5. Signs advertising garage sales are required to obtain a temporary sign permit to identify the locations of any off premise advertising signs .However there will be no fee charged for obtaining a garage sale sign permit.

5.6. Temporary signs must be securely anchored to prevent movement from wind and to ensure public safety.

6.7. The number of temporary signs on a lot shall not exceed three at any given period of time.

1) In the O-1, C-1, C-2, M-1 and M-2 zone districts, one temporary banner sign no larger than thirty-two (32) square feet in size is permitted per structure or, on a multi-tenant structure, per tenant frontage. In no case may a lot have more than two (2) temporary banners.

2) In the A-1, C-1, C-2, M-1 and M-2 zone districts one (1) temporary freestanding sign is allowed per zoned lot. Temporary freestanding signs may be up to thirty-two (32) square feet in area and must still meet location and site criteria as identified by this Sign Code.

3) In the O-1, C-1, C-2, M-1 and M-2 zone districts temporary window signs are permitted, subject to the area regulations identified in Sec. 20-4-4.

7.8. A temporary sign may only be displayed for thirty calendar days. Applicants may renew permits for the display of temporary signs for two (2) additional thirty day periods for a maximum possible display time of ninety (90) consecutive days. Off-premise temporary signs do not qualify for display time extensions.

1) Real Estate and Political and Noncommercial Signs may be displayed on zoned lots any time of the year with no maximum display period and no permit requirements; such signs must still meet location and size criteria as identified by this Sign Code and shall be counted in the consideration of maximum number of temporary signs permissible on a zoned lot.

2) Temporary Signs for approved special events (as recognized and approved by the City Commission or the City Lodger's Tax Advisory Board) may be displayed at approved public locations and/or over public streets; such signs must meet all design and construction specifications of the City and shall be installed by City staff. Special Event Signs are limited to a maximum thirty (30) day display period with no renewal and may be subject to shorter display periods, as directed by the City Commission or the City Lodger's Tax Advisory Board.

8.9. Sandwich Board Signs. Sandwich Board Signs may be used in C-1 zone districts with no maximum display limitations on lots containing a structure for which the primary

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building frontage encompasses 100% of the primary property frontage, provided the following standards are met.

- 1) Only one Sandwich Board Sign is permitted per lot.
- 2) The sign is only displayed during hours for which the business or institution is open to the public.
- 3) The sign is entirely outside the street, roadway or parking area and is not placed in City planting boxes or landscaping.
- 4) The sign must maintain physical contact with the building façade at all times
- 5) The sign is no larger than ten (10) square feet.
- 6) The sign is anchored to prevent movement in the wind.
- 7) The sign does not obstruct a continuous through pedestrian zone of at least four (4) feet in width.
- 8) The sign does not obstruct pedestrian and wheelchair access from the sidewalk to any of the following:
  - a) Transit stop areas;
  - b) Designated handicapped/disabled parking spaces;
  - c) Handicapped/disabled access ramps;
  - d) Building exits, including fire escapes.

# Staff Summary Report

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**MEETING DATE:** September 9, 2014

**AGENDA ITEM:** XII. Land Use Hearing (A)

**AGENDA TITLE:** **Application 2014-134 Zone Change**

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**ACTION REQUESTED BY:** Jerry Parker  
516 Ruins Road #74  
Aztec NM

**ACTION REQUESTED:** Requests a zone change for his property located within a Mobile Home Park that is presently zoned PUD.

**SUMMARY BY:** William M. Homka AICP

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## PROJECT DESCRIPTION / FACTS

Mr. Parker owns a stick built home that is situated within the Villa Serena Mobile Home Park on Ruins Road. He would like to have his home re-zoned to R-1 Single Family. Staff has advised Mr. Parker that he also needs to have the portion of his land split off from the mobile home park. It is presently one parcel. His personal residence sits within the park but is located at the easterly edge of the property, away from Ruins Road and north of Buckele Lane. Therefore the property would require an easement of access to be granted and recorded through the existing mobile home park (retain lot). The timing of the zone change process is longer than the Alternative Summary Plat process.

Staff received two telephone calls regarding this application from the general public. One was from a person who received one of our letters to adjacent property owners. The other was from a regular attendee of our meetings and a neighbor to an abutting property owner. After full explanations were provided to the callers, both indicated they had no problem with the zone change request.

## FINDING OF FACT

When Community Development initially met with Mr. Parker and other family representatives, it was fully explained that the land the house sits upon would have to be split from the larger parcel that serves the mobile home park. It is a requirement to have frontage on a public street to create a parcel, or to have an access agreement. This requirement avoids the creation of land locked parcels that an owner would have no vested right to access, to or from, now or in the future. It is Mr. Parkers park so he would be able to grant himself the easement and apply for the Alternative Summary Plat. Without a boundary survey it is impossible/ not recommended to approve a zone change since it lacks a separate parcel with the legal description.

Mr. Parker is trying to set up his estate so that the Mobile Home Park is a separate piece of real estate from his personal residence. He may desire to sell the park yet continue to live in his residence. The home in question fronts on Ruins Road. Land across Ruins Road is zoned R-1 Single Family. Mr. Parker's residence does not abut Ruins Road, would be surrounded by PUD and Agricultural use districts. In effect this re-zoning represents a spot zone change. Community Development would not be in favor of such a change.

However, Community Development also believes the mobile home park should be zoned "MH" Mobile Home land use district. Unfortunately, while looking around the city's zoning map it appears that many mobile home parks are zoned R-1 Single Family and many single family neighborhoods are zoned MH Mobile Home. This does not make sense, as neither use district seems appropriate, certainly not single family residences in plated neighborhoods that are zoned MH Mobile Home. Though it could be considered a spot zoning, the PUD Planned Unit Development adjacent to Mr. Parker could be construed to mean residential, commercial, or a mixture of both –thus reducing some of the concern about the change.

Considering Aztec's past zoning practices, it appears that Mr. Parker's request to rezone his land may as well just apply to the entire mobile home park property. Since other parks are zoned R-1 Single Family, why not the Villa Serena? If that were to happen then his home would be zoned as he would like, however there is still the issue of creating a single lot without public frontage.

it seems several things are in order. Community Development has already identified the Zoning Ordinance needs some immediate changes. The department has also noticed there are major areas of the city that need to be re-zoned in accordance with the current uses of the land. These are projects that are in queue. If the changes were already in effect they would probably have some bearing on this application, but since they are not then this application is a separate matter.

Therefore, in consideration of the foregoing description of neighborhoods, mobile home parks, agricultural areas, etc. it appears that allowing the split of this property for the purposes of separating it from the mobile home parcel is not as abnormal as it would first seem. The rezoning of the parcel would not take effect until a separate parcel is created. The separate parcel should contain an access easement from Ruins Road to parcel #74, and carry the stipulation on the deed that if the mobile home park is ever redeveloped in the future that such access agreement is not to obstruct redevelopment. Any future redevelopment would require new streets and parcels through the subdivision process and Mr. Parker's new parcel would trade his access agreement for frontage on a newly built and publicly dedicated roadway.

#### FINDINGS OF FACT

1. The parcel in question is a single parcel that is currently occupied by Villa Serena Mobile Home Park and Mr. Jerry Parker's personal residence.
2. Mr. Jerry Parker owns Villa Serena Mobile Park
3. The Mobile Home park is presently zoned PUD Planned Unit Development
4. A separate parcel needs to be created for Mr. Parker's personal residence:
  - a. Using a boundary survey and the Alternative Summary Plat Process;
  - b. The plat must provide an access easement to the new parcel;
  - c. The plat must carry the title restriction that any future residential development must provide this new parcel frontage on a public street in exchange for the nullification of the access agreement and any interference the agreement could have on any new residential development's lot configuration or street design.
  - d. This zone change can only apply to the new parcel created using the Alternative Plat Summary described above in 4(a-c);

PROCUREMENT / PURCHASING (if applicable)

NA

FISCAL INPUT / FINANCE DEPARTMENT (if applicable)

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**SUPPORT DOCUMENTS:** Application materials for 2014-134 Zone Change Request

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**DEPARTMENT'S RECOMMENDED MOTION:** Motion to approve this zone change request based on the above listed four (4) findings of fact.

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# CITY OF AZTEC ZONE CHANGE APPLICATION

Application Year: 2014 Application No.: 134 Application Date: \_\_\_\_\_

- Applicant Name: JERRY PARKER  
- Applicant Address: 516 Ruins Rd #17 Aztec NM 87410  
(Street Name) (City) (State) (Zip Code)

- Applicant Phone: 505-334-9154

Is Applicant: Owner / Lessee / Other of Property to be Rezoned? \_\_\_\_\_

Legal Description of the Property: R 0001081

Subdivision Name: \_\_\_\_\_

Block: \_\_\_\_\_

Lot: \_\_\_\_\_

- Total Area of Property (acres): 10.

- Legal Zoning District: Current: PUD Desired: MH

Present Use of Property: Mobile Home Park

Desired Use of Property: Mobile Home Park & SFD

Reason for requesting change of zoning:

Wants to split residential home off and sell mobile home park off

Jerry Parker  
Applicant's Signature

7-22-2014  
Date

City Commission Meeting Date: _____	ACTION: APPROVED DENIED
City Planner _____	Date <b>RECEIVED</b>

JUL 22 2014

CRB 118-3

City of Aztec  
Planning Department  
201 W. Chaco  
Aztec, NM 87410

**CASH RECEIPT**

Date 7-22-14

002949

Received From Jerry Parker

Address 516 Ruess Road #74

app fee \$50.<sup>00</sup> admin fee \$10.<sup>00</sup> Dollars \$ 110.<sup>00</sup> /xv

For Zone Change (per lot \$5.<sup>00</sup> x 10 lots = \$50.<sup>00</sup>)

CK #4308

ACCOUNT		HOW PAID	
AMT OF ACCOUNT		CASH	
AMT. PAID		CHECK	110.00
BALANCE DUE		MONEY ORDER <input type="checkbox"/>	
		CREDIT CARD <input type="checkbox"/>	

By Michelle Morgan

TY OF AZTEC  
87/31/2014 16:18 CD

CM DEV ADMIN FEE (ALL PERMITS)

U-A195696	AMOUNT
FMSD CM DEV ADMIN FEE (ALL PE	10.00
FMSD CM DEV LAND USE PERMITS	50.00
FMSD CM DEV LAND USE PERMITS	50.00

PAYMENT RECEIVED	AMOUNT
CHECK: 4308	110.00
TOTAL	110.00



OwnerName	OwnerName2	OwnerAddr	OwnCtyStZp
✓ LAMAR BEL INC	ATTN JERRY PARKER	516 RUINS RD SP 74	AZTEC, NM 874101667
✓ BIXLER JACK AND DIANNE		16210 US 550	AZTEC, NM 87410
✓ CAUTHEN JOYCE		P O BOX 1354	AZTEC, NM 874101354
✓ CRANE GORDON NEAL AND DORGAS ANN TRUST	C/O HARE DAVID A AND SHARMAYNE G	312 RUINS RD	AZTEC, NM 87410
✓ FALLON OMA E		P O BOX 98	AZTEC, NM 87410
✓ HUNNICUTT ROSEMARY TRUST ET AL		509 RUINS RD	AZTEC, NM 874101627
✓ KEENAN JOHN G AND GLORIA		5202 FAWN DR	FARMINGTON, NM 87402823
✓ <del>KEENAN JOHN G AND GLORIA</del>		5202 FAWN DR	FARMINGTON, NM 87402823
✓ MC DONALD JAMES M		900 TOWNSEND	AZTEC, NM 87410
✓ MOFFATT DAVID L TRUST		3566 SHOSHONE VALLEY RD	TWENTYNINE PALMS, CA 922
✓ MOORE ROBERT K AND S KATHLEEN		P O BOX 1641	AZTEC, NM 87410
✓ OTTE WILLIAM H TRUST	C/O HARE DAVID A ET UX	312 RUINS RD	AZTEC, NM 87410
✓ UNITED STATES OF AMERICA	ATTN ATTN NATIONAL PARK SERVICE	P O BOX 25287	DENVER, CO 802250287
✓ WARMKESSEL TEJAI C		901 TOWNSEND AVE	AZTEC, NM 87410

# Staff Summary Report

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<b>MEETING DATE:</b>	September 9, 2014
<b>AGENDA ITEM:</b>	XII. Land Use Hearing (B)
<b>AGENDA TITLE:</b>	<b>Application 2014-149 Variance Request</b>

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<b>ACTION REQUESTED BY:</b>	Eric Edgerton, c/o Big O Tire 1549 W. Aztec Blvd. Aztec, NM 1601 W. Aztec Blvd. Aztec, NM
<b>ACTION REQUESTED:</b>	Requests a variance from Aztec City Code Section 20-2-613 prohibiting banners.
<b>SUMMARY BY:</b>	William M. Homka AICP

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## PROJECT DESCRIPTION / FACTS

Mr. Edgerton represents Big-O Tires and Big-O Quick Lube on W. Aztec Boulevard in Aztec. He would like to add additional advertisement items that are currently prohibited in Chapter 20 of Aztec's Sign Code. Simply stated on his application, "...we would like to put banners (2) up to encourage business to stay in Aztec." He further indicates there would be a total of four banners on two properties.

The location of the banners would be at the intersection of Hill Top Drive. Big-O represents two businesses, one across Hill Top Drive from the other. In effect, the banners would not only mark draw attention to the business sites but also would bookmark the intersection with Highway 516 by placing banners in the northwest and northeast corners the intersection.

In June and July several Aztec businesses were issued letters from the Community Development Department's Code Enforcement Officer. The letter, a notice of intent to cite, informed the businesses that their banners, flags on ropes, and other advertisement "whirly-wigs" are prohibited by Aztec's Sign Ordinance. All of the businesses removed their advertising enhancements. The specific wording that prohibits this type of advertising is set forth in Chapter 20 Section 20-2-6 Prohibited Signs, 6: Merchandise, equipment, products, vehicles or other items which are not available for purchase, but are intended to attract attention, or for identification or advertising purposes. Thus this is the section Mr. Edgerton seeks a variance.

It appears the City of Aztec does not desire the additional advertising "spectacle" of permanently allowing streamers, banners, triangular rope flags, Christmas rope lights, inflatable Gumby people, etc. lining its commercial corridors. The variance application does not state, but I take it to imply the applicant is incurring a financial hardship without the prohibited advertising features because potential customers are going to businesses outside of the City of Aztec. are causing a financial hardship to his business.

Variance requests and the procedure for their review is set forth in **Division 5, Section 26-4-551 Purpose & Hardship thru Section 26-4-552 Process**. The burden of proof is on the applicant/property owner there is "unnecessary hardship" as specified using the following three (3) criteria:

1. Credible proof that the property will not yield a reasonable return if used in accordance with the ordinance; or
2. Must establish that the Land Development Ordinance gives rise to the hardship amounting to virtual confiscation; or
3. Disadvantage must be so great as to deprive the owner of all reasonable use of the property.

**Findings of Fact**

Quickly reviewing the above criteria:

1. it does not appear that this application demonstrates the Big-O Tires and/or Big-O Quick Lube are suffering from any reasonable return due to the ordinance;
2. Or that the Land Development Ordinance gives rise to hardship amounting to a confiscation or 'taking' of land use rights.
3. Last, since none of the other Aztec businesses are permitted to have such additional advertising, and indeed Code Compliance recently issued compliance notices and the businesses removed their illegal advertising, it does not appear that this applicant is at a disadvantage from other businesses nor does it deprive the owner of a reasonable use of the property.

**PROCUREMENT / PURCHASING (if applicable)**

NA

**FISCAL INPUT / FINANCE DEPARTMENT (if applicable)**

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**SUPPORT DOCUMENTS:** Application materials for 2014-149 Variance Request

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**DEPARTMENT'S RECOMMENDED MOTION:** Motion to deny this variance due to the Findings of Fact (3) as listed above.

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# CITY OF AZTEC VARIANCE APPLICATION

**PERMIT FEES ARE DUE AT TIME OF APPLICATION;** additional fees may be assessed at time of permit approval. Fees are: \$10 Admin. Fee + \$50 Variance Fee = Total \$60

Application Year: 2014 Application No.: 149 Application Date: \_\_\_\_\_

Applicant Name: Eric Edgerton Big-O Tire  
Applicant Address: 1549 W. Aztec Blvd. Aztec NM 87410  
(Street Name) (City) (State) (Zip Code)

Applicant Phone: 505-330-7396

Is Applicant Owner of Property? YES

Legal Description of the Property:  
(Or address if different than above) \_\_\_\_\_

Total Area of Property (acres): 1/2 acre

Zoning District: commercial C-2

Tax ID Number 0473569 R0000766

Flood Zone \_\_\_\_\_

Present Use of Property: Big O Tire Store

Desired Use of Property: same as above

Reason for Requesting a Variance (include section(s) of Code for which a variance is requested):

Aztec City code Section 20-2-16(3) We would like to put banners (2) up to encourage business to stay in Aztec. 4 total

Plan Map Available? YES NO  
(Plan map is required; failure to provide a plan map will cause a delay in the process)

[Signature]  
Applicant's Signature

7/28/14  
Date

City Commission Meeting Date: \_\_\_\_\_

ACTION: APPROVED DENIED

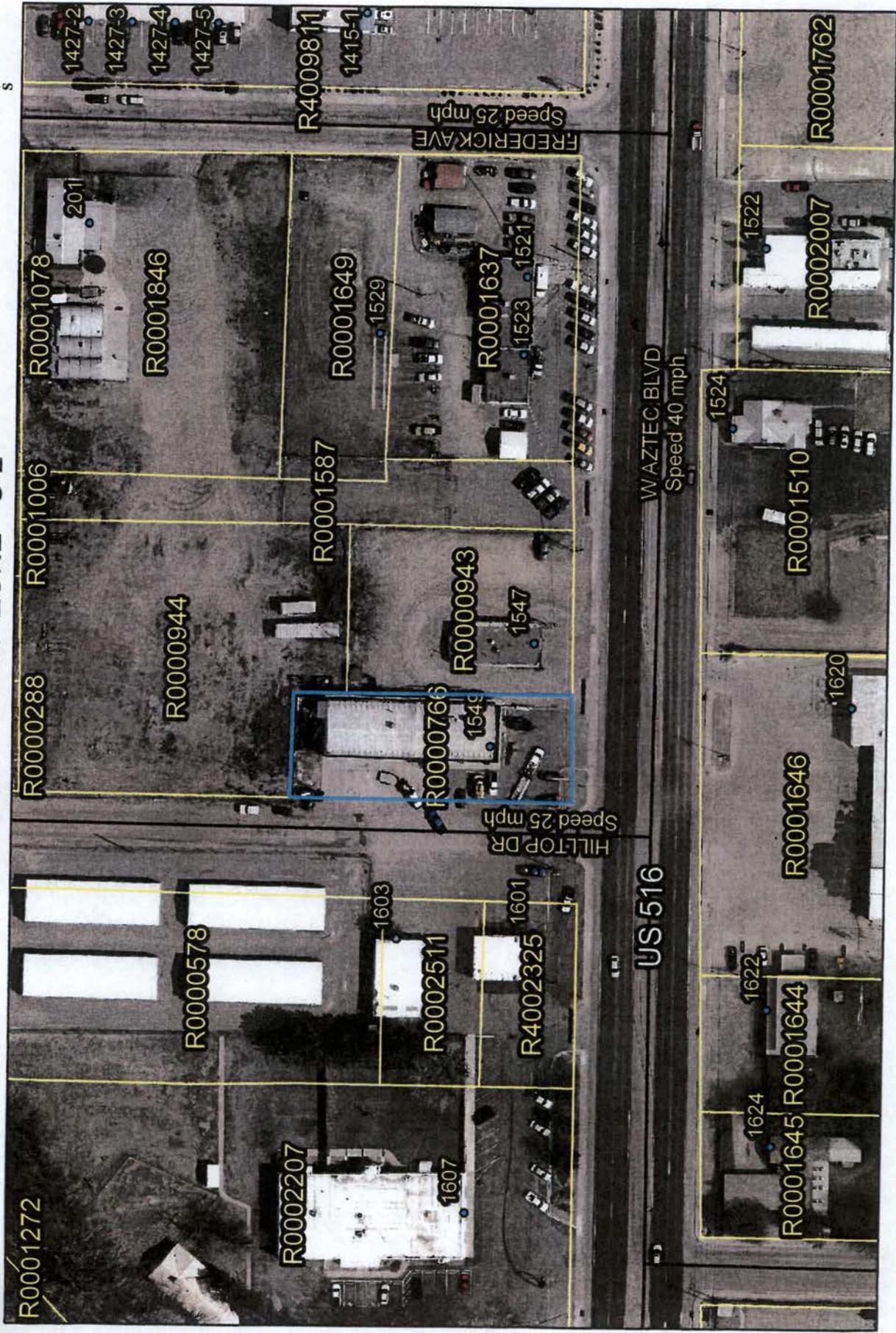
**RECEIVED**  
City Planner

Date 1

JUL 30 2014



**BIG O TIRE - 1549 W AZTEC BLVD  
TAX ID # R0000766 ZONE - C-2**



- AssessorPublicInfo
- AztecCityLimits
- Property under review

1 in = 100 ft

Date: 8/4/2014

CRB118-3

City of Aztec  
Planning Department  
201 W. Chaco  
Aztec, NM 87410

**CASH RECEIPT**

Date 7-30-14 002961

Received From Eric Edgerton - Big O Tire

Address 1549 W Aztec

Dollars \$ 60.00

For Variance Signs 10. Admin 50 fee

ACCOUNT		HOW PAID	
AMT. OF ACCOUNT		CASH	
AMT. PAID		CHECK	<u>60.00</u>
BALANCE DUE		MONEY ORDER <input type="checkbox"/>	
		CREDIT CARD <input type="checkbox"/>	

CK # 1177

By Michelle

TY OF AZTEC  
8/31/2014

16:28 CD

CR DEV ADMIN FEE (ALL PERMITS)

U-228786	AMOUNT
FRSD CR DEV ADMIN FEE ALL RE	10.00
FRSD CR DEV LAND USE PERMITS	50.00

PAYMENT RECEIVED	AMOUNT
CHECK# 1177	60.00
TOTAL	60.00



BIG O  
Quick Lube  
1601 W Aztec  
BLVD

PARKING

Hull Top Dr.

PARKING

BIG O  
Tires  
1549 W Aztec Blvd

\* FLAG  
\* FLAG  
BANNER

\*  
\*  
FLAG  
BANNER

RECEIVED

JUL 30 2014

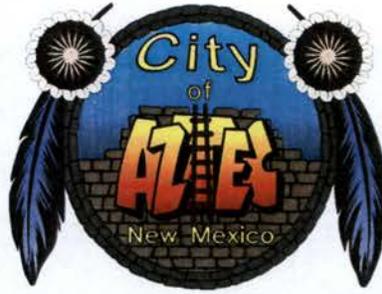
CITY OF AZTEC  
COMMUNITY DEVELOPMENT

HWY 516

RCELNO	GrossAcres	ACCTTYPE	OwnerName	OwnerAddr	OwnCtyStZp	Subdivis	LegalDesc	LegalDesc2	Web
.07E+12	0.2067	Commercial	AE EDGERTON LLC ✓	193 ROAD 2900	AZTEC, NM 874109731		BEG S0-46-		http:
.07E+12	0.2275	Commercial	ELK ENTERPRISES ✓	1549 W AZTEC BLVD	AZTEC, NM 87410		BEG S 656.1		http:
.07E+12	1.5087	Commercial	LA PLATA MINI STORAGE LLC ✓	P O BOX 2408	DURANGO, CO 81302		BEG S0-38-		http:
.07E+12	1.21	Vacant	Lan HOLGATE OILFIELD SERVICE INC ✓	16 ROAD 2957	AZTEC, NM 87410		BEG N 200		http:
.07E+12	0.4565	Commercial	GOBER RUTH M TRUST	620 DAIMOND	FARMINGTON, NM 87401		BEG E 78 F		http:
.07E+12	0.3581	Commercial	AE EDGERTON LLC	1549 W AZTEC BLVD	AZTEC, NM 87410		BEG SW/4		http:
.07E+12	1.5492	Commercial	J AND S OF AZTEC INC	1620 NE AZTEC BLVD	AZTEC, NM 87410	SWIRE-SIM	SWIRE-SIM		http:
.07E+12	1.3551	Comm Mix	GOIMARAC RONALD V TRUSTEES	9 ROAD 3631	AZTEC, NM 87410	SWIRE-SIM	SWIRE-SIM		http:

Mayor  
Sally Burbridge

Mayor Pro-Tem  
Sherri A. Sipe



Commissioners

Roberta Locke  
Katee McClure  
Sheri Rogers

*A desirable place to live, work and play; rich in history and small town values!*

August 4, 2014

## PUBLIC NOTICE

Re: Variance Request Big O Tires, 1549 West Aztec Boulevard, Tax ID # R0000766.

Dear Property Owner:

The property owners for the parcel(s) identified as Big O Tires, 1549 West Aztec Boulevard, Tax ID # R0000766 are seeking to place up to 4 flag banner signs encouraging business to stay in Aztec which fall under City of Aztec Code, **Sec. 20-2-6.(3) Prohibited Signs**. This codes state that the following types of signs are prohibited Animated, flashing, rotating signs and festoons, signs containing strobe lights, inflatable signs, tethered balloons, banners, pennants, searchlights, streamers, exposed light bulbs, strings of lights not permanently mounted to a rigid background, and any clearly similar features employed to advertise or draw attention to a commercial activity, except those specifically permitted by Sign Code in Section 20-2-5, or special event signs or banners permitted in Section 20-4-7, or electronic message centers as permitted in Section 20-4-5.

The City Commission will hear this request during a public meeting to be held on **Tuesday, August 26, 2014 at 6:00 PM located at City Hall, 201 W. Chaco, Aztec, NM.**

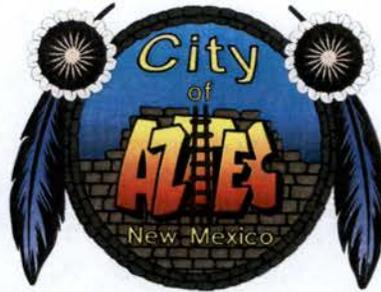
The public is requested to contact Community Development via phone at 505-334-7604 or email at [mmorgan@aztecnm.gov](mailto:mmorgan@aztecnm.gov) to provide support or concerns regarding this request. The public is also invited to attend the scheduled Commission meeting regarding this matter.

As a surrounding property owner, you are also designated as a party to this Land Use hearing. You are thus invited to attend the scheduled Commission meeting regarding this matter and give your statements or ask questions of the property owner as well. You will be given 10 minutes to do this in.

In order to be heard you will need to attend the Commission meeting 10 minutes prior to the start of the meeting at 6:00 pm where you will be directed to sign in at the Clerk's table for the appropriate hearing. I have included a frequently asked questions flyer with more information on this proceeding as well.

Mayor  
Sally Burbridge

Mayor Pro-Tem  
Sherri A. Sipe



Commissioners

Roberta Locke  
Katee McClure  
Sheri Rogers

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Community Development will be creating a staff summary for Commission giving them more information on this property and the Variance request being made. **Please look over the summary prior to the meeting so you are aware of Community Developments stand on this matter. This summary will be available to the public on the City of Aztec website at this location: [http://www.aztecnm.gov/agendas/ccm\\_agenda.pdf](http://www.aztecnm.gov/agendas/ccm_agenda.pdf) the Thursday prior to the meeting.** On the table of contents, locate the Land Use Hearing you are interested in and click on it to be taken to the staff summary for that Land Use Hearing. **(Notice of meeting cancellation/rescheduling will also be at this website, so please check the Thursday prior and day of meeting for confirmation. Thank you.)**

If you have any further questions, please don't hesitate to call me at 505-334-7604, Monday through Thursday from 7:00 a.m. to 6:00 p.m. Thank you.

Respectfully,

*Michelle Morgan*

Michelle Morgan  
Planning Technician / Addressing Coordinator  
Community Development

Enclosure: Map  
Frequently Asked Questions on Land Use Hearings