

City of Las Cruces[®]

PEOPLE HELPING PEOPLE

Council Action and Executive Summary

Item # 21 Ordinance/Resolution# 14-083

For Meeting of _____
(Ordinance First Reading Date)

For Meeting of October 21, 2013
(Adoption Date)

Please check box that applies to this item:

QUASI JUDICIAL LEGISLATIVE ADMINISTRATIVE

TITLE: A RESOLUTION APPROVING A WAIVER FROM THE REQUIRED RIGHT-OF-WAY DEDICATION AND ROAD IMPROVEMENTS TO KENNEDY ROAD ASSOCIATED WITH A PROPOSED REPLAT KNOWN AS ELEPHANT BUTTE LAND & TRUST COMPANY, SUBDIVISION A, REPLAT NO. 37 ON A 2.26 ± ACRE LOT LOCATED AT 1076 E. KENNEDY ROAD. SUBMITTED BY RICHARD P. & AURORA VALVERDE, PROPERTY OWNERS. (S-12-012W)

PURPOSE(S) OF ACTION:

Subdivision right-of-way dedication and road improvement waiver request.

COUNCIL DISTRICT: 5		
Drafter/Staff Contact: Adam Ochoa	Department/Section: Community Development/Building & Development Services	Phone: 528-3204
City Manager Signature:		

BACKGROUND / KEY ISSUES / CONTRIBUTING FACTORS:

The subdivision (replat) known as Elephant Butte Land & Trust Company, Subdivision A, Replat No. 37 is for a piece of land located on the south side of Kennedy Road, 0.19 ± miles west of its intersection with Elks Drive. The subdivision will split one (1) existing 2.26 ± acre single-family residential lot into two (2) new single-family residential lots. The City of Las Cruces Subdivision Code and Design Standards require the subdivision to provide the necessary amount of right-of-way dedication and road improvements to all streets adjacent to proposed subdivisions to the nearest paved roadway. The subdivision was approved by the Planning and Zoning Commission on September 24, 2013 by a vote of 5-0 (two Commissioners absent) with the understanding that the applicants will either have to obtain approval of the proposed waiver request or will have to provide the required right-of-way dedication and road improvements to Kennedy Road to finalize the replat.

The proposed subdivision is adjacent to Kennedy Road, a principal arterial roadway as classified by the Mesilla Valley Metropolitan Planning Organization (MVMPO). Kennedy Road is currently a 20 ± foot wide road surfaced with millings to Elks Drive, but does not meet City standards for

pavement width and design. The applicants are responsible for dedicating one-half (1/2), 60 feet, of the required right-of-way for Kennedy Road adjacent to the proposed subdivision and are responsible for constructing their pro-rata share, one-half (1/2) of a principal arterial roadway, including sidewalk, curb and gutter for the entire 250.55 ± feet along the boundary line of the proposed subdivision. The applicants are also responsible for providing the equivalent of a minor local roadway designed and constructed to a cross section approved by the City from the boundary of the subdivision to Elks Drive. They are also responsible for obtaining the necessary right-of-way from property owners adjacent to Kennedy Road for the construction of the road to Elks Drive (the nearest paved public roadway). The applicants are proposing to dedicate the required right-of-way for Kennedy Road adjacent to the proposed subdivision, but are requesting a waiver of 100% of the required road improvements and are requesting a waiver from the requirement to obtain the necessary right-of-way from property owners adjacent to Kennedy Road. No alternative, including a fee-in-lieu of improvements, is proposed.

On September 24, 2013, the Planning and Zoning Commission (P&Z) recommended approval for the waiver request by a vote of 5-0, (two Commissioners absent). During the meeting much discussion took place on the issue of the specific standards requested to be waived. The P&Z questioned the current condition of Kennedy Road and the need of requiring the applicants to improve that portion of it. There was also some discussion on the potential cost of building the required portion of Kennedy Road and the issues of obtaining right-of-way from the property owners adjacent to Kennedy Road. The P&Z did not believe the improvements and costs for them were warranted for the simple subdivision of one residential lot into two residential lots. Please see Attachment "C" for a more detailed summary of the discussion that took place at the P&Z meeting. Staff received one comment from a member of the public (phone call) stating that the required improvements were not needed at this time and that the waiver should be approved. No other comments about the proposed waiver were received.

SUPPORT INFORMATION:

1. Resolution.
2. Exhibit "A", Proposed Subdivision.
3. Attachment "A", Waiver Request.
4. Attachment "B", Staff Report to the Planning and Zoning Commission for Case S-12-012 & S-12-012W.
5. Attachment "C", Draft minutes from the September 24, 2013 Planning and Zoning Commission meeting.
6. Attachment "D", Vicinity Map.

SOURCE OF FUNDING:

Is this action already budgeted? N/A			
	Yes	<input type="checkbox"/>	See fund summary below
	No	<input type="checkbox"/>	If No, then check one below:
	<i>Budget Adjustment Attached</i>	<input type="checkbox"/>	Expense reallocated from: _____
	<input type="checkbox"/>	<input type="checkbox"/>	Proposed funding is from a new revenue source (i.e. grant; see details below)
	<input type="checkbox"/>	Proposed funding is from fund balance in the _____ Fund.	
Does this action create any revenue? N/A			
	Yes	<input type="checkbox"/>	Funds will be deposited into this fund: _____ in the amount of \$ _____ for FY _____.
	No	<input type="checkbox"/>	There is no new revenue generated by this action.

BUDGET NARRATIVE

N/A

FUND EXPENDITURE SUMMARY:

Fund Name(s)	Account Number(s)	Expenditure Proposed	Available Budgeted Funds in Current FY	Remaining Funds	Purpose for Remaining Funds
N/A	N/A	N/A	N/A	N/A	N/A

OPTIONS / ALTERNATIVES:

1. Vote "Yes"; this will affirm the Planning and Zoning Commission recommendation for approval for the proposed waiver request. No road improvements or additional right-of-way shall be required for Kennedy Road, except for the right-of-way directly adjacent to the proposed subdivision, in association with the proposed subdivision known as Elephant Butte Land & Trust Company Subdivision A, Replat No. 37.
2. Vote "No"; this will reverse the recommendation made by the Planning and Zoning Commission. Either road improvements, including any necessary right-of-way or a payment in lieu of road improvements for Kennedy Road shall be required in association with the proposed subdivision known as Elephant Butte Land & Trust Company Subdivision A, Replat No. 37.
3. Vote to "Amend"; this could allow Council to modify the Resolution by adding conditions as determined appropriate.
4. Vote to "Table"; this could allow Council to table/postpone the Resolution and direct staff accordingly.

REFERENCE INFORMATION:

The resolution(s) and/or ordinance(s) listed below are only for reference and are not included as attachments or exhibits.

1. N/A

RESOLUTION NO. 14-083

A RESOLUTION APPROVING A WAIVER FROM THE REQUIRED RIGHT-OF-WAY DEDICATION AND ROAD IMPROVEMENTS TO KENNEDY ROAD ASSOCIATED WITH A PROPOSED REPLAT KNOWN AS ELEPHANT BUTTE LAND & TRUST COMPANY, SUBDIVISION A, REPLAT NO. 37 ON A 2.26 ± ACRE LOT LOCATED AT 1076 E. KENNEDY ROAD. SUBMITTED BY RICHARD P. & AURORA VALVERDE, PROPERTY OWNERS. (S-12-012W)

The City Council is informed that:

WHEREAS, Richard P. and Aurora Valverde, the property owners, have submitted a request to waive 100% of the required road improvements and a waiver from obtaining any additional right-of-way dedication from property owners adjacent to Kennedy Road for 0.19 ± miles from the proposed subdivision to Elks Drive; and

WHEREAS, Kennedy Road is a 20 ± foot wide road surfaced with millings, but does not meet City of Las Cruces Design Standards; and

WHEREAS, pursuant to Chapter 37 (Subdivisions), Article XII (Construction Standards) and Chapter 32 (Design Standards), Article II (Standards for Public Rights-of-Way) of the Las Cruces Municipal Code, road improvements are required on streets adjacent to a subdivision or property boundary to the nearest paved public roadway; and

WHEREAS, the Planning and Zoning Commission, after conducting a public hearing on September 24, 2013, recommended that said waiver request be approved by a vote of 5-0-0 (two Commissioners absent).

NOW, THEREFORE, Be it resolved by the governing body of the City of Las Cruces:

(I)

THAT the request to waive 100% of the required road improvements and a waiver from obtaining any additional right-of-way dedication from property owners

adjacent to Kennedy Road for 0.19 ± miles from the proposed replat, as shown in Exhibit "A", to Elks Drive, the nearest paved road be approved.

(II)

THAT City staff is hereby authorized to do all deeds necessary in the accomplishment of the herein above.

DONE AND APPROVED this _____ day of _____ 2013.

APPROVED:

Mayor

ATTEST:

City Clerk

(SEAL)

Moved by: _____

Seconded by: _____

VOTE:

Mayor Miyagishima: _____

Councillor Silva: _____

Councillor Smith: _____

Councillor Pedroza: _____

Councillor Small: _____

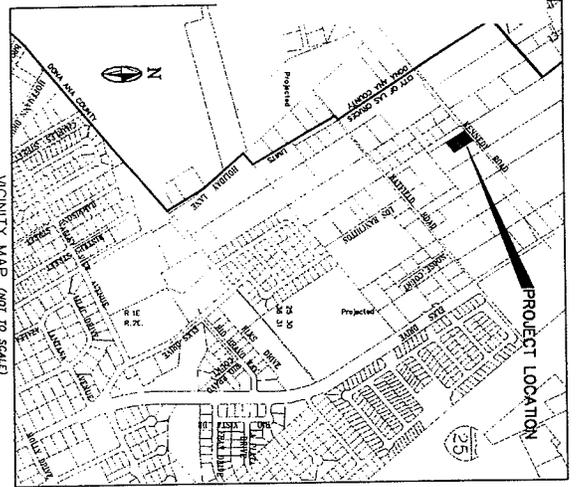
Councillor Sorg: _____

Councillor Thomas: _____

APPROVED AS TO FORM:

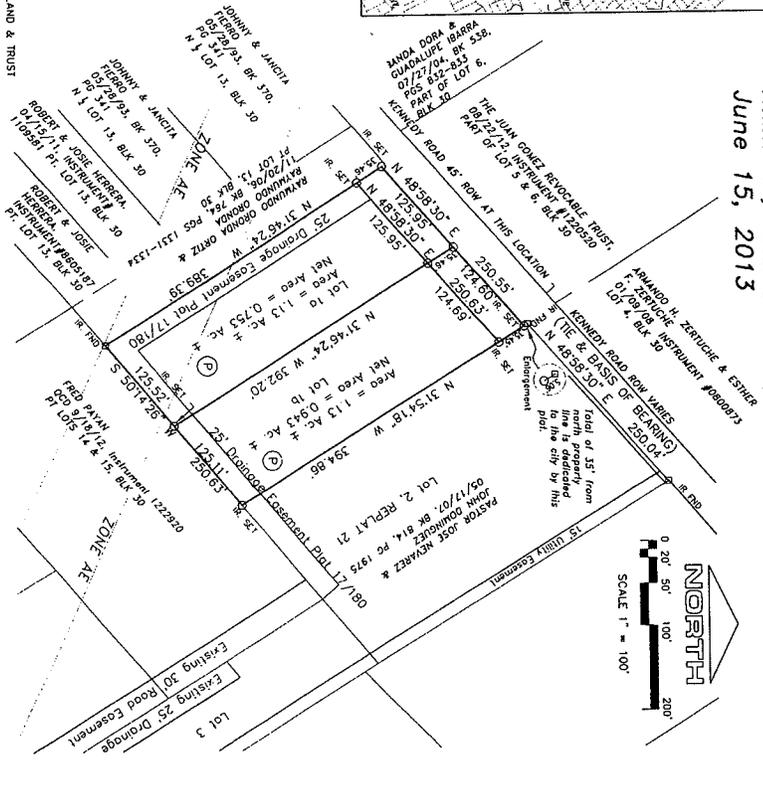


City Attorney



Elephant Butte Land & Trust Co. Subdivision "A" - Replat #37

REPLAT OF LOT 1, Elephant Butte Land & Trust Co. Subdivision "A" Replat #21, Amended May 1992, Filed May 22, 1992, Plat Book 17, Page 180 in the records of the Dona Ana County Clerk's Office, LOCATED IN PROJECTED SECTION 25, TOWNSHIP 22 SOUTH, RANGE 1 EAST, N.M.P.M., LAS CRUCES, DONA ANA COUNTY, NEW MEXICO.
 June 15, 2013



- LEGEND**
- 1/2" Rubber set with an orange plastic cap
 - 1/2" Rubber found, Accepted.
 - Drainage Easement
 - Road Easement / Right of Way
 - Ⓟ On Lot Pending Required

THE TRACT OF LAND SHOWN HEREON IS TO BE KNOWN AS ELEPHANT BUTTE LAND & TRUST CO. SUBDIVISION "A" - REPLAT #37.

ALL RIGHTS OF WAY AND PUBLIC AREAS SHOWN HEREON ARE DEDICATED TO CITY OF LAS CRUCES. UTILITY EASEMENTS ARE GRANTED FOR THE USE OF THE UTILITY COMPANIES THAT ARE SHOWN ON THIS PLAT. THE CITY OF LAS CRUCES AND SAID UTILITY COMPANIES WILL APPLY TO THESE EASEMENTS. ALL OTHER EASEMENTS SHOWN HEREON ARE GRANTED FOR THE USE INDICATED. NO ENCROACHMENT THAT WILL INTERFERE WITH THE USE OF EASEMENTS AS SHOWN ON THIS PLAT IS ALLOWED.

THE REPLAT HAS BEEN DEDICATED IN ACCORDANCE WITH THE WISHES OF THE UNDERSIGNED OWNERS OF THE LAND SHOWN HEREON.

WE THE UNDERSIGNED OWNERS DO HEREBY SET OUR HANDS THIS _____ DAY OF _____ 20____.

RICHARD P. VALVERDE (S75) 526-7744
 515 HOGOT
 LAS CRUCES, NM 88007

ANGELA VALVERDE
 515 HOGOT
 LAS CRUCES, NM 88007

INSTRUMENT OR COMMISSION NUMBER 1002231, RECORDED ON 1/21/2011.

STATE OF NEW MEXICO | SS
 COUNTY OF DONA ANA | SS

THE FOREGOING INSTRUMENT WAS FORWARDED BEFORE ME THIS _____ DAY OF _____ 20____ BY RICHARD P. VALVERDE AND ANGELA VALVERDE.

(NOTARY PUBLIC)
 MY COMMISSION EXPIRES: _____

- NOTES:
1. PORTIONS OF THIS PROPERTY ARE LOCATED IN FLOOD ZONE X. AREAS DETERMINED TO BE OUTSIDE 500-YEAR FLOOD ZONE ARE SHOWN IN SHADING. PORTIONS OF THIS PROPERTY IS LOCATED IN AN SPECIAL FLOOD HAZARD AREA. ZONE AE SHOWN PER PLAT BOOK 17, PAGE 180. ANY DEVELOPMENT OR SUBSTANTIAL IMPROVEMENTS WILL REQUIRE THE INDIVIDUAL PROPERTY OWNER TO MEET FEMA'S LETTER OF MAP CHANGE PROCESS.
 2. EXCESS STORM WATER TO BE RETAINED WITHIN EACH LOT (Ⓟ). MAINTENANCE OF THE ON-LOT POND AND THE DRAINAGE EASEMENT IS THE RESPONSIBILITY OF THE INDIVIDUAL LOT OWNERS. EXISTING 25' DRAINAGE EASEMENT PER PLAT BOOK 17, PAGE 180 DRAINAGE EASEMENT MAY NOT BE BLOCKED OR ALTERED WITHOUT AN ENGINEERED SOLUTION.
 3. THE PURPOSE OF THIS SURVEY IS TO SPLIT LOT 1 AND DEDICATE AN ADDITIONAL 35' (6768 SQ. FT.) FOR RIGHT OF WAY ON KENNEDY ROAD.
 4. INFORMATION FROM ELEPHANT BUTTE LAND & TRUST SUBDIVISION "A" - REPLAT 21, AMENDED MAY 1992, PLAT BOOK 17, PAGES 180, SHOWN HEREON, EASEMENTS SHOWN ARE EXISTING AS DESCRIBED IN REPLAT 21.
 5. BASIS OF BEARING WAS DETERMINED BETWEEN TWO MONUMENTS BEING NORTH LINE BETWEEN CORNER LOT 1 AND NE CORNER OF LOT 2. AS RECORDED IN PLAT BOOK 17, PAGES 180 OF THE DONA ANA COUNTY RECORDS.
 6. TOTAL GROSS AREA OF LOT 1 PLUS 1b = 2.029 ACRES ±. AREA DEDICATED TO THE CITY = 0.23 ACRES ±.
 7. THE PROPERTY OWNER/APPLICANT/SUBDIVIDER IS RESPONSIBLE FOR ALL NECESSARY EASEMENTS AND THE CITY OF LAS CRUCES UTILITY STANDARDS.

1. JOHN I. MONTVOYA, A NEW MEXICO PROFESSIONAL SURVEYOR CERTIFY THAT I CONDUCTED AND AM RESPONSIBLE FOR THIS SURVEY, THAT THIS SURVEY IS TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE AND BELIEF AND THAT THIS SURVEY AND PLAT MEET THE MINIMUM STANDARDS FOR SURVEYING IN NEW MEXICO.

JOHN I. MONTVOYA, P.E./P.S. PS 13067
 1409 SUE CT., LAS CRUCES, NM 88007
 (575) 647-1315 OR (575) 522-0049

DATE _____



UTILITY APPROVALS

NOTE: THIS PLAT HAS BEEN APPROVED FOR EASEMENT PURPOSES ONLY. THE SIGNING OF THIS PLAT DOES NOT IN ANY WAY GUARANTEE UTILITY SERVICE BY THE DEDICATED PARCELS.

EL PASO ELECTRIC COMPANY

EASEMENTS SHOWN HEREON, COPIES OF WHICH HAVE BEEN PRESENTED TO THE EL PASO ELECTRIC COMPANY, ARE SATISFACTORY TO MEET THE NEEDS FOR THE INSTALLATION OF (UNDERGROUND ONLY), (OVERHEAD ONLY), (UNDERGROUND AND/OR OVERHEAD), (UNDERGROUND AND DESIGATED OVERHEAD FEEDER) ELECTRICAL UTILITIES.

BY: _____ DATE: _____

CENTURYLINK COMMUNICATIONS

EASEMENTS SHOWN HEREON, COPIES OF WHICH HAVE BEEN PRESENTED TO CENTURYLINK COMMUNICATIONS, ARE SATISFACTORY TO MEET THE NEEDS FOR THE INSTALLATION OF (UNDERGROUND ONLY), (OVERHEAD ONLY), (UNDERGROUND AND/OR OVERHEAD), (UNDERGROUND AND DESIGATED OVERHEAD FEEDER) TELEPHONE UTILITIES.

BY: _____ DATE: _____

DONA ANA MUTUAL DOMESTIC WATER CONSUMERS ASSOCIATION

EASEMENTS SHOWN HEREON, COPIES OF WHICH HAVE BEEN PRESENTED TO THE DONA ANA MUTUAL DOMESTIC WATER CONSUMERS ASSOCIATION, ARE SATISFACTORY TO MEET THE NEEDS FOR THE INSTALLATION OF (UNDERGROUND ONLY), (OVERHEAD ONLY), (UNDERGROUND AND/OR OVERHEAD), (UNDERGROUND AND DESIGATED OVERHEAD FEEDER) CABLE TV UTILITIES.

BY: _____ DATE: _____

COMCAST CABLE COMMUNICATIONS INC.

EASEMENTS SHOWN HEREON, COPIES OF WHICH HAVE BEEN PRESENTED TO COMCAST CABLE COMMUNICATIONS INC., ARE SATISFACTORY TO MEET THE NEEDS FOR THE INSTALLATION OF (UNDERGROUND ONLY), (OVERHEAD ONLY), (UNDERGROUND AND/OR OVERHEAD), (UNDERGROUND AND DESIGATED OVERHEAD FEEDER) CABLE TV UTILITIES.

BY: _____ DATE: _____

CITY OF LAS CRUCES

THIS PLAT HAS BEEN APPROVED BY THE CITY OF LAS CRUCES, AND ALL THE REQUIREMENTS FOR APPROVAL IN THIS ABOVE PLAT HAVE BEEN COMPLIED WITH AND THE CITY OF LAS CRUCES HAS APPROVED THIS PLAT SUBJECT TO ANY AND ALL CONDITIONS REQUIRED BY THE PLANNING AUTHORITY FOR APPROVAL OF THE PLAT.

BY: _____ DATE: _____

DIRECTOR OF UTILITIES

BY: _____ DATE: _____

DIRECTOR OF COMMUNITY DEVELOPMENT

BY: _____ DATE: _____

DIRECTOR OF PUBLIC WORKS

BY: _____ DATE: _____

CITY OF LAS CRUCES PLANNING AND ZONING

THIS PLAT HAS BEEN APPROVED BY THE CITY OF LAS CRUCES PLANNING AND ZONING, AND ALL THE REQUIREMENTS FOR APPROVAL IN THIS ABOVE PLAT HAVE BEEN COMPLIED WITH TO THE SATISFACTION OF THE CITY OF LAS CRUCES, SUBJECT TO ANY AND ALL CONDITIONS REQUIRED BY THE PLANNING & ZONING AUTHORITY FOR APPROVAL OF THE PLAT.

BY: _____ DATE: _____

CHAIRMAN

BY: _____ DATE: _____

SECRETARY

BY: _____ DATE: _____

PLAT NO. _____ RECEPTION NO. _____

STATE OF NEW MEXICO | SS
 COUNTY OF DONA ANA | SS

I HEREBY CERTIFY THAT THIS INSTRUMENT WAS FILED FOR RECORD ON THIS _____ DAY OF _____ 20____ AT _____ O'CLOCK AND DULY RECORDED IN PLAT RECORD _____ PAGE(S) _____ FILED IN THE RECORDS OF SAID COUNTY.

COUNTY CLERK _____ DEPUTY CLERK _____

March 16, 2013

Mr. Adam Ochoa
City of Las Cruces, Community Development Department
P.O. Box 20000
Las Cruces, NM 88001

**Re: Lot 1, Elephant Butte Land & Trust Co. Subdivision "A", Replat No. 21, Amended May 1992.
Waiver Request for .23 acres dedicated for Improvements to Kennedy Road – Replat #37.**

Dear Mr. Ochoa:

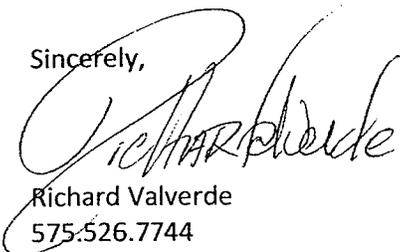
I respectfully request a waiver to the requirements of the City of Las Cruces Design Standards for the improvements to Kennedy Road, a Proposed Principal Arterial as designated on the City of Las Cruces MPO Functional Classification and Thoroughfare Plan. I'm creating a two lot subdivision directly adjacent to this roadway as such I'm obligated to construct a full Principal Arterial roadway cross section. I'm retired from the construction section of NMDOT and find this requirement to overly burdensome and impractical for the following reasons:

- Impractical in that, I would have to develop a section adjacent to this property that needs to predict the alignment both vertical and horizontal of this roadway. In order to do that correctly the roadway should be designed in its entirety to ensure proper functionality alignment as well as drainage. Location studies per NMDOT, which is accepted by FHWA, would normally take 2 to 4 years and expecting a private individual to compete this task for a two lot split is overly burdensome.
- The impact of the creation of one additional residential lot does not raise the traffic loading on Kennedy Road to a level requiring this magnitude of improvements.
- The second lot to be created by this land split is an affordable parcel which meets the criteria for utilities and will be conveyed in the future, or retained for a family member.
- The water & sewer system in this area would also need to be determined and completed to ensure that the road would not be removed to install infrastructure. The proper way to accomplish this is to construction the lines from beginning to end which would prove to be very costly and an impractical request for a simple lot split. To place utilities in anticipation of the future infrastructure is untimely and also commits the next project to assumed design parameters set by our assumptions along this corridor. Thus forcing the next contractor to connect to a portion of line that he has no control over. Causing warranty problems for the entire portion of the system.

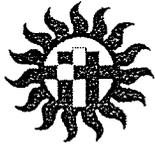
Therefore, for the reasons listed above, a waiver to these roadway improvements is respectfully requested.

Should you have any question or require and further information, please do not hesitate to contract me.

Sincerely,



Richard Valverde
575.526.7744



City of Las Cruces

PEOPLE HELPING PEOPLE

Planning & Zoning Commission Staff Report

Meeting Date: September 24, 2013

Drafted by: Adam Ochoa, Planner *AO*

CASE #	S-12-012 & S-12-012W	PROJECT NAME:	Elephant Butte Land & Trust Company Subdivision A, Replat No. 37 and Waiver Request
APPLICANT/ REPRESENTATIVE:	Richard P. & Aurora Valverde	PROPERTY OWNER:	Richard P. & Aurora Valverde
LOCATION:	Located on the southeast side of Kennedy Road, 0.19 ± miles southwest of its intersection with Elks Drive	COUNCIL DISTRICT:	5 (Councillor Sorg)
SIZE:	2.26 ± acres	EXISTING ZONING/ OVERLAY:	REM (Single-Family Residential Estate Mobile)
REQUEST/ APPLICATION TYPE:	Request for approval of a replat known as Elephant Butte Land & Trust Company Subdivision A, Replat No. 37 and a request for a waiver from the corresponding road improvements and road dedication		
EXISTING USE:	One (1) single-family residential lot		
PROPOSED USE:	Two (2) single-family residential lots		
DRC RECOMMENDATION:	Approval of the subdivision based on findings for case S-12-012 Denial of the waiver based on findings for case S-12-012W		

TABLE 1: CASE CHRONOLOGY

Date	Action
March 22, 2012	Application submitted to Development Services
March 26, 2012	Initial review sent out for review to all reviewing departments
July 1, 2013	Final comments returned by all reviewing departments
July 24, 2013	DRC reviews and recommends approval for the proposed subdivision and denial for the proposed waiver request

September 8, 2013	Newspaper Advertisement
September 6, 2013	Public notice letter mailed to neighboring property owners
September 6, 2013	Sign posted on property
September 24, 2013	Planning and Zoning Commission public hearing

SECTION 1: SYNOPSIS OF PROPOSAL

The proposed replat known as Elephant Butte Land and Trust Company Subdivision A, Replat No. 37 will split one (1) existing 2.26 ± acre single-family residential lot into two (2) new single-family lots. Lot 1A, which is currently consists of a single-family residence, will encompass 0.753 ± acres and Lot 1B, which is currently vacant/undeveloped, will encompass 0.943 ± acres. The City of Las Cruces Subdivision Code and Design Standards require the dedication of right-of-way and the construction of road improvements along applicable roadways as part of the subdivision process. The applicants are required to dedicate and construct half of the street cross-section (60-feet) for Kennedy Road, designated as a proposed Principal Arterial roadway by the Metropolitan Planning Organization (MPO), from the boundary of the subdivision to the nearest paved public road, Elks Drive. The applicants are proposing to dedicate the right-of-way fronting the proposed subdivision, but are requesting to waive the remaining right-of-way dedication required along Kennedy Road to Elks Drive and to waive 100% of the required road improvements. No alternative, including a fee-in-lieu of improvements, is proposed.

TABLE 2: DEVELOPMENT STANDARDS & SITE CHARACTERISTICS

Standard	Existing	Proposed	Zoning Code Req.
Max # of DU/parcel	1	1	1
Max Density (DU/ac.)	0.44	0.88	2
Lot Area	2.26 ± acres	Lot 1A: 0.753 ± acres Lot 1B: 0.943 ± acres	0.5 acres minimum
Lot Width	250.55 ± feet	Lot 1A: 125.95 ± feet Lot 1B: 124.60 ± feet	100 feet minimum
Lot Depth	427.66 ± feet	Lot 1A: 389.39 ± feet Lot 1B: 394.86 ± feet	100 feet minimum
Structure Height	13 ± feet	Lot 1A: 13 ± feet Lot 1B: N/A	35 feet maximum
Setbacks			
Front	116 ± feet	Lot 1A: 116 ± feet Lot 1B: N/A	25 feet minimum
Side	40 ± feet	Lot 1A: 40 ± feet Lot 1B: N/A	15 feet minimum
Side	124 ± feet	Lot 1A: 15 feet Lot 1B: N/A	15 feet minimum
Rear	243 ± feet	Lot 1A: 243 ± feet Lot 1B: N/A	15 feet minimum
Accessory Structure	2 structures totaling 500 ± square feet	Unknown	5% of the total land area of the property
Parking			
Vehicular	2	Unknown	2 auto parking stalls per dwelling unit min.
Bicycle	N/A	N/A	N/A
ROW Dedication	N/A	An additional 35.45 feet dedicated for Kennedy Road	An additional 35.45 feet dedicated for Kennedy Road

TABLE 3: SPECIAL CHARACTERISTICS

Characteristic	Applies to Project?	Explanation
EBID Facilities	No	
Medians/ Parkways Landscaping	No	
Other	N/A	

TABLE 4: ADJACENT ZONING AND LAND USE INFORMATION

Location	Existing Use	Overlay District	Zoning Designation
Subject Property	Single-Family Residence	N/A	REM (Single-Family Residential Estate Mobile)
North	Single-Family Residence	N/A	REM-C (Single-Family Residential Estate Mobile-Conditional)
South	Single-Family Residence	N/A	REM (Single-Family Residential Estate Mobile)
East	Vacant/Undeveloped	N/A	REM (Single-Family Residential Estate Mobile)
West	Single-Family Residence	N/A	REM (Single-Family Residential Estate Mobile)

TABLE 5: PARCEL HISTORY

Number	Status
Permit	N/A
Ordinance	N/A
Resolution	N/A
Subdivision	Lot 1 of Elephant Butte

SECTION 2: REVIEWING DEPARTMENT/AGENCY RECOMMENDATIONS

Case S-12-012 (Replat) - For specific comments and/or conditions for, see attached.

Department Name	Approval (Yes/ No)	Conditions (Yes/No)
CLC Development Services	Yes	No
Metropolitan Planning Organization (MPO)	Yes	No
CLC CD Engineering Services	Yes	Yes
CLC Traffic	Yes	No
CLC Land Management	Yes	Yes
CLC Surveyor	Yes	No
CLC Fire & Emergency Services	Yes	No
CLC Utilities	Yes	No
CLC Parks	Yes	No

Case S-12-012W (Waiver Request) - For specific comments and/or conditions for see attached.

Department Name	Approval (Yes/No)	Conditions (Yes/No)
CLC Development Services	No	No
Metropolitan Planning Organization (MPO)	No	No
CLC CD Engineering Services	No	No
CLC Traffic	No	No
CLC Fire & Emergency Services	Yes	Yes
CLC Utilities	Deferred	N/A
CLC Parks	Yes	No

SECTION 3: STAFF ANALYSIS AND CONCLUSIONS

Conclusion:

The subdivision of one (1) existing 2.26 ± acre single-family residential lot zoned REM (Single-Family Residential Estate Mobile) into two (2) new single-family residential lots meets all development standards of the REM zoning district. The City of Las Cruces Subdivision Code and Design Standards require all subdividers to provide the necessary amount of right-of-way dedication and road improvements to all streets adjacent to the proposed subdivision to the nearest paved street. The proposed replat is adjacent to Kennedy Road, a proposed Principal Arterial roadway as classified by the Metropolitan Planning Organization (MPO), which is required have a 120-foot wide street section including sidewalk, curb and gutter.

Kennedy Road from the proposed subdivision to Elks Drive is currently a 20 ± foot wide paved road. Kennedy Road currently does not comply with City standards. The applicants are responsible for providing the required additional right-of-way dedication and the construction of the road improvements along Kennedy Road from the subdivision to the nearest paved road, which is Elks Drive. This includes dedicating one-half (1/2) of the required 120-foot wide street section of Kennedy Road and constructing that 60-foot wide street segment including sidewalk, curb and gutter from the subdivision for 0.19 ± miles to Elks Drive, the nearest paved public roadway. The applicants are proposing to dedicate the required additional right-of-way for Kennedy Road along the front property line of the replat, but are requesting to waive the remaining required right-of-way dedication from the property boundary to Elks Drive and to waive 100% of the required road improvements.

The applicant's stated rationale for the request is that they perceive the proposed subdivision creating only one additional residential lot will not increase the amount of traffic along Kennedy Road to a level requiring this magnitude of improvements. The applicants have also stated the design and construction of the road should be done in its entirety to ensure proper functionality, alignment and drainage and requiring an individual to provide the requirements is overly burdensome and impractical. The applicants conclude by stating that the cost for constructing the required road improvements and obtaining the additional right-of-way dedication from the properties adjacent to Kennedy Road are too extreme for the purpose of only splitting one existing residential lot into two new residential lots.

The hardships expressed by the applicants and listed above do not demonstrate a substantial hardship for approval of a waiver request as outlined in Article 6, Section 37-332 of the City of Las Cruces Subdivision Code; specifically, the hardship must be "due to exceptional topographic, soil, or other surface or sub-surface conditions or that such conditions would result in inhibiting the objectives of the code." Furthermore, as areas throughout the City have been developed and waivers to road improvements granted, the proliferation of roads that are not improved to City standards has created access issues that have the potential for safety hazards as well as a monetary burden to the City and Citizens of Las Cruces for the future improvement to these roadways to rectify their inadequacies. Article I, Section 38-2 of the 2001 Zoning Code, as amended, specifically states the intent of the Code is "to promote the health, safety, and general welfare of the community," to "secure safety..." and is to

“facilitate adequate provision for transportation...” Based on the intent of the code, the waiver request is not justified.

DRC RECOMMENDATION

On July 24, 2013 the Development Review Committee (DRC) reviewed the proposed replat and waiver request. The DRC reviews subdivisions from an infrastructure, utilities and improvement standpoint. After some discussion the DRC recommended approval for the proposed replat and denial for the proposed waiver request. Please refer to Attachment #5 for more details about the discussions that took place at the DRC meeting.

STAFF RECOMMENDATION

Staff recommends **DENIAL** for the proposed waiver to road improvements and right-of-way dedication and **APPROVAL** for the proposed replat based on the following findings:

FINDINGS FOR DENIAL OF CASE S-12-012W (WAIVER)

1. Construction of all subdivisions (public and private improvements) within the corporate limits of the city shall conform to all applicable sections of the City Design Standards. (Subdivision Code Article 12, Section 37-360)
2. Access to lots within a residential subdivision shall be from a dedicated and accepted improved public right-of-way. (Design Standards Article 2, Section 32-36)
3. A subdivider is responsible for providing road improvements for one-half (1/2) of an adjacent Principal Arterial roadway including sidewalk, curb and gutter. (Design Standards Article 2, Section 32-36)
4. The applicants or their representative have not demonstrated the need for the waiver due to a substantial hardship due to exceptional topographic, soil, or other surface or sub-surface conditions or that such conditions would result in inhibiting the objectives of the code. (Subdivision Code Article XI, Sec. 37-332)

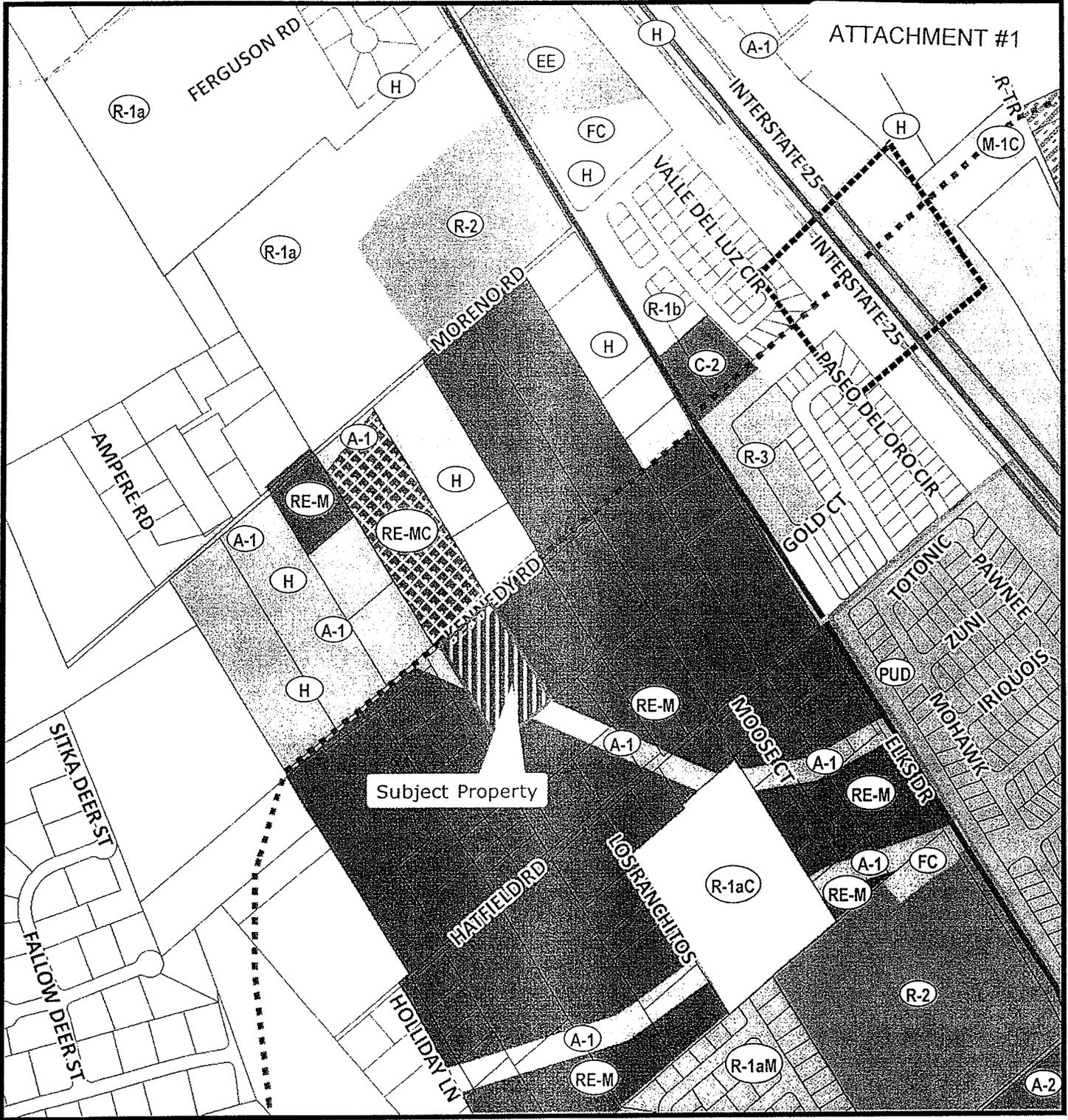
FINDINGS FOR APPROVAL OF CASE S-12-012 (SUBDIVISION)

1. The proposed replat is proposing to subdivide one (1) existing 2.26 ± acre tract zoned REM (Single-Family Residential Estate Mobile) into two (2) new single-family residential lots and meets all development standards of the REM zoning district. (2001 Zoning Code Article 4, Section 38-31D)
2. The proposal is consistent with the requirements of the City of Las Cruces Subdivision Code for a replat. The applicants will either have to obtain approval of the proposed waiver request or will have to provide the required right-of-way dedication and road improvements to Kennedy Road to finalize the proposed replat.

ATTACHMENTS

1. Vicinity Map
2. Aerial Map
3. Development Statement
4. Proposed Subdivision
5. Applicant's Waiver Request
6. DRC Minutes dated July 24, 2013
7. Reviewing Department/Agency Comments and/or Conditions

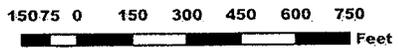
ATTACHMENT #1



Subject Property

Legend

EXISTING LIMITED ACCESS	PROPOSED INTERCHANGE/UNDERPASS	Non Designated Trail
EXISTING PRINCIPAL ARTERIAL	PROPOSED PRINCIPAL ARTERIAL	Proposed Paved EBID
EXISTING MINOR ARTERIAL	PROPOSED MINOR ARTERIAL	Proposed Unpaved EBID
EXISTING COLLECTOR	PROPOSED COLLECTOR	City Parcel
PROPOSED LIMITED ACCESS	PROPOSED CORRIDOR	Interstates_Highway
		EBID Water System
		Railroad



Community Development Department
 700 N Main St
 Las Cruces, NM 88001
 (575) 528-3222

This map was created by Community Development to assist in the administration of local zoning regulations. Neither the City of Las Cruces or the Community Development Department assumes any legal responsibilities for the information contained in this map. Users noting errors or omissions are encouraged to contact the City (575) 528-3043.

ATTACHMENT #2



Legend

DAC_2010.ecw

RGB

-  Red: Band_1
-  Green: Band_2
-  Blue: Band_3



Community Development Department
700 N Main St
Las Cruces, NM 88001
(575) 528-3222

DEVELOPMENT STATEMENT for City Subdivision/Zoning Applications

Please note: The following information is provided by the applicant for information purposes only. The applicant is not bound to the details contained in the development statement, nor is the City responsible for requiring the applicant to abide by the statement. The Planning and Zoning Commission may condition approval of the proposal at a public hearing where the public will be provided an opportunity to comment.

Applicant Information

Name of Applicant: RICHARD VALVERDE

Contact Person: ADAM OCHOA

Contact Phone Number: 528-3204

Contact e-mail Address: _____

Web site address (if applicable): _____

Proposal Information

Name of Proposal: _____

Type of Proposal (single-family subdivision, townhouse, apartments, commercial/industrial)

SINGLE FAMILY SUBDIVISION

Location of Subject Property KENNEDY ROAD

(In addition to description, attach map. Map must be at least 8 1/2" x 11" in size and clearly show the relation of the subject property to the surrounding area)

Acreage of Subject Property: 1.014 (LOT) 1.015 (LOT) -

Detailed description of **current** use of property. Include type and number of buildings:

SEE ATTACHED (PIAT #22)

ELEPHANT BUTTE LAND TRUST CO. SUBDIVISION "A"

Detailed description of **intended** use of property. (Use separate sheet if necessary):

SEE ATTACHED DESCRIPTION PIAT

Zoning of Subject Property: REM

Proposed Zoning (If applicable): _____

Proposed number of lots 2, to be developed in ONE phase (s).

Proposed square footage range of homes to be built from 2000^{sq} to 2000^{sq}

Proposed square footage and height of structures to be built (if applicable):

single Family HOME

Anticipated hours of operation (if proposal involves non-residential uses):

N/A

Anticipated traffic generation _____ 4 _____ trips per day.

Anticipated development schedule: work will commence on or about UNKNOWN

and will take _____ to complete.

How will stormwater runoff be addressed (on-lot ponding, detention facility, etc.)?

ON LOT PONDING

Will any special landscaping, architectural or site design features be implemented into the proposal (for example, rock walls, landscaped medians or entryways, entrance signage, architectural themes, decorative lighting)? If so, please describe and attach rendering (rendering optional). AT THIS TIME NONE

Is the developer/owner proposing the construction of any new bus stops or bus shelters? Yes ___ No Explain: _____

Is there existing landscaping on the property? _____

Are there existing buffers on the property? _____

Is there existing parking on the property? Yes No ___

If yes, is it paved? Yes ___ No

How many spaces? _____ How many accessible? _____

Attachments:

Please attach the following: (* indicates optional item)

Location map

Subdivision Plat (If applicable)

Proposed building elevations

*renderings of architectural or site design features

*other pertinent information

SUPPLEMENTAL SUBDIVISION APPLICATION INFORMATION

To be placed on an agenda for a Planning and Zoning Commission meeting, all review comments must be addressed. THE APPLICANT(S) OR THEIR REPRESENTATIVE MUST ATTEND THE PLANNING AND ZONING COMMISSION MEETING.

Submitted herewith is the following material for: Elephant Butte Land Trust Co.
Name of Subdivision

Gross Area of Subdivision 2.029 Acres Property located within REM Zone(s)

Number of Lots 20 (if Replat list existing and proposed number of lots)

Dwelling Units / Acre 1 Acres for Residential 2.029

Acres for Streets .20 Acres for Other _____

Request for Waiver(s) (Written justification is required): see attached letter (waiver)

The legal description for the total area in this plat is as shown in Deed Book 30 BK-17
Page(s) 180, filed on the MAY day of 92

Applicant's Surveyor: JOHN F MONTOYA 1409 SUE CT. 522 0049
Name Address Phone No.

Applicant's Engineer: SAME AS ABOVE
Name Address Phone No.

MAY-1992 BOOK 17 D 10:22A
PLAT BOOK 17 PAGE 180
PLAT # 2324

March 16, 2013

Mr. Adam Ochoa
City of Las Cruces, Community Development Department
P.O. Box 20000
Las Cruces, NM 88001

**Re: Lot 1, Elephant Butte Land & Trust Co. Subdivision "A", Replat No. 21, Amended May 1992.
Waiver Request for .23 acres dedicated for Improvements to Kennedy Road – Replat #37.**

Dear Mr. Ochoa:

I respectfully request a waiver to the requirements of the City of Las Cruces Design Standards for the improvements to Kennedy Road, a Proposed Principal Arterial as designated on the City of Las Cruces MPO Functional Classification and Thoroughfare Plan. I'm creating a two lot subdivision directly adjacent to this roadway as such I'm obligated to construct a full Principal Arterial roadway cross section. I'm retired from the construction section of NMDOT and find this requirement to overly burdensome and impractical for the following reasons:

- Impractical in that, I would have to develop a section adjacent to this property that needs to predict the alignment both vertical and horizontal of this roadway. In order to do that correctly the roadway should be designed in its entirety to ensure proper functionality alignment as well as drainage. Location studies per NMDOT, which is accepted by FHWA, would normally take 2 to 4 years and expecting a private individual to compete this task for a two lot split is overly burdensome.
- The impact of the creation of one additional residential lot does not raise the traffic loading on Kennedy Road to a level requiring this magnitude of improvements.
- The second lot to be created by this land split is an affordable parcel which meets the criteria for utilities and will be conveyed in the future, or retained for a family member.
- The water & sewer system in this area would also need to be determined and completed to ensure that the road would not be removed to install infrastructure. The proper way to accomplish this is to construction the lines from beginning to end which would prove to be very costly and an impractical request for a simple lot split. To place utilities in anticipation of the future infrastructure is untimely and also commits the next project to assumed design parameters set by our assumptions along this corridor. Thus forcing the next contractor to connect to a portion of line that he has no control over. Causing warranty problems for the entire portion of the system.

Therefore, for the reasons listed above, a waiver to these roadway improvements is respectfully requested.

Should you have any question or require and further information, please do not hesitate to contract me.

Sincerely,



Richard Valverde
575.526.7744

1
2 **IV. NEW BUSINESS**
3

4 **1. S-12-012 – Elephant Butte Land & Trust Co. Subdivision “A”, Replat No.**
5 **37**

- 6 • A request for approval of a replat known as Elephant Butte Land & Trust
7 Co. Subdivision “A”, Replat No. 37.
8 • The replat is proposing to subdivide one (1) existing single-family
9 residential lot into two (2) single-family residential lots.
10 • The subject property encompasses 2.26 ± acres, is zoned REM (Single-
11 Family Residential Estate Mobile) and is located on the southeast side of
12 Kennedy Road, 0.19 ± miles southwest of its intersection with Elks Drive.
13 • Submitted by Richard & Aurora Valverde, property owners.
14

15 **2. S-12-012W – Elephant Butte Land & Trust Co. Subdivision “A”, Replat**
16 **No. 37, Waiver Request**

- 17 • A request for approval of a waiver to road improvements for a replat
18 known as Elephant Butte Land & Trust Co. Subdivision “A”, Replat No. 37.
19 • The proposed replat requires the applicant to dedicate the additional right-
20 of-way and improve half of the required cross-section of Kennedy Road, a
21 designated Principal Arterial roadway per the Metropolitan Planning
22 Organization (MPO), for the entire 250 ± feet of frontage along the
23 northwestern property line of the subject property.
24 • The applicant is proposing to dedicate the additional right-of-way for
25 Kennedy Road, but is proposing to provide no road improvements for the
26 roadway.
27 • The subject property encompasses 2.26 ± acres, is zoned REM (Single-
28 Family Residential Estate Mobile) and is located on the southeast side of
29 Kennedy Road, 0.19 ± miles southwest of its intersection with Elks Drive.
30 • Submitted by Richard & Aurora Valverde, property owners.
31

32 **Kyle:** Two New Business items, they’re related to the same request, however,
33 the first item, S-12-012, Elephant Butte Land & Trust Company
34 Subdivision “A”, Replat no. 37; and then with that there’s accompanying S-
35 12-012W, which is a waiver request associated with that same
36 subdivision. Staff, can you give us a briefing of the requests?
37

38 **Ochoa:** Sure. Adam Ochoa, Development Services, for the record. The
39 subdivision itself, the Elephant Land & Trust Company Subdivision “A”,
40 Replat no. 37, is a request to subdivide one existing single-family
41 residential lot into two new single-family residential lots. The lot currently
42 existing out encompasses approximately 2.26 acres and is zoned REM,
43 Single-Family Residential Mobile Estates. This property is located on the
44 southeast side of Kennedy Road about .19 mile southwest of its
45 intersection with Elks Road out there in the Elks area. When the property
46 is subdivided both lots will be approximately 1.13 acres. That is net, I

1 believe, but after easements and so forth they still meet the minimum
2 requirements for an REM zoning designation.

3 The proposed subdivision does require for road improvements and
4 additional dedication along Kennedy Road, an existing Principle Arterial
5 roadway as classified by the Metropolitan Planning Organization. So the
6 applicant is required to dedicate and required improvements to half of that
7 cross-section for a Principle Arterial roadway for approximately 250 feet of
8 frontage along that property line or the subdivision line of the proposed
9 subdivision. The applicant is proposing to dedicate additional right-of-way
10 for his half of Kennedy Road but is proposing to provide no road
11 improvements to Kennedy Road stating the impracticality of building a
12 road out there, not only the alignment and generally the large cost of doing
13 so.

14 The review came back in 2012 and went through four reviews for
15 the subdivision itself. Everybody finally did approve all those, mostly with
16 conditions about either the waiver request or construction of the road
17 being required and the waiver request did go through a review as well with
18 that. Other than that, that is about it and I stand for questions.

19
20 Kyle: Very good. Thank you. Does the applicant have anything to add?

21
22 Montoya: On behalf of the applicant John Montoya. The applicant is to my left
23 here, is Richard Valverde. I just wanted to add that it's pretty rural out
24 there. There's not much has been going on and I know that this is already
25 Replat no. 37 so I'm just curious. I want to make the statement that
26 nobody else has done anything else out there and these old Elephant
27 Butte Land & Trust subdivisions are all over that area and kind of a mess.

28
29 Kyle: All right, let's start off and go around the room and then we'll solicit staff
30 comments. MPO?

31
32 Murphy: Tom Murphy, MPO. We have no issues with the request. Just for the
33 Committee's knowledge Kennedy Road will line up with the recently
34 completed Engler underpass from Interstate 25; so with that recent project
35 being completed we probably expect that there'll be a lot more happening
36 in that area. That is all.

37
38 Kyle: MPO supports the subdivision and waiver request?

39
40 Murphy: Support the subdivision; probably want to defer on the... I don't see any
41 MPO issues with the waiver at this point; however, I do want to defer my
42 vote until I hear what the other agencies state.

43
44 Kyle: Very well. Parks and Rec?

45
46 Johnston: A couple of questions. One is: are there any current dwelling units on the

1 lot as it exists now?
2
3 Valverde: Yes.
4
5 Johnston: Is it on one of the lots, on both of the lots?
6
7 Valverde: One of the lots, the one on the west side.
8
9 Johnston: Okay, park impact fees will only apply to the new lot developed. That's it
10 for me.
11
12 Kyle: Okay. Traffic, since you're rather new, do you have any comments?
13
14 Ramon: Originally this plat was approved through Dan Soriano. Right?
15
16 Kyle: That is correct. Yes.
17
18 Ramon: I looked at it this morning and saw that. I did speak with Jeff this morning.
19 We cannot be in support of the waiver simply for the fact that we can't
20 come back later and have to do improvements to the road. Pretty much
21 every waiver request that's coming forward now that has a waiver to not
22 do road improvements we have been denying.
23
24 Kyle: Okay. Utilities is not with us. Correct? Land Management?
25
26 Hernandez: Michael Hernandez, Land Management has no issues.
27
28 Kyle: Fire.
29
30 Dubbin: Mark Dubbin, Las Cruces Fire Department. We don't have any issues with
31 the subdivision. We would not be able to support the waiver request
32 because we do need to have paved access to be able to respond
33 adequately.
34
35 Kyle: Community Development, Technical and Engineering/Technical Services?
36
37 Dominguez: Rocio Dominguez. We have no issues with the plat itself. On the waiver,
38 we won't be able to support it and Natashia is here to add more comments
39 to that.
40
41 Billy: I guess I would just reiterate what Traffic and Fire had to say about that.
42
43 Kyle: Okay. Community Development, Development Services, any additional
44 comments or issues with the plat?
45
46 Ochoa: No additional issues or comments. This did take some time to get that

- 1 subdivision done. Of course, as the applicant was sort of generous in
2 stating, it is kind of a messy situation out there with the Elephant Butte
3 Land & Trust Company subdivisions out there. No issues with the replat
4 itself and for the waiver, of course, having to follow Code there is a
5 requirement the dedication and road improvements required for that
6 subdivision. We would have to move on to higher committees for final
7 approval.
8
- 9 Kyle: So you are dedicating the additional right-of-way and complying with the
10 MPO requirements. You just don't want to do any road improvements.
11 What's the status on Kennedy from the property to Elks?
12
- 13 Ochoa: Kennedy to Elks, I believe....
14
- 15 Valverde: (inaudible)
16
- 17 Kyle: No. As far as improvements?
18
- 19 Valverde: Elks has been paved and that bridge under there.
20
- 21 Kyle: I understand but what is Kennedy? Is Kennedy just dirt? Is it double
22 penned?
23
- 24 Valverde: It's all dirt but access to any fire there is within 30-feet inside the property
25 for the fireman's information. What's your name, sir?
26
- 27 Dubbin: Mark. Mark Dubbin.
28
- 29 Montoya: That's the dedication he's talking about.
30
- 31 Valverde: The dedication is a total of 30-feet from the centerline of the roadway
32 adding up to 24/100ths of an acre, which is totally given to you. And have
33 you read the waiver itself?
34
- 35 Dubbin: Yes, I have. The International Fire Code that we operate under calls that
36 it has to be paved access within 150-feet of the dwelling itself so that if
37 there's a house there, it's 150-feet from, basically, from a paved access so
38 if the closest one is going to be Elks that puts us several hundred feet
39 away.
40
- 41 Valverde: So that's your main reason?
42
- 43 Dubbin: Yeah. That's what we look at.
44
- 45 Valverde: So we're looking at maybe... (several people speaking at the same time)
46 About 800 and something...

- 1
2 Ochoa: Just to reiterate, it is a dirt road, all of Kennedy Road all the way to Elks
3 Road with just those improvements on Elks Road with any change done.
4
- 5 Valverde: There's a dead end right there at Kennedy Road which consists of an
6 orchard of pecan trees belonging to Kennedy and the existing width of the
7 road itself is ... what?
8
- 9 Montoya: The existing width of 45-feet.
10
- 11 Valverde: 45-feet.
12
- 13 Montoya: It varies throughout Kennedy. When people have dedicated portions of it,
14 it gets wider and too many have gone through the same process that
15 they've added here and there.
16
- 17 Kyle: Robert Kyle, Community Development Department. I agree that it doesn't,
18 from a feasibility standpoint, it doesn't make sense to build that section of
19 an Arterial roadway at this particular time since the rest of the road is
20 essentially dirt and we have varying right-of-way widths. However, I think
21 at a minimum, the City should pursue obtaining funds in lieu of, what that
22 pro-rata share of the improvements would be. Also, staff is right now in
23 process with an Ordinance to City Council related to Design Standards
24 that actually would require the full improvements of the Arterial, including
25 the acquisition of right-of-way out to Del Rey Road. So, personally, I can't
26 support the waiver request as it stands and at this point in time just with
27 other aspects that are occurring. That being said, I wouldn't have a
28 problem supporting the payment in lieu of the actual construction myself.
29 Now this would go forward. The Development and Review
30 Committee is a recommending Body. The request will then go to the
31 Planning and Zoning Commission and then to City Council. Correct? So
32 ultimately there are different avenues which that could change.
33 At this time and if there are no other comments I would entertain a
34 motion and I think we should probably separate them and vote on them
35 separately so I would entertain a motion on case S-12-012, the Elephant
36 Land & Trust Subdivision A, Replat 37, which is creating two lots out of an
37 existing single parcel.
38
- 39 Johnston: Mark Johnston. Move approval.
40
- 41 Murphy: Tom Murphy. Second.
42
- 43 Kyle: All those in favor please signify by saying aye.
44
- 45 All: Aye.
46

1 Kyle: Any opposed? Seeing none the recommendation is to approve the
2 subdivision. Now, I'll entertain a motion in regards to S-12-012W, which is
3 the waiver request for the Elephant Butte Land & Trust Subdivision A,
4 Replat no. 37.
5
6 Dubbin: I'll make a motion to approve the waiver request.
7
8 Murphy: Second. Tom Murphy.
9
10 Kyle: All those in favor please signify by saying aye. (No one responds) All
11 opposed?
12
13 All: No.
14
15 Kyle: The motion is defeated. The recommendation would be to not support the
16 waiver request and the case will process forward with that
17 recommendation. Any other comments or business? Sir?
18
19 Valverde: I was going to make a comment. We started this in 3/12/2013 and up to
20 date.
21
22 Montoya: 2012
23
24 Valverde: 2012 and I have been going through a lot of stress on it. We started with
25 seven sheets, copies of Replat no. 22, which was accepted by Adam they
26 reviewed it and then they found out that it was not Replat no. 22. It should
27 be Replat no. 37 and I'm just wondering what happened. Did the same
28 process take place between 22 and 37? That's fifteen changes within a
29 year and if they say that they've split lots and whatever but I never got any
30 notice within the limitation or status. There was fifteen... I'm up to 37 and
31 that's been between 3/12/2012 to today, there's been fifteen entries and I
32 never heard of a meeting or changes in that section or was informed of
33 any.
34
35 Kyle: Mr. Valverde, number one, Elephant Butte Land & Trust Subdivision or the
36 different subdivisions are inside the city, outside the city. It's a pretty large
37 area of land. It's not just Kennedy Road. There could have been things
38 that were occurring outside of notification boundaries or requirements, etc.
39 and, in addition, a lot of replats, things that could be happening, shifting of
40 lot lines or administrative or required public notification, etc. In terms of
41 how we got from 22 to 37 and, perhaps when it was submitted as number
42 22, obviously that was not the appropriate number at the time so it could
43 have been that it was number 36, actually and just that the records that
44 were provided when it was originally submitted were wrong and perhaps
45 staff has anything to add to clarify that?
46

1 Ochoa: Just to clarify: when this was submitted, sir, this is a replat of a lot 1 that
2 was created with the Elephant Butte Land and Trust Company Subdivision
3 A, Replat no. 21. So I guess it was, I believe, it was with the app that you
4 believe the next replat, of course, is no. 22 coming in order; but since that
5 21 that was done back in 1992, that's where those fifteen other
6 subdivisions happened in that subdivision, from 1992 to today so that's
7 why we're at 37 now.
8

9 Kyle: There haven't been fifteen in the last year. It's been fifteen over the course
10 of decades.

11
12 Ochoa: So it's been over about over ten years is what it's been.

13
14 Harrison-Rogers: Twenty years. (Several others also were saying, "Twenty years.")

15
16 Ochoa: Yeah, sorry. Twenty years so it was just an incorrect number that was
17 turned in. It was actually 37, that was next in the numerical order, sir.

18
19 Kyle: This will proceed to the August Planning and Zoning Commission
20 meeting?

21
22 Ochoa: Correct.

23
24 **V. ADJOURNMENT (9:19)**

25
26 Kyle: Anything else? All right, may I have a motion to adjourn?

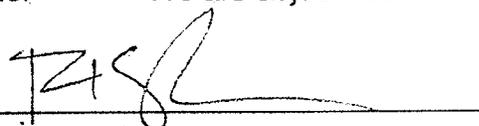
27
28 Murphy: So moved.

29
30 Dubbin: Second.

31
32 Kyle: All those in favor?

33
34 All: Aye.

35
36 Kyle: We are adjourned

37
38
39 
40 Chairperson

41
42

Development Services Review #1 - DENIED

- Add "NOT TO SCALE" to Vicinity Map.
- In the dedication statement change all references of Dona Ana County to City of Las Cruces. Leave off NM.
- It appears the subdivision name Elephant Butte Land & Trust Co. Subdivision A Replat 22 is already used at the Dona Ana County Records. The next available replat number appears to be Replat #36. Please research this and confirm. This subdivision must have its own individual and unique name to distinguish from previous subdivision in the area.
- Under P&Z Certification block change P&Z Chair Member to Chairman.
- Show all lines of existing and proposed right-of-way. Call out Kennedy Road as a Proposed Principal Arterial Roadway with the Required ROW. Show that the 40 feet is the existing ROW.
- Remove setback line.
- Please provide adjacent land ownership within 100 feet of the proposed subdivision. Include subdivision and/or owner's name and filing information: book, page, date.
- In ponding note add a reference to the ponding icon and reflect the purpose and lot owner's responsibility for maintaining the ponding area.
- Add note stating "Subdivider is responsible for utility stub-outs and for providing any and all easements necessary to provide utility service to lots contained herein."
- Shrinking the text used for the plat will allow for the additional information to fit.
- Reference all previously dedicated easements and dedications.
- See redlines.

Need address plat.

CITY SUBDIVISION REVIEW

DATE: March 25, 2013

REVIEW NO.: 3
CASE NO.: S-12-012

TO:

<input checked="" type="checkbox"/> CURRENT PLANNING	<input type="checkbox"/> LAND MANAGEMENT
<input type="checkbox"/> ADVANCED PLANNING	<input type="checkbox"/> PARKS AND RECREATION
<input type="checkbox"/> MPO	<input type="checkbox"/> FIRE DEPARTMENT
<input type="checkbox"/> ENGINEERING SERVICES	<input type="checkbox"/> UTILITIES
<input type="checkbox"/> TRAFFIC ENGINEERING	<input type="checkbox"/> OTHER: <u>Addressing</u>
<input type="checkbox"/> SURVEYOR	<input type="checkbox"/> OTHER: <u>NMDOT</u>

FROM: Adam Ochoa, Planner

SUBJECT: Elephant Butte Land & Trust Co. Subdivision "A"
Replat No. 37 (Formally Replat No. 22)

Please review and return to the Community Development Department no later than April 1, 2013

APPROVED: YES NO YES WITH CONDITIONS
(STATE CONDITIONS BELOW)

DATE: 3/29/13

REVIEWER NAME: *Adam Ochoa*
REVIEWER CONTACT NO.: X3204

COMMENTS:

- Please shade the correct area for the subject property in the Vicinity Map as shown.
- Please provide each individual lot lines for the five lots west of the Raymond Ordonea Ortiz property with owner info and recording info as commented on Review #2.
- Please reference all easement including the two south of the subject subdivision as requested on Review #2.
- Please rewrite Note 6 to read as required in the Subdivision Code with whatever extras needed and requested by any other department.
- *Please note, either construction drawings, payment in lieu of improvements, or waiver required for the road construction for the subdivision.*

****PLEASE PROVIDE ALL REDLINES FROM THE PREVIOUS REVIEW****

CITY SUBDIVISION REVIEW
537

DATE: June 24, 2013

REVIEW NO.: 4
CASE NO.: S-12-012

TO: CURRENT PLANNING LAND MANAGEMENT
 ADVANCED PLANNING PARKS AND RECREATION
 MPO FIRE DEPARTMENT
 ENGINEERING SERVICES UTILITIES
 TRAFFIC ENGINEERING OTHER: Addressing
 SURVEYOR OTHER: NMDOT

FROM: Adam Ochoa, Planner

SUBJECT: **EBL&T Co. Subdivision "A"**
Replat No. 37

Please review and return to the Community Development Department no later than **July 1, 2013, please.**

APPROVED: YES NO YES WITH CONDITIONS
(STATE CONDITIONS BELOW)

DATE: 7/11/13

REVIEWER NAME: Adam Ochoa
REVIEWER CONTACT NO.: 43204

COMMENTS:

538
CITY SUBDIVISION REVIEW

DATE: March 26, 2012

REVIEW: #1
CASE NO.: S-12-012

TO: ___ ENGINEERING SERVICES ___ UTILITIES
 ___ TRAFFIC ENGINEERING ___ FACILITIES
 ___ LAND MANAGEMENT ___ FIRE DEPARTMENT
 ___ SURVEYOR X LAS CRUCES M.P.O.
 ___ CURRENT PLANNING ___ ADVANCED PLANNING
 ___ OTHER: NMDOT

FROM: Adam Ochoa, Planner

SUBJECT: Elephant Butte Land & Trust Co. Subdivision "A"
 Replat #22

Please review and return to the Community Development Department no later than **April 2, 2012**.

APPROVED AS IS: YES NO

APPROVED WITH CONDITIONS: *SEE CONDITIONS AS STATED IN COMMENT SECTION*

DATE: 4/2/12

REVIEWER NAME: Andrew Wang
REVIEWER CONTACT NO. 3070

COMMENTS:

No Comments

CITY SUBDIVISION REVIEW

DATE: March 26, 2012

REVIEW: #1
CASE NO.: S-12-012

TO: ENGINEERING SERVICES
 TRAFFIC ENGINEERING
 LAND MANAGEMENT
 SURVEYOR
 CURRENT PLANNING
 OTHER: NMDOT

UTILITIES
 FACILITIES
 FIRE DEPARTMENT
 LAS CRUCES M.P.O.
 ADVANCED PLANNING

FROM: Adam Ochoa, Planner

SUBJECT: Elephant Butte Land & Trust Co. Subdivision "A"
Replat #22

Please review and return to the Community Development Department no later than April 2, 2012.

APPROVED AS IS: YES NO

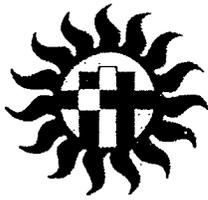
APPROVED WITH CONDITIONS: *SEE CONDITIONS AS STATED IN COMMENT SECTION*

DATE: 4/2/12

REVIEWER NAME: Natasha Bily
REVIEWER CONTACT NO. 528-3794

COMMENTS:

See attached comments.



Case Review Sheet

To: Engineering Services

Case #: S-12-012

Date: March 26, 2012

Request: Elephant Butte Land & Trust Co. Subdivision "A"
 Replat #22

FLOOD ZONE DESIGNATION:

- Zone A (Flood elevation needed) _____
- Zone AE (Flood elevation known) X. *S. Fork Morano Arroyo*
- Zone AH (Flood 1' - 3' ponding) _____
- Zone AO (Flood 1' - 3' - steep slopes) _____
- Zone A99 (100-year flood) _____
- Zone X _____
- Zone X(500) (500 Yr. flood zone) _____
- Zone D (Unknown flood determination) _____

DEVELOPMENT IMPROVEMENTS:

- | | | | |
|--------------------------------|---|--|---|
| Drainage Calculation needed | YES _____ | NO _____ | N/A <input checked="" type="checkbox"/> |
| Drainage Study needed | YES <input checked="" type="checkbox"/> | NO _____ | N/A _____ |
| Other drainage Impr. needed | YES <input checked="" type="checkbox"/> | NO _____ | |
| Sidewalk extension needed | YES <input checked="" type="checkbox"/> | NO _____ | |
| Curb & gutter extension needed | YES <input checked="" type="checkbox"/> | NO _____ | |
| Paving extension needed | YES <input checked="" type="checkbox"/> | NO _____ | |
| NMDOT permit needed | YES _____ | NO <input checked="" type="checkbox"/> | |

DEPARTMENTAL RECOMMENDATION & OTHER COMMENTS:

Recommendation: _____ Approval Denial

*Property is located in a SFHA (Zone AE); the S. Fork Morano Arroyo.
 Any development or substantial improvements will require the property owner to meet FEMA's letter of map change process.*

CITY OF LAS CRUCES
Engineering Services

Case No. S-12-012/S-12-012W, Review No. 1
EBL&T Co. Subdivision A – Replat 22
4/2/12

Natashia Billy, E.I.

Phone: 528-3496

Email: nbilly@las-cruces.org

Staff reviewed EBL&T Co. Subdivision A – Replat 22 and is not approved. If you have any questions concerning this review, please contact me. To facilitate this application, please address all comments. Include all redline drawings from this review when re-submitting. Thank you.

S-12-012 Comments

1. Show the City/County limits on the vicinity map.
2. Provide the utility easement for these lots.
3. The line type for the road easement/right of way in the legend does not appear to agree with the line type used on the plat.
4. Remove “for developed flow” from the ponding icon definition in the legend.
5. For Kennedy Rd: Dimension what is existing, dimension and provide the instrument for the previously dedicated 5 feet, dimension what is proposed to be dedicated.
6. Provide the adjacent property owners information.
7. Note 1: Correct this note as parts of this property is located in a Special Flood Hazard Area (South Fork Moreno Arroyo-Zone AE) as determined by FEMA. Also add the following language to this note “Portions of these properties are located in a Special Flood Hazard Area. Any development or substantial improvements will require the individual property owner to meet FEMA's letter of map change process.”
8. Note 2: Add the ponding icon to this note. Delete the second sentence. Add the following language “Maintenance of the on-lot pond and the drainage easement is the responsibility of the individual lot owners.” How was 25 feet for a drainage easement determined? Also add language that the drainage easement may not be blocked or altered without an engineered solution.

S-12-012W Comment

1. Per LCDC Chapter 32-36, a subdivder is responsible for improvements to the streets adjacent to the proposed subdivision. The subdivder shall provide improvements or pay the cost of the improvements to the City.

CITY SUBDIVISION REVIEW

DATE: July 6, 2012

REVIEW: #2
CASE NO.: S-12-012

TO: ENGINEERING SERVICES
 TRAFFIC ENGINEERING
 LAND MANAGEMENT
 SURVEYOR
 CURRENT PLANNING
 OTHER: ADDRESSING

UTILITIES
 FACILITIES
 FIRE DEPARTMENT
 LAS CRUCES M.P.O.
 ADVANCED PLANNING

FROM: Adam Ochoa, Planner

SUBJECT: Elephant Butte Land & Trust Company Subdivision "A"
Replat #22

Please review and return to the Community Development Department no later than July 13, 2012.

APPROVED AS IS: YES NO

APPROVED WITH CONDITIONS: *SEE CONDITIONS AS STATED IN COMMENT SECTION*

DATE: 7/13/12

REVIEWER NAME: Natasha Prilly
REVIEWER CONTACT NO. 508-3496

COMMENTS:

Refer to attached comments.

Comments entered into MUNIS.

**CITY OF LAS CRUCES
Engineering Services**

Case No. S-12-012/S-12-012W, Review No. 2
EBL&T Co. Subdivision A – Replat 22
7/13/12

Natashia Billy, E.I.

Phone: 528-3496

Email: nbilly@las-cruces.org

Staff reviewed EBL&T Co. Subdivision A – Replat 22 and is **not approved**. If you have any questions concerning this review, please contact me. To facilitate this application, please address all comments. Include all redline drawings from this review when re-submitting. Thank you.

S-12-012 Comments

- ~~1. Show the City/County limits on the vicinity map.~~
- ~~2. Provide the utility easement for these lots.~~
- ~~3. The line type for the road easement/right of way in the legend does not appear to agree with the line type used on the plat.~~
- ~~4. Remove “for developed flow” from the ponding icon definition in the legend.~~
- ~~5. For Kennedy Rd: Dimension what is existing, dimension and provide the instrument for the previously dedicated 5 feet, dimension what is proposed to be dedicated.~~
- ~~6. Provide the adjacent property owners information.~~
7. NOT ADDRESSED: Note 1: Correct this note as parts of this property is located in a Special Flood Hazard Area (South Fork Moreno Arroyo-Zone AE) as determined by FEMA. Also add the following language to this note “Portions of these properties are located in a Special Flood Hazard Area. Any development or substantial improvements will require the individual property owner to meet FEMA's letter of map change process.”
8. NOT ADDRESSED Note 2: Add the ponding icon to this note. Delete the second sentence. Add the following language “Maintenance of the on-lot pond and the drainage easement is the responsibility of the individual lot owners.” How was 25 feet for a drainage easement determined? Also add language that the drainage easement may not be blocked or altered without an engineered solution.

S-12-012W Comment

1. Per LCDC Chapter 32-36, a subdivder is responsible for improvements to the streets adjacent to the proposed subdivision. The subdivder shall provide improvements or pay the cost of the improvements to the City.

CITY SUBDIVISION REVIEW

DATE: March 25, 2013

REVIEW NO.: 3
CASE NO.: S-12-012

- TO:
- CURRENT PLANNING
 - ADVANCED PLANNING
 - MPO
 - ENGINEERING SERVICES
 - TRAFFIC ENGINEERING
 - SURVEYOR

- LAND MANAGEMENT
- PARKS AND RECREATION
- FIRE DEPARTMENT
- UTILITIES
- OTHER: Addressing
- OTHER: NMDOT

FROM: Adam Ochoa, Planner

SUBJECT: Elephant Butte Land & Trust Co. Subdivision "A"
Replat No. 37 (Formally Replat No. 22)

Please review and return to the Community Development Department no later than **April 1, 2013**

APPROVED: YES NO YES WITH CONDITIONS
(STATE CONDITIONS BELOW)

DATE: 3/25/13

REVIEWER NAME: Natasha Billy
REVIEWER CONTACT NO.: 528-3496

COMMENTS:

- No issues with plat contents.
- Conditional upon
 1. Waiver request
 2. submittal of construction dwgs. for roadway.

CITY SUBDIVISION REVIEW

DATE: March 26, 2012

REVIEW: #1
CASE NO.: S-12-012

TO: ENGINEERING SERVICES
 TRAFFIC ENGINEERING
 LAND MANAGEMENT
 SURVEYOR
 CURRENT PLANNING
 OTHER: NMDOT

UTILITIES
 FACILITIES
 FIRE DEPARTMENT
 LAS CRUCES M.P.O.
 ADVANCED PLANNING

FROM: Adam Ochoa, Planner

SUBJECT: Elephant Butte Land & Trust Co. Subdivision "A"
Replat #22

Please review and return to the Community Development Department no later than April 2, 2012.

APPROVED AS IS: YES NO

APPROVED WITH CONDITIONS: *SEE CONDITIONS AS STATED IN COMMENT SECTION*

DATE: 4/2/12

REVIEWER NAME: SOLANO
REVIEWER CONTACT NO. 2545

COMMENTS:

547
CITY SUBDIVISION REVIEW

DATE: July 6, 2012

REVIEW: #2
CASE NO.: S-12-012

TO: CURRENT PLANNING
 ENGINEERING SERVICES
 LAND MANAGEMENT
 SURVEYOR
 CITY UTILITIES
 MPO

COUNTY PLANNING
 COUNTY ENGINEERING
 COUNTY FLOOD COMMISSION
 COUNTY FIRE
 NM ENVIRONMENTAL
 EBID
 OTHER (GIS)

FROM: Adam Ochoa, Planner

SUBJECT: Elephant Butte Land & Trust Co. Subdivision "A"
Replat #22

Please review and return to the Community Development Department no later than **July 13, 2012**

APPROVED AS IS: YWC

APPROVED WITH CONDITIONS: *SEE CONDITIONS AS STATED IN COMMENT SECTION*

DATE: 7/16/2012 REVIEWER NAME: Michael O. Hernandez
REVIEWER CONTACT NO. 528-3124

COMMENTS:

1. Verify Kennedy Rd. ROW width, DAC GIS indicates a wider ROW.

CITY SUBDIVISION REVIEW

DATE: July 6, 2012

549

REVIEW: #2

CASE NO.: S-12-012

- TO: CURRENT PLANNING
- ENGINEERING SERVICES
- LAND MANAGEMENT
- SURVEYOR(Rec'd 7/10/12)
- CITY UTILITIES
- MPO

- COUNTY PLANNING
- COUNTY ENGINEERING
- COUNTY FLOOD COMMISSION
- COUNTY FIRE
- NM ENVIRONMENTAL
- EBID
- OTHER (GIS)

FROM: Adam Ochoa, Planner

SUBJECT: Elephant Butte Land & Trust Co. Subdivision "A"
Replat #22

Please review and return to the Community Development Department no later than July 13, 2012

APPROVED AS IS: NO

APPROVED WITH CONDITIONS: SEE CONDITIONS AS STATED IN COMMENT SECTION

DATE: 7/13/2012 REVIEWER NAME: Scott Farnham, PE, PS
REVIEWER CONTACT NO. 528-3118

COMMENTS:

1. From review 1:
 - a. State the Basis for the Basis of Bearing.
 - b. Include all record Vs. measured bearings and distances.
 - c. Remove improvement water/power notation in the legend.
 - d. Include all surrounding property owner information within 100ft.
 - e. Revise title to show complete name for previous filed plat (Amended May 1992) This plat is not part of Lots 14 & 15, Block 30, Elephant Butte Land & Trust Co. Subdivision "A".
 - f. Is an overhead utility easement needed for the power pole?
 - g. Add section lines to the vicinity map.
 - h. Revise utility statement to "Subdivider responsible for utility stub-outs and for providing any and all easements necessary to provide utility service to lots contained herein."(see 37-114b22).
 - i. Please clean up your monument symbols it's hard to tell which are set and found. The line through the symbol partly obscures it, particularly for the found monuments.
 - j. The proposed dedicated area has been included in the subdivision boundary, however, do not include the previously dedicated ROW. Make corrections as needed for symbols and ties to existing monuments.
 - k. Correct owner names to reflect the way they appear on record document (Richard P. Valverde)in ALL locations.
 - l. Correct Comcast acknowledgement to Comcast Cable Communications Inc. in ALL locations.
 - m. Verify replat number. Is there already a #22?
2. Add overall distances to the plat boundary – east and west boundary lines.
3. Provide bearing – distance information for the northerly plat boundary.
4. Is the Control point relevant to this plat? If it is provide control information and plat ties.
5. The notation for "Kennedy Road centerline" needs to be the centerline of the 40' existing ROW, not centerline of roadway.
6. Remove the text "Proposed Principal Arterial 120' ROW".
7. Add areas for the dedicated ROW and add total plat area to Note 5.
8. Remove the left hand parenthesis on the Acknowledgment blocks for the State & County text.
9. Remove "P&Z" from the Planning and Zoning block.
10. What is the 22.90' distance measuring (by dimension L2)?
11. Verify Kennedy Rd. ROW width at NE of plat boundary. DAC GIS indicates a wider ROW.

To facilitate this application, please address all comments. Call me if you have any questions.

****PLEASE PROVIDE ALL REDLINES FROM THE PREVIOUS REVIEW****

CITY SUBDIVISION REVIEW

DATE: March 25, 2013 550

REVIEW: #3
CASE NO.: S-12-012

TO:	<input type="checkbox"/> CURRENT PLANNING	<input type="checkbox"/> COUNTY PLANNING
	<input type="checkbox"/> ENGINEERING SERVICES	<input type="checkbox"/> COUNTY ENGINEERING
	<input type="checkbox"/> LAND MANAGEMENT	<input type="checkbox"/> COUNTY FLOOD COMMISSION
	<input checked="" type="checkbox"/> SURVEYOR(Rec'd 3/25/13)	<input type="checkbox"/> COUNTY FIRE
	<input type="checkbox"/> CITY UTILITIES	<input type="checkbox"/> NM ENVIRONMENTAL
	<input type="checkbox"/> MPO	<input type="checkbox"/> EBID
		<input type="checkbox"/> OTHER (GIS)

FROM: Adam Ochoa, Planner

SUBJECT: Elephant Butte Land & Trust Co. Subdivision "A"
Replat #37(Formerly Replat No. 22)

Please review and return to the Community Development Department no later than April 1, 2013

APPROVED AS IS: NO

APPROVED WITH CONDITIONS: SEE CONDITIONS AS STATED IN COMMENT SECTION

DATE: 4/11/2013

REVIEWER NAME: ^{AO}Angela Armijo/^{SF}Scott Farnham
REVIEWER CONTACT NO. 528-3084/528-3118

COMMENTS:

1. From review 1:
 - a. State the Basis for the Basis of Bearing. What is it based on?
 - b. Include all record Vs. measured bearings and distances.
 - c. Add section lines to the vicinity map. Label Sections
 - d. The proposed dedicated area has been included in the subdivision boundary, however, do not include the previously dedicated ROW
2. From Review 2:
 - a. Add overall distances to the plat boundary – east and west boundary lines.
 - b. Provide bearing – distance information for the northerly plat boundary.
 - c. Remove "P&Z" from the Planning and Zoning block.
3. Check correct surrounding owner information.
4. What is the record information for Kennedy Road? Check ROW width.
5. Correct the shaded area in the vicinity map to reflect the right property.
6. There is a lot missing on the west side of the subdivision, it needs to be included.
7. Remove the centerline for Kennedy and wording.
8. Revise the note regarding the dedication.
9. Use spell check

DATE: June 24, 2013

551

REVIEW: #4

CASE NO.: S-12-012

TO:

- CURRENT PLANNING
- ENGINEERING SERVICES
- LAND MANAGEMENT
- SURVEYOR(Rec'd 6/24/13)
- CITY UTILITIES
- MPO

- COUNTY PLANNING
- COUNTY ENGINEERING
- COUNTY FLOOD COMMISSION
- COUNTY FIRE
- NM ENVIRONMENTAL
- EBID
- OTHER (GIS)

FROM: Adam Ochoa, Planner

SUBJECT: Elephant Butte Land & Trust Co. Subdivision "A"
Replat #37(Formerly Replat No. 22)

Please review and return to the Community Development Department no later than **July 1, 2013**

APPROVED AS IS: **Yes**

APPROVED WITH CONDITIONS: *SEE CONDITIONS AS STATED IN COMMENT SECTION*

DATE: 7/1/2013

REVIEWER NAME: Angela Armijo

REVIEWER CONTACT NO. 528-3084

COMMENTS:

To facilitate this review please address all comments.

IF YOU HAVE QUESTIONS ABOUT THE ABOVE COMMENT(S), PLEASE CONTACT THE REVIEWER

****PLEASE PROVIDE ALL REDLINES FROM THE PREVIOUS REVIEW****

CITY SUBDIVISION REVIEW

DATE: March 26, 2012

REVIEW: #1
CASE NO.: S-12-012

TO: ENGINEERING SERVICES
 TRAFFIC ENGINEERING
 LAND MANAGEMENT
 SURVEYOR
 CURRENT PLANNING
 OTHER: NMDOT

UTILITIES
 FACILITIES
 FIRE DEPARTMENT
 LAS CRUCES M.P.O.
 ADVANCED PLANNING

FROM: Adam Ochoa, Planner

SUBJECT: Elephant Butte Land & Trust Co. Subdivision "A"
Replat #22

Please review and return to the Community Development Department no later than **April 2, 2012**.

APPROVED AS IS: YES NO

APPROVED WITH CONDITIONS: *SEE CONDITIONS AS STATED IN COMMENT SECTION*

DATE: 4/2/12

REVIEWER NAME: *MO*
REVIEWER CONTACT NO. X4150

COMMENTS:

553
CITY SUBDIVISION REVIEW

DATE: March 26, 2012

REVIEW: #1
CASE NO.: S-12-012

TO: ENGINEERING SERVICES
 TRAFFIC ENGINEERING
 LAND MANAGEMENT
 SURVEYOR
 CURRENT PLANNING
 OTHER: NMDOT

UTILITIES
 FACILITIES
 FIRE DEPARTMENT
 LAS CRUCES M.P.O.
 ADVANCED PLANNING

FROM: Adam Ochoa, Planner

SUBJECT: Elephant Butte Land & Trust Co. Subdivision "A"
Replat #22

Please review and return to the Community Development Department no later than April 2, 2012.

APPROVED AS IS:

YES

NO

APPROVED WITH CONDITIONS: *SEE CONDITIONS AS STATED IN COMMENT SECTION*

DATE: 4/2/2012

REVIEWER NAME: Mel Montoya
REVIEWER CONTACT NO. 528-3525

COMMENTS:

No water right issues - F.O. 3/28/2012

Please add the following note onto the "Notes" section of TRS replat:

"The property owner/applicant/subdivider is responsible for all necessary easements ^{and} the construction of all necessary utility mains and services in compliance with all applicable Las Cruces Utilities requirements."

****PLEASE PROVIDE ALL REDLINES FROM THE PREVIOUS REVIEW****

CITY SUBDIVISION REVIEW

DATE: July 6, 2012

REVIEW: #2
CASE NO.: S-12-012

TO: ENGINEERING SERVICES
 TRAFFIC ENGINEERING
 LAND MANAGEMENT
 SURVEYOR
 CURRENT PLANNING
 OTHER: ADDRESSING

UTILITIES
 FACILITIES
 FIRE DEPARTMENT
 LAS CRUCES M.P.O.
 ADVANCED PLANNING

FROM: Adam Ochoa, Planner

SUBJECT: Elephant Butte Land & Trust Company Subdivision "A"
Replat #22

Please review and return to the Community Development Department no later than July 13, 2012.

APPROVED AS IS: YES NO

APPROVED WITH CONDITIONS: *SEE CONDITIONS AS STATED IN COMMENT SECTION*

DATE: 7/9/2012

REVIEWER NAME: Melinda Montoya
REVIEWER CONTACT NO. 528-3525

COMMENTS:

No comments.

555
CITY SUBDIVISION REVIEW

DATE: March 26, 2012

REVIEW: #1
CASE NO.: S-12-012

TO: ___ ENGINEERING SERVICES ___ UTILITIES
 ___ TRAFFIC ENGINEERING *X* FACILITIES
 ___ LAND MANAGEMENT ___ FIRE DEPARTMENT
 ___ SURVEYOR ___ LAS CRUCES M.P.O.
 ___ CURRENT PLANNING ___ ADVANCED PLANNING
 ___ OTHER: NMDOT

FROM: Adam Ochoa, Planner

SUBJECT: Elephant Butte Land & Trust Co. Subdivision "A"
 Replat #22

Please review and return to the Community Development Department no later than **April 2, 2012**.

APPROVED AS IS: YES NO

APPROVED WITH CONDITIONS: *SEE CONDITIONS AS STATED IN COMMENT SECTION*

DATE: 3/28/12 REVIEWER NAME: *[Signature]*
 REVIEWER CONTACT NO. 2550

COMMENTS:

CITY SUBDIVISION REVIEW

DATE: March 26, 2012

REVIEW: #1
CASE NO.: S-12-012W

TO: ENGINEERING SERVICES
 TRAFFIC ENGINEERING
 LAND MANAGEMENT
 SURVEYOR
 CURRENT PLANNING
 OTHER: NMDOT

UTILITIES
 FACILITIES
 FIRE DEPARTMENT
 LAS CRUCES M.P.O.
 ADVANCED PLANNING

FROM: Adam Ochoa, Planner

SUBJECT: Elephant Butte Land & Trust Co. Subdivision "A"
Replat #22 (Waiver to Road Improvements)

Please review and return to the Community Development Department no later than **April 2, 2012**.

APPROVED AS IS: YES NO

APPROVED WITH CONDITIONS: *SEE CONDITIONS AS STATED IN COMMENT SECTION*

DATE: 3/4/12/12

REVIEWER NAME: *Adam Ochoa*
REVIEWER CONTACT NO. *X3204*

COMMENTS: - The City of Las Cruces ~~planning~~ Subdivision Code requires improved access and ROW for all new subdivisions. Code requirements shall be followed.

CITY SUBDIVISION REVIEW

DATE: March 26, 2012

REVIEW: #1
CASE NO.: S-12-012W

TO: ENGINEERING SERVICES
 TRAFFIC ENGINEERING
 LAND MANAGEMENT
 SURVEYOR
 CURRENT PLANNING
 OTHER: NMDOT

UTILITIES
 FACILITIES
 FIRE DEPARTMENT
 LAS CRUCES M.P.O.
 ADVANCED PLANNING

FROM: Adam Ochoa, Planner

SUBJECT: Elephant Butte Land & Trust Co. Subdivision "A"
Replat #22 (Waiver to Road Improvements)

Please review and return to the Community Development Department no later than **April 2, 2012**.

APPROVED AS IS: YES NO

APPROVED WITH CONDITIONS: *SEE CONDITIONS AS STATED IN COMMENT SECTION*

DATE: 4/2/12

REVIEWER NAME: Andrew Wang
REVIEWER CONTACT NO. 3070

COMMENTS:

*Kennedy Rd is connecting to NMDOT
grade separation at I-25 construction
currently under way*

CITY SUBMISSION REVIEW

DATE: March 26, 2012

REVIEW: #1
CASE NO.: S-12-012W

TO:	<input checked="" type="checkbox"/> ENGINEERING SERVICES	<input type="checkbox"/> UTILITIES
	<input type="checkbox"/> TRAFFIC ENGINEERING	<input type="checkbox"/> FACILITIES
	<input type="checkbox"/> LAND MANAGEMENT	<input type="checkbox"/> FIRE DEPARTMENT
	<input type="checkbox"/> SURVEYOR	<input type="checkbox"/> LAS CRUCES M.P.O.
	<input type="checkbox"/> CURRENT PLANNING	<input type="checkbox"/> ADVANCED PLANNING
	<input type="checkbox"/> OTHER: <u>NMDOT</u>	

FROM: Adam Ochoa, Planner

SUBJECT: Elephant Butte Land & Trust Co. Subdivision "A"
Replat #22 (Waiver to Road Improvements)

Please review and return to the Community Development Department no later than **April 2, 2012**.

APPROVED AS IS: YES NO

APPROVED WITH CONDITIONS: *SEE CONDITIONS AS STATED IN COMMENT SECTION*

DATE: 4/2/12 REVIEWER NAME: Natashia Billy
REVIEWER CONTACT NO. 528-3496

COMMENTS:

Per LCDC Chapter 32-36, a subdivider is responsible for improvements to ~~ad~~ streets adjacent to the proposed subdivision. The subdivider shall provide improvements or pay the cost of the improvements to the City.

CITY SUBDIVISION REVIEW

DATE: March 26, 2012

REVIEW: #1
CASE NO.: S-12-012W

TO:	<input type="checkbox"/> ENGINEERING SERVICES	<input type="checkbox"/> UTILITIES
	<input checked="" type="checkbox"/> TRAFFIC ENGINEERING	<input type="checkbox"/> FACILITIES
	<input type="checkbox"/> LAND MANAGEMENT	<input type="checkbox"/> FIRE DEPARTMENT
	<input type="checkbox"/> SURVEYOR	<input type="checkbox"/> LAS CRUCES M.P.O.
	<input type="checkbox"/> CURRENT PLANNING	<input type="checkbox"/> ADVANCED PLANNING
	<input type="checkbox"/> OTHER: <u>NMDOT</u>	

FROM: Adam Ochoa, Planner

SUBJECT: Elephant Butte Land & Trust Co. Subdivision "A"
Replat #22 (Waiver to Road Improvements)

Please review and return to the Community Development Department no later than **April 2, 2012**.

APPROVED AS IS: YES NO

APPROVED WITH CONDITIONS: *SEE CONDITIONS AS STATED IN COMMENT SECTION*

DATE: 4/2/12 REVIEWER NAME: SOKRANO
REVIEWER CONTACT NO. 2595

COMMENTS:

WAIVER NOT APPROVED.

CITY SUBDIVISION REVIEW

DATE: March 26, 2012

REVIEW: #1
CASE NO.: S-12-012W

TO: ENGINEERING SERVICES
 TRAFFIC ENGINEERING
 LAND MANAGEMENT
 SURVEYOR
 CURRENT PLANNING
 OTHER: NMDOT

UTILITIES
 FACILITIES
 FIRE DEPARTMENT
 LAS CRUCES M.P.O.
 ADVANCED PLANNING

FROM: Adam Ochoa, Planner

SUBJECT: Elephant Butte Land & Trust Co. Subdivision "A"
Replat #22 (Waiver to Road Improvements)

Please review and return to the Community Development Department no later than April 2, 2012.

APPROVED AS IS: YES NO

APPROVED WITH CONDITIONS: *SEE CONDITIONS AS STATED IN COMMENT SECTION*

DATE: 4/2/12

REVIEWER NAME: *MO*
REVIEWER CONTACT NO. 4130

COMMENTS:

Payment in lieu of.

CITY SUBDIVISION REVIEW

DATE: March 26, 2012

REVIEW: #1
CASE NO.: S-12-012W

TO: ENGINEERING SERVICES
 TRAFFIC ENGINEERING
 LAND MANAGEMENT
 SURVEYOR
 CURRENT PLANNING
 OTHER: NMDOT

UTILITIES
 FACILITIES
 FIRE DEPARTMENT
 LAS CRUCES M.P.O.
 ADVANCED PLANNING

FROM: Adam Ochoa, Planner

SUBJECT: Elephant Butte Land & Trust Co. Subdivision "A"
Replat #22 (Waiver to Road Improvements)

Please review and return to the Community Development Department no later than April 2, 2012.

APPROVED AS IS: N/A YES NO

APPROVED WITH CONDITIONS: *SEE CONDITIONS AS STATED IN COMMENT SECTION*

DATE: 4/2/2012

REVIEWER NAME: Mel Montoya
REVIEWER CONTACT NO. 528-3525

COMMENTS:

Defers to City Transportation Department for review/approval.

CITY SUBDIVISION REVIEW

DATE: March 26, 2012

REVIEW: #1
CASE NO.: S-12-012W

TO: ENGINEERING SERVICES
 TRAFFIC ENGINEERING
 LAND MANAGEMENT
 SURVEYOR
 CURRENT PLANNING
 OTHER: NMDOT

UTILITIES
 FACILITIES
 FIRE DEPARTMENT
 LAS CRUCES M.P.O.
 ADVANCED PLANNING

FROM: Adam Ochoa, Planner

SUBJECT: Elephant Butte Land & Trust Co. Subdivision "A"
Replat #22 (Waiver to Road Improvements)

Please review and return to the Community Development Department no later than April 2, 2012.

APPROVED AS IS: YES NO

APPROVED WITH CONDITIONS: *SEE CONDITIONS AS STATED IN COMMENT SECTION*

DATE: 3/29/12

REVIEWER NAME: [Signature]
REVIEWER CONTACT NO. 2550

COMMENTS:

**PLANNING AND ZONING COMMISSION
FOR THE
CITY OF LAS CRUCES
City Council Chambers
September 24, 2013 at 6:00 p.m.**

BOARD MEMBERS PRESENT:

Godfrey Crane, Chairman
Charles Scholz, Member
Ray Shipley, Member
Joanne Ferrary, Member
Ruben Alvarado, Member

BOARD MEMBERS ABSENT:

William Stowe, Vice Chair
Charles Beard, Secretary

STAFF PRESENT:

Adam Ochoa CLC, Planner
Paul Michaud, CLC, Senior Planner
Ezekiel Guza, CLC, Associate Planner
Robert Cabello, CLC, Legal Department
Bonnie Ennis, CLC, Recording Secretary

I. CALL TO ORDER (6:00)

Crane: Good evening, ladies and gentlemen. This meeting of the Planning and Zoning Commission of Tuesday, the 24th of September, is called to order. Let me start start, as we usually do, by introducing the Commissioners present. My far right is Commissioner Shipley, who represents District 6 and Commissioner Scholz, the Mayor's appointee. Our new Commissioner, Commissioner Alvarado, who is Council District 3. I'm the Chair, Godfrey Crane, and I'm District 4 and I'm pretty sure we are going to have Commissioner Ferrary in a minute and she is in District 5 so I won't introduce her again if she turns up.

II. CONFLICT OF INTEREST

At the opening of each meeting, the chairperson shall ask if any member on the Commission or City staff has any known conflict of interest with any item on the agenda.

Crane: Our second item of business to ask if there are any conflicts of interest on the part of City employees or Commissioners in regard to the item on tonight's agenda. No one is signaling that there is so we will proceed to the approval of the minutes for the August 24th meeting.

- 1 Scholz: Okay. Condition 1: the proposed freestanding sign shall not obstruct the
 2 sidewalk or any other city facility. Condition 2: the small driveway
 3 immediately west of the proposed location for the freestanding sign shall
 4 be closed/blocked off permanently; and number 3, the proposed
 5 freestanding sign shall be temporary and shall be removed at the
 6 conclusion of the restoration project.
 7
- 8 Crane: Thank you. May I have a second?
 9
- 10 Shipley: Second.
 11
- 12 Crane: Seconded by Mr. Shipley. Roll call vote. Let me start with Mr. Alvarado at
 13 this point.
 14
- 15 Alvarado: Aye.
 16
- 17 Crane: Based on...
 18
- 19 Alvarado: Based on staff recommendation and the presentation by the owners of the
 20 project.
 21
- 22 Crane: Thank you. Mr. Scholz.
 23
- 24 Scholz: Aye, based on findings and site visit.
 25
- 26 Crane: Commissioner Ferrary.
 27
- 28 Ferrary: Aye, based on findings, discussion and site visit.
 29
- 30 Crane: Commissioner Shipley.
 31
- 32 Shipley: Aye, based on findings and site visit.
 33
- 34 Crane: And the Chair votes aye, based on findings, discussion and site visit. The
 35 measure passes 5-0
 36
- 37 **3. Case S-12-012:** Application of Richard P. & Aurora Valverde, property
 38 owners, for a replat known as Elephant Butte Land & Trust Company
 39 Subdivision A, Replat No. 37 on a 2.26 ± acre lot located on the south side of
 40 Kennedy Road, 0.19 ± miles southwest of its intersection with Elks Drive;
 41 1076 E. Kennedy Road; Parcel ID# 02-20689. Proposed Use: A replat
 42 subdividing one (1) existing single-family residential lot into two (2) new
 43 single-family residential lots. Council District 5 (Councillor Sorg).
 44
- 45 **4. Case S-12-012W:** Application of Richard P. & Aurora Valverde, property
 46 owners, to waive 100% of the road improvement requirements and the

1 required dedication for Kennedy Road, a proposed Principal Arterial roadway.
 2 The proposed waiver is for a proposed replat known as Elephant Butte Land
 3 & Trust Company Subdivision A, Replat No. 37 on a 2.26 ± acre lot located
 4 on the south side of Kennedy Road, 0.19 ± miles southwest of its intersection
 5 with Elks Drive; 1076 E. Kennedy Road; Parcel ID# 02-20689. Proposed
 6 Use: A replat subdividing one (1) existing single-family residential lot into two
 7 (2) new single-family residential lots. Council District 5 (Councillor Sorg).

8
 9 Crane: And finally, we have cases S-12-012 and S-12-012W. Clearly these are
 10 related and I'll ask for a motion from the Commissioners to suspend the
 11 rules so these can be discussed together and then later we'll restore the
 12 rules so that we can vote on them separately.

13
 14 Scholz: So moved.

15
 16 Alvarado: Second.

17
 18 Crane: Moved by Mr. Scholz and seconded by Mr. Alvarado. So the rules are
 19 suspended and Mr. Ochoa... it's you again!

20
 21 Ochoa: Yes, sir. The last two cases for tonight, case S-12-012 and S-12-012W. It
 22 is a request for approval for a proposed replat or subdivision known as the
 23 Elephant Butte Land & Trust Company Subdivision A, Replat No. 37 and
 24 an accompanying waiver request.

25 Looking here at the vicinity map, the subject property's located here
 26 kind of in the southeast side of what is Kennedy Road located off of Elks
 27 Drive in the northern section of the city. Just to give you a rough idea of
 28 where it is, pretty close to what is the city limits as you can see here, the
 29 white being Dona Ana County now; the colored area actually being in the
 30 city here. Looking at the zoning map, as you can see, the property is
 31 majorly zoned for Rural Residential, the same type of zoning that exists
 32 here in the Holding designations, the large amount of large lot single-
 33 family dwellings in the property.

34 Again, the property is located on the southeast side of Kennedy
 35 Road approximately 0.19 miles southwest of its intersection with Elks
 36 Drive. This property is originally Lot 1 of the Elephant Butte Land & Trust
 37 Company Subdivision A, Replat No. 21, which was amended and
 38 approved May of 1992. The subject property is currently zoned REM,
 39 Single-Family Residential Estate Mobile, and currently encompasses
 40 approximately 2.26 acres. There is currently one existing single-family
 41 residence on that lot. A large majority of that lot is currently undeveloped.
 42 The proposed subdivision would be subdividing the one existing lot into
 43 two new lots. Lot 1A will encompass approximately 0.753 acres. Lot 1b
 44 will encompass approximately 0.943 acres. That is net. All requirements of
 45 the 2001 Zoning Code for the REM Zoning District, all those requirements

1 are being met by the proposed replat. Shown here is that proposed replat,
2 again, showing those two lots being split up: Lot 1A and Lot 1B.

3 The second part of this, of course, is the proposed waiver request.
4 The City of Las Cruces Subdivision Code and Design Standards require
5 all subdividers, or people subdividing, to provide the necessary amount of
6 right-of-way dedication and road improvements to all streets adjacent to
7 the proposed subdivision to the nearest paved street. This subdivision is
8 adjacent to Kennedy Road, which is a proposed Principal Arterial roadway
9 as designated by the Metropolitan Planning Organization. So essentially it
10 is proposed to be one day a 120 foot wide roadway out there. Currently,
11 just to let you know, the road is paved but just roughly 20 feet in width and
12 definitely not to those standards of what is a Principal Arterial roadway.

13 With those requirements of the Subdivision Code and the Design
14 Standards the applicants are required to dedicate the 60 foot wide
15 segments required for the build-out of Kennedy Road as well as they are
16 required to actually construct that half of the 120 foot wide road segment
17 from the actual subdivision for the little under a quarter-of-a-mile to Elks
18 Drive. So in other words, they are required to dedicate the land on the
19 subdivision, on their property, as well as obtain the property of their
20 adjacent neighbors, adjacent to Kennedy Road, and then build that 60 foot
21 of right-of-way for Kennedy Road to Elks Drive.

22 These are actually the Design Standards requirements for what a
23 Principal Arterial; they say Major Arterial but it is a Principal Arterial
24 roadway. As you can see all of them are 120 feet wide so essentially the
25 applicant would have to build half of this road segment with a paved area,
26 a two-lane paved area, with curb, gutter and sidewalk or bike path,
27 depending on the actual design that would be used for that roadway there.

28 You're looking at aerial picture of the subject property, as I said, the
29 one dwelling existing on that property now. Kennedy Road would have to
30 be dedicated and improved the entire length of Kennedy Road, the
31 southeastern portion of Kennedy Road to Elks Drive. Here you can kind of
32 see what we're looking at, they are required to do and what they are
33 seeking their waiver for.

34 The applicants are proposing to dedicate the additional right-of-way
35 of Kennedy Road along the front property line of the proposed subdivision,
36 which is approximately 35 feet of additional right-of-way there, they're
37 dedicating to the City. But they are requesting to waive the remaining
38 required dedicated right-of-way dedication from their neighbors, if you will,
39 along Kennedy Drive to Elks Drive and they're also requesting a waiver to
40 100% of the road improvements required on Kennedy Road, that 60 feet
41 of right-of-way with asphalt, curb and gutter and sidewalk.

42 The applicants' rationale for the request is that the applicants to
43 believe that the subdivision is only creating one additional large residential
44 lot, which the existing road, as it exists now, is decent enough or works to
45 support that traffic and there's not such a significant increase in traffic that
46 would actually require the magnitude of improvements that are required of

1 him. The applicant has also stated that the actual design and construction
2 of the road, being that the applicant has had some background building
3 rights-of-way and so forth, in his opinion he believes that the design and
4 construction of the road should essentially be done in its entirety to insure
5 proper functionality, drainage, actual alignment and so forth and, again,
6 requiring the applicants to construct and acquire that additional right-of-
7 way would not only burdensome but impractical at this time, and also
8 concluding that the actual cost of constructing that 60-foot of right-of-way
9 for that roughly quarter-of-a-mile length is extremely high for the reason
10 only to subdivide only one exiting lot into two lots, adding one additional lot
11 on the actual roadway there.

12 Staff did analyze the proposed waiver request and the hardships
13 expressed by the applicants unfortunately do not demonstrate a hardship
14 that can approve a waiver that is actually outlined in Article 6, Section 37-
15 332 of the City of Las Cruces Subdivision Code. It reads that a hardship
16 must be due exceptional topographic, soil, or other surface or sub-surface
17 issues that would essentially make the build-out of that road somehow
18 impossible or impractical and staff does not believe that they meet that
19 criteria. Based on the intent of the Code, the waiver request is not justified
20 in staff's opinion.

21 Here are some photos of the existing road. This one here actually
22 looking southwest along Kennedy Road on the subject property, looking
23 away from Elks Drive. As you can see, that area is an existing paved road
24 there. The pavement does actually continue a fair distance this way. It
25 looks there but it actually looks like it's a runoff, washout from our great
26 weather that we've been having these last couple weeks. This picture here
27 that is looking northeast along Kennedy Road to Elks Drive, you can
28 actually see the new lights that were put up with that new underpass that
29 was put in there under I-10 for what actually east of Elks is known is
30 actually Engler, I believe, out there.

31 On July 24th the Development Review Committee, or DRC, did
32 review the proposed subdivision and waiver request. After some discuss
33 between staff and the applicant the DRC recommended approval for the
34 proposed subdivision and denial for the proposed waiver request. The
35 Planning and Zoning Commission is a recommending body for the
36 proposed waiver request to the City Council so this will be moving on to
37 City Council, the waiver request alone. The Planning and Zoning
38 Commission has final authority on non-administrative replats as the one
39 we are looking at today.

40 Staff recommends denial for the proposed waiver request, or case
41 S-12-012W, based on the findings found in your staff report and staff also
42 does recommend approval for the proposed subdivision, or in other words,
43 case S-12-012, based on the findings found in your staff report as well.
44 Just a point: the applicants will either have to obtain approval of the
45 proposed waiver request or will have to provide the required right-of-way
46 dedication and road improvements for Kennedy Road to actually finalize

1 the proposed replat. So that matter of the waiver request would have to be
2 finalized before the actual replat can be finalized and filed with the County.

3 With that, ladies and gentlemen, your options to for case S-12-
4 012W are: 1) to vote "yes" to approve the proposed waiver request; 2) to
5 vote "yes" to approve the waiver request with conditions as seen fit by the
6 P & Z; 3) to vote "no" to deny the waiver request as recommended by
7 DRC and staff, and; 4) to table/postpone and direct staff accordingly.

8 You options tonight for case S-12-012 are: 1) to vote "yes" to
9 approve the subdivision as recommended by the DRC and staff; 2) to vote
10 "yes" to approve the subdivision with the additional conditions deemed
11 appropriate by the P & Z; 3) to vote "no" to deny the subdivision, or 4) to
12 table/postpone and direct staff accordingly.

13 That is the conclusion of my presentation. Just to let you all know I
14 did receive one phone call from an adjacent neighbor that received a letter
15 for the proposed waiver and subdivision and they had no issues with the
16 subdivision and as they stated, they wanted to remain anonymous but
17 actually did not want to see those types of improvements done on their
18 road. That is what they stated but, unfortunately, staff did not get their full
19 information to disclose who that was. That was the only public input staff
20 did receive. I stand for questions and the applicant is here for any
21 questions and his representative is here as well.

22
23 Crane: Thank you, Mr. Ochoa. Before I ask my fellow Commissioners if they have
24 any questions I want to clarify something because I'm confused. Do you
25 think the applicant, because he wants to split this lot, has an obligation not
26 only to dedicate some of his land to this Major Arterial width highway and
27 to build half of the highway out to the centerline; but furthermore, has the
28 obligation to do the same thing all the way over to Elks Drive?

29
30 Ochoa: That is correct, sir.

31
32 Crane: And how is he to get the land from the other people who have not yet
33 donated it and don't own that?

34
35 Ochoa: Mr. Chairman, that is correct. He does not own that land but as is with any
36 developer subdividing in the city of Las Cruces, they are required to obtain
37 that land by some means, either in purchasing it or them talking the
38 property owners into dedicating that land and so forth. The obligation is on
39 them to obtain that land for the build-out of Kennedy Road.

40
41 Crane: So the applicant has to use charm on his neighbors to ask them to give up
42 their land so he can do the subdivision?

43
44 Ochoa: Yes, sir.

45
46 Crane: Thank you. Okay. Commissioners? Commissioner Scholz.

1
2 Scholz: Could you go back to that earlier picture. It was like a plan view and it was
3 a colored map as I recall. There it is. Yeah. Isn't that an arroyo running
4 across that property?
5
6 Ochoa: Mr. Chairman, Commissioner Scholz, no, sir. That arroyo actually runs
7 along the southwest portion of that property...
8
9 Scholz: The map is a little skewed, then. It looked like the arroyo was running right
10 through the property.
11
12 Ochoa: Right. This A-1, which is kind of a flood control, it's an older, from the
13 19818 Flood Control Zoning District, sir. Actually it was removed from the
14 property. As you can see it's actually fully purple. I apologize for the hash
15 and that does make it a little confusing but it was removed as it was
16 running through the full property because it was actually realigned and it is
17 in this 25 foot drainage easement that runs along the side and the rear of
18 the property.
19
20 Scholz: Oh, okay. Good. Well, that was my first concern. What would be the cost
21 to the applicant to do this paving?
22
23 Ochoa: Mr. Chairman, Commissioner Scholz, I believe the applicant does have an
24 answer for that, sir.
25
26 Scholz: Okay. I noticed that the entrance to Kennedy from Elks Drive is not 120
27 feet wide. It's a brand new entrance, you know, that they paved when they
28 finished Engler and finished the intersection.
29
30 Ochoa: Yes, sir.
31
32 Scholz: Why wasn't that made 120 feet?
33
34 Ochoa: Mr. Chairman, Commissioner Scholz, I believe that was a State project so
35 I'm not aware of why they didn't do that to the 120 foot. I believe they just
36 did it to what was the existing road section.
37
38 Scholz: Well, that's what it seemed like to me, yes.
39
40 Ochoa: Yes, sir.
41
42 Scholz: Okay. And to reiterate what you answered Chair Crane, this gentleman
43 would have to get the approval of the other property owners who live on
44 the south side of that road in order to do this build-out?
45

- 1 Ochoa: Yes, sir. Of course, there are some properties out there that already have
2 some property dedicated for the existing Kennedy Road. They would have
3 to give up the additional to get them to 60 feet, if you will, for Kennedy
4 Road out there, sir.
5
- 6 Scholz: Okay. So here's a hypothetical: let's say the County or the City of Las
7 Cruces decided to build-out Kennedy Road, which would be a continuation
8 of Engler and I understand that's part of the Master Plan.
9
- 10 Ochoa: Yes, sir.
11
- 12 Scholz: All right, if they plan to do that how would they go about getting that width?
13
- 14 Ochoa: Mr. Chairman, Commissioner Scholz, the City typically goes out there and,
15 the way it's been done in the past is they purchase that right-of-way from
16 the applicant or get a permanent easement done from that applicant. But
17 typically, as was just seen in the East Mesa, some of those roads that are
18 being built out like Jefferson Road and Cortez, the City actually went out
19 there and obtained it or purchased that land to make it right-of-way, sir.
20
- 21 Scholz: Oh, I see. Okay. All right, those were my questions. Thank you.
22
- 23 Crane: I think, just want to follow up on what Commissioner Scholz said: so this
24 applicant has fallen foul of the fact that the City has designated this to be a
25 future Principal Arterial but has not gone about building it. Unfortunately,
26 because he has now decided he'd like to spread his lot, he is now stuck
27 with a quarter-mile of half of the Arterial without the utilities in it, as I
28 believe you told me at a similar time in a recent meeting. So the road
29 which he builds is going to be torn up in order to lay the utilities because
30 he can't have a quarter-mile of utilities at the start. So he's in an
31 unfortunate position, isn't he? Or, perhaps, that calls for opinion.
32
- 33 Ochoa: Mr. Chairman, unfortunately those are the requirements of the Subdivision
34 Code. Unfortunately it does not differentiate between the family kind of
35 subdivide, one lot into two, or to a developer creating a thousand-lot
36 subdivision. All developers fall within the same category and are required
37 to do those dedications and right-of-way build-outs, sir.
38
- 39 Crane: Thank you. Commissioner Scholz, are you through? Commissioner
40 Ferrary.
41
- 42 Ferrary: I was wondering how far into the future are the plans for widening this
43 road?
44
- 45 Ochoa: Mr. Chairman, Commissioner Ferrary, I cannot answer that question,
46 unfortunately. It is a proposed Principal Arterial roadway now by the MPO.

1 That actually is under the Transportation 2040 Plan so that might give you
2 some idea of the future that they're looking into. But as to any immediate
3 build-out of that road I have no idea what they have planned for that,
4 ma'am.

5
6 Crane: I have some questions, several. Looking at the current road: that piece of
7 asphalt is useless as regards the Plan, the required Plan, for putting half
8 of the proposed Arterial. Right? He's got to build-out to the center of the
9 Arterial right-of-way and provide sidewalks, curbs, gutters and it's unlikely,
10 tell me whether I'm right or wrong, that the existing asphalt is usable, the
11 existing road.

12
13 Ochoa: Mr. Chairman, not knowing what the actual condition or being an engineer
14 to be able to test that road and core it and see if it does meet Standard, to
15 be used for the continuation of the road, I cannot tell you that. Possibly the
16 engineer or the applicant can talk about that, sir.

17
18 Crane: Now I'm prepared to predict that the road will not located in the correct
19 place, let alone engineered correctly. Now I also noticed that there's a
20 variety of, I'll call them, setbacks of the existing properties from the road.
21 Some seem, perhaps, to have dedicated some property to which the road
22 could be expanded and don't know if you have anything that quite shows
23 it.

24
25 Dubbin: Mr. Chairman, if I may request that we take a short, maybe a five minute
26 break to research the Subdivision Code briefly and the road status, if we
27 could.

28
29 Crane: Okay, sir. We are adjourned for... Mr. Ochoa, you have something?

30
31 Ochoa: Mr. Chairman, what we could do also, you could question the applicant as
32 of now and staff could get the research... Would you like the recess?

33
34 Dubbin: Yes, please.

35
36 Ochoa: Okay.

37
38 Crane: So you're not needing the recess, sir?

39
40 Ochoa: Yes, please.

41
42 Crane: You do want the recess?

43
44 Dubbin: Yes, sir, five minutes.

45
46 Crane: Then we are recessed for five minutes and reconvene at 7:17.

1
2 RECONVENED AT 7:25

3
4 Crane: We are reconvened, ladies and gentlemen. Let me say for the record that
5 during the ten or fifteen minutes we were in recess there was a
6 conference between Legal and Fire Department and Mr. Ochoa and
7 another representative of Community Development. Mr. Ochoa will now
8 tell us what has transpired.

9
10 Ochoa: Mr. Chairman, our representative from the Fire Department did bring up
11 an issue about what the proposed waiver is actually for from the City
12 Engineer's perspective and he will go ahead and explain what we have
13 going on for you, sir.

14
15 Crane: Thank you.

16
17 Dubbin: Mr. Chairman, Mark Dubbin with the Las Cruces Fire Department. Did you want
18 to swear me in?

19
20 Crane: I suppose I should because otherwise there'll be accusations of
21 discrimination. Do you swear and affirm that the testimony you are about
22 to give us is the truth and nothing but the truth under penalty of the law?

23
24 Dubbin: Yes, sir.

25
26 Crane: Continue.

27
28 Dubbin: During the recess we reviewed the Subdivision Standards and under the
29 section of Access Requirements for Subdivisions, it states that the
30 subdivider's responsible, in this case, to build a half-section of the Major
31 Arterial that is in front of the property. He would then be responsible to
32 build a Minor Local to the nearest paved roadway, which would be Elks
33 Road. It doesn't involve the acquisition of any properties that isn't his and
34 it would be something that would be coordinated with the Public Works
35 Department and the Traffic Engineer to transition it. In most of these cases
36 the City doesn't want a piece of roadway built out in the middle of the
37 desert or a section of roadway that's not going to be utilized to its full
38 potential if it's not ready. So the typical solution would be the funds in lieu
39 of the improvements so that the City could put it towards the project later
40 on to make the proper improvements.

41
42 Crane: Does the current piece of Kennedy Road meet those criteria? What was
43 the term you used? A Local....

44
45 Dubbin: A Minor Local.

46

- 1 Crane: A Minor Local.
2
- 3 Dubbin: I don't believe so. Under this section it calls for, whether it's improved or
4 unimproved in most cases, but this is actually a special case where it's
5 addressed that if that road is identified as a Major thoroughfare by the
6 MPO, which this is, then in those cases the Minor Local roadway would
7 have to be constructed to the nearest roadway and this does not meet the
8 standard of a Minor Local roadway for the City.
9
- 10 Crane: Well, if the current roadway doesn't meet Minor Local Roadway Standards
11 there doesn't seem to be much point in having anybody build it up to those
12 Standards if, a little later, it's going to be torn up and extended into a Major
13 Arterial.
14
- 15 Dubbin: Correct.
16
- 17 Crane: Okay. Do you have anything else to say, sir?
18
- 19 Dubbin: No, sir. Thank you.
20
- 21 Crane: All right, Mr. Ochoa, where does that leave us...? Mr. Scholz.
22
- 23 Scholz: I have a question then. Can you give us a dollar figure on what that would
24 include?
25
- 26 Dubbin: I'm afraid not, sir.
27
- 28 Scholz: You know, part of our problem here is that we don't know how much this is
29 going to cost, right? I realize while it's the developer's responsibility to do
30 this I would appreciate in future cases if you would contact the, you know,
31 the City Engineer and ask the City Engineer to give us a ballpark figure
32 and say, "How much is it going to cost to build 60 feet wide in front of the
33 property and how much would it cost to build up the rest of the road to a
34 Minor Local?" I think our applicant is going to tell us that or our applicants'
35 engineer's going tell us that or something. But why doesn't the City
36 provide this information since they would want it in lieu of building the road
37 any way, wouldn't they? Just a suggestion.
38
- 39 Ochoa: Mr. Chairman, Commissioner Scholz, we'll definitely take that into
40 consideration for future waiver requests.
41
- 42 Crane: Mr. Ochoa, I have a couple other questions. In fact I was on the point of
43 saying that it seems that some people have already gone by what I take to
44 be their property line because they have a wall or something, have already
45 dedicated some land along Kennedy north and south to the roadway but
46 they did not build the roadway. Bottom line, there is no lot along there that

1 seems to have done what was required them to do. So has everybody
2 else who has a lot on that road failed to do what they're obligated to do or
3 is this just in this case because these people want to split their lot?
4

5 Ochoa: Mr. Chairman, that is correct. They are required to do these improvements
6 because they are actually subdividing their property. The other residents
7 there who put up rockwalls and so forth, they're just building on their
8 property and not required to actually improve the City right-of-way nor
9 dedicate either.

10
11 Crane: Okay. Well, let's say the current applicant says it's worthwhile to himself to
12 run half a Major Arterial and then a Minor access road back to Elks Drive
13 and then the City says, "It's time for us to do this Major Arterial." Who is
14 going to pay for the Major Arterial? Who is going to pay for the land
15 acquisition that, in this case these people had to give up the acquisition of
16 land, for these people don't have anything else to donate, and to build the
17 highway? My point being and I believe that what Mr. Scholz said is quite
18 right: there's an enormous burden being anticipated by these people
19 because he's going to split a lot. All the other people on that road,
20 because they're not splitting a lot, while they haven't done anything wrong,
21 are going to benefit by having what (*inaudible*) to them a free highway put
22 in by the City. Do I understand the City would have to buy any additional
23 land from the property owners?
24

25 Ochoa: Mr. Chairman, when the City would come in to actually develop that 120
26 foot right-of-way, yes, they would have to purchase. Whoever built out that
27 roadway would have to somehow obtain the right-of-way for the build-out
28 of that 120 foot right-of-way. You are correct.
29

30 Crane: And it said somewhere in the documents you've given us that there's been
31 no suggestion, no request for a payment in lieu of this road building by the
32 applicants.
33

34 Ochoa: Mr. Chairman, that is correct and then again, going back to their rationale
35 for requesting it is they feel that the cost for doing the proposed
36 improvements is just too much for a two-lot split.
37

38 Crane: Right. But their payment in lieu of does not have to be 100% of the
39 estimated cost of the work, does it?
40

41 Ochoa: Mr. Chairman, their payment in lieu of has to be the build-out of the road
42 adjacent to their property, the 60 feet and the Minor Local roadway to Elks
43 Drive. That's what they would have to do a payment in lieu of, sir.
44

- 1 Crane: So they are going to have to get a contract to do work themselves and pay
2 a million bucks or whatever or they give the City a million and say, "Do it,"
3 or say, "Here's your million and we want to split our lot."
4
- 5 Ochoa: Yes, sir. Well, those funds would actually be placed into an account that
6 the City has for future projects and that money would be used towards the
7 build-out of that road eventually, sir.
8
- 9 Crane: But either way they have to meet their cost, either by doing it themselves
10 or by giving the City the estimated cost...
11
- 12 Ochoa: That's correct, sir.
13
- 14 Crane: ... to put in escrow. Okay. Thank you. Commissioners, any other
15 questions? Mr. Alvarado.
16
- 17 Alvarado: What would happen... could one of the property owners block the building
18 of the road to Elks by refusing to dedicate this piece of property?
19
- 20 Ochoa: Mr. Chairman, Commissioner Alvarado, since they would not have to
21 actually obtain that right-of-way from the adjacent property owners now to
22 build out that road the central road, they can't, essentially... although it's
23 not 100% sure or clear if everybody's already dedicated the required right-
24 of-way for Kennedy Road as it exists now. So if there is a property owner
25 there whose property line actually runs to the center of what's considered
26 Kennedy Road and they decide not to give or allow the City or whoever to
27 obtain their land then they could block that subdivision, sir. Basically, it
28 works out... You don't have the right to subdivide, if you will, under the
29 City of Las Cruces. You have to meet the Standards in order to subdivide.
30 So if the right-of-way isn't there and nobody wants to hand over the area
31 for right-of-way then, essentially, that's what happens, sir. It just stops
32 there.
33
- 34 Alvarado: Thank you.
35
- 36 Crane: As I understand, as we have been told by Mr. Dubbin, that the current
37 applicant does not have to build the Major Arterial all the way back to Elks.
38
- 39 Ochoa: No, sir, just the Minor Local road. Correct.
40
- 41 Crane: All right, and there's probably enough land already there if you... well, it's
42 hard to tell where the property lines are but, okay, I understand. Mr.
43 Shipley.
44
- 45 Shipley: Mr. Ochoa, just one question: if the applicant dedicates the right-of-way
46 now and then the City decides at some future date that they're gonna build

- 1 the 120 foot roadway, Principal Arterial, farther out to the west would they
2 be reimbursed for the cost of the land that they gave up? If they had to
3 buy the land from the other people at market value would these people be
4 given money for the land that they dedicated?
5
- 6 Ochoa: Mr. Chairman, Commissioner Shipley, no, they would not. Since they are
7 subdividing they are required to dedicate that land and provide the
8 required improvements. So they have already given it up to the City so it
9 would just be their property and they could do the improvements as
10 needed, sir. So, no, they would not be compensated for that.
11
- 12 Shipley: So the other question is: so the only utilities out there now is electricity.
13 Everything out there is septic and well? Is that correct?
14
- 15 Ochoa: Mr. Chairman, Commissioner Shipley, let me double check my notes, sir.
16 I'll be right with you, sir, and I'll answer your question. You can continue to
17 ask your question about that. Of course, I believe the applicant could
18 answer that question as well, sir.
19
- 20 Shipley: Mr. Ochoa.
21
- 22 Ochoa: Yes, sir.
23
- 24 Shipley: I would think we should probably hear from the applicant and then if we
25 have any more questions you can research while we're doing that.
26
- 27 Ochoa: That sounds good, sir.
28
- 29 Crane: Well, Ms. Ferrary's light was on a moment ago.
30
- 31 Ferrary: I was wondering along that same line: if credit could be given for the land
32 they donate when there might be assessments later on for improvements.
33
- 34 Crane: Mr. Ochoa?
35
- 36 Ochoa: Mr. Chairman, Commissioner Ferrary, no, ma'am. Like I said, they've
37 already given up their right-of-way so unless they are requiring additional
38 right-of-way from the property owner then they would be compensated for
39 that. But as a subdivider they are responsible for the current dedication
40 and build-out of the right-of-way there.
41
- 42 Ferrary: Unless we waive that.
43
- 44 Ochoa: Correct.
45

1 Crane: I think our discussion might proceed more easily if, as Mr. Shipley
2 suggests, we hear from the applicant now and get a number of points
3 cleared up. I believe we were told that the applicant has some estimates
4 of costs and we also need to have that question about utilities answered.
5 Please identify yourself, sir, and then I will swear you in.
6

7 Montoya: John Montoya.
8

9 Crane: Do you swear and affirm that the testimony you are about to give us is the
10 truth and nothing but the truth under penalty of the law?
11

12 Montoya: I do.
13

14 Crane: Thank you and continue.
15

16 Montoya: Once again, my name is John Montoya. I'm an Engineer here in Las
17 Cruces. I've been working here for about 27 years having to give you
18 some credibility to the numbers I'm gonna throw out at you so that you
19 understand or at least feel comfortable with the numbers that I give you.
20 I've done projects such as Valley Drive which was just completed, and
21 projects such as the I-10/I-25 Interchange and did the project for New
22 Mexico DOT and we also did the six-lane, which went from the city limits
23 to the Texas state line. So that kind give you an idea of what I've done in
24 the past because I'm gonna throw out some numbers here and I don't
25 want you to think, "Well, this guy's just shooting in the wind." But I have a
26 real good familiarity about how to predict numbers on road projects.

27 Once again, like Adam mentioned and he did a good job, is we're
28 doing a one-lot split and I think because the City groups it as a subdivision
29 and it's a one-lot split, they have an Alternate Summary Subdivision
30 procedure, which I'm not sure how it varies from the regular Subdivision
31 procedure; and then this one is a replat. This is part of the old Elephant
32 Butte Land & Trust Subdivisions that were done a long time ago and they
33 just were poorly planned and so a lot of people have done that, just gone
34 through and they go through and they split the lots up so that it
35 accommodates them and their families or whoever.

36 I'm gonna kind of use your presentation, Adam. There was a figure
37 here that he showed. Now if you look right there where it says, "Subject
38 property," see all the lots that are clustered there to the west of Mr.
39 Valverde's property, and I'm here representing Mr. Valverde. Those were
40 all done at some point through a Summary Subdivision or through a replat.
41 So that's all we're trying to do.

42 And in the dedication, what the applicant has been willing to
43 dedicate is a quarter-of-an-acre, which in the front right there on Kennedy,
44 and when this was done back in '92, when it was replatted in '92 he had
45 already given 5 feet. So now he's gonna give another 35 feet so that you
46 can have the entire width there in front. So that kind of gives you an idea

1 of what we're asking for, like Adam mentioned is a waiver to any of the
2 improvements along Kennedy Drive and there's a big reason for not to
3 because first of all, it's a hardship on him. That's a lot of money to do for a
4 lot split. The major reason is that if try and go build it right we'll never get
5 it right, I mean, there's vertical that has to be considered, there's utilities
6 that have to considered and then there's drainage. By paving this road all
7 the way to Elks we'd create a drainage issue which has to be taken care
8 of so it's not just the road itself.

9 And the same thing with utilities: we had asked for utilities out
10 there. There is gas, gas is out there, which is City of Las Cruces gas.
11 There is Doña Ana Water, Mutual Water's out there and then El Paso
12 Electric, obviously, and they are on septic tanks in this area here and the
13 size of the lot meets the NMEBD requirements.

14 So I'm gonna talk a little bit about the costs and why it makes it so
15 hard and almost doesn't make any sense why it would be imposed on
16 somebody that's just trying to make one lot split. First of all I'm gonna
17 have to improvise here because I'd originally compared it to Valley Drive.
18 Valley Drive is a four-lane, with a median, sidewalks, curb, lighting, all the
19 utilities were replaced on Valley Drive. It has a storm drain system that
20 goes out to Hoagland. That project for a mile: 1.1 mile was \$6.6 million
21 and that was all funded by Federal. The City provided utility money and it
22 was also funded by State so there was no City money involved other than
23 utilities because the utilities because the utilities are owned by the City. If I
24 equate that to a quarter-mile, which is the portion from Elks to the west
25 side of this property that's \$1.5 million. So if I say, "Okay, then now let's do
26 half of that because he's required to do half," that's \$750 thousand is what
27 we're saying by Code he would have to produce to make this work.

28 Now we just heard, because Mr. Dubbin went and looked at the
29 Code again, and so now we can do a 37 foot path, paved path, all the way
30 to Elks and then we have to do the 60 foot width road section in front of
31 the property. So I did some quick numbers there. That comes out to \$142
32 thousand just for in front of his lot and about \$285 thousand to take it from
33 there all the way to Elks Drive. There I'm basing it off of Valley Drive and
34 just because it's very similar in nature as far as width. That includes
35 utilities, lighting and an urban road section is what it includes, drainage,
36 sidewalks, curb and gutter.

37 The other thing I was gonna... 'cause you guys had talked about
38 how would he get reimbursed or if he would get reimbursed is, if we talk a
39 little bit about the street that just was completed, the one on Engler that
40 went through that grade separation, the underpass there. The project
41 budget on that one was \$14 million. That included right-of-way. That
42 included the bridge. That included all the improvements that you see
43 there. The construction alone was a little over \$8 million so somewhere in
44 there somebody bought right-of-way so we're looking at \$6 million. They
45 did the engineering. They did all the studies that are incorporated with that

1 so that little piece of road there was quite a bit of money and none of it
2 came from the City.

3 From what I understand... and I pulled this budget sheet off an
4 NMDOT website, \$12, 400,000 came from Federal and \$1,938,000 came
5 from the State and none of it came from the City. So grabbing that money
6 and throwing it into a kitty it may never get used. This is on the MPO's
7 Long Range Plan so they're gonna go look for money that's coming from
8 Federal sources and State sources to build this and so what happens is
9 Mr. Valverde sells everything and mortgages to pay for this and the MPO
10 turns out, 'cause they're a good MPO and they're good at grant writing,
11 they get this grant to pay for the whole thing... does he get reimbursed? I
12 mean, you can't do that. Once it's in there you can't give it to a private
13 person anymore so I just ask you if that's fair.

14 Let's see if there was anything else I wanted to talk about... the
15 right-of-way. I don't know if you guys have come down that road recently
16 is: you come down under the underpass and you look at the light and
17 there's a house right in front of it. I'm guessing that some of this when
18 they do go to build this they're gonna have to take the house because it
19 just doesn't line up. And that's the other thing is the alignment's gonna
20 have to be studied again when they do it and it may shift a little bit. So
21 building this road just isn't gonna... it'll get tore up when it gets to be
22 replaced again. Mr. Chair, Commission, that's all I had. If you have any
23 questions for me I'll be glad to try and answer them.

24
25 Crane: What is fresh in my mind, Mr. Montoya, where are the utilities at present?
26 Are they in place under Kennedy Road? You spoke of gas, water and
27 electricity. There are no storm drains and there's no sewer, right?
28

29 Montoya: Correct, Commissioner.
30

31 Crane: They're in the roadway.
32

33 Montoya: Yeah. The electricity is overhead.
34

35 Crane: Uh-huh.
36

37 Montoya: The water and the gas are underground.
38

39 Crane: Okay. So you're taking that relaying of those drains, those two utilities, into
40 account in your estimate?
41

42 Montoya: Yes.
43

44 Crane: So I suspect when Valley Drive was done up around Mayfield High School
45 they were dealing with probably five different pipes.
46

- 1 Montoya: We were dealing with gas, water and sewer. Electric was overhead.
2
3 Crane: And storm drains.
4
5 Montoya: And storm drains.
6
7 Crane: Yeah. And potable water.
8
9 Montoya: Yes, which is the City of Las Cruces water, their gas line and their sewer
10 lines.
11
12 Crane: Okay. Thank you. Commissioners? Somebody has a light on.
13 Commissioner Scholz.
14
15 Scholz: Yes. I wanted to thank you for enlightening us about the cost. Now you
16 said these are ballpark estimates because you're, you know, sitting there
17 with your calculator and saying, "Okay, it's gonna be a portion of this and
18 a portion of that." I appreciate your remarks about the realignment,
19 though. When I was out there, as I said earlier, I noticed that the entrance
20 to Kennedy was much narrower than the width of Engler and obviously
21 they did that because it was convenient, but equally, obviously it would
22 have to be realigned or remade in order to be the same width all the way
23 through. So anyway I just wanted to comment that I appreciate your
24 comments on that.
25
26 Crane: Yeah, to follow up on that I noticed, looking at the aerial photograph, that
27 maybe two houses would have to come out. Yes, that one. If you look at
28 Elks and Kennedy there, if you put in a Major Arterial, I don't know what
29 120 feet looks like on this, but they're gonna clip those two lots on the
30 corner.
31
32 Montoya: It's really close to this, Mr. Chair. This width here is the public right-of-way,
33 right east of Elks Drive for that underpass.
34
35 Crane: Okay, thank you, Mr. Montoya. Anybody else have questions of Mr.
36 Montoya. Any other member of the public wish to speak?
37
38 *(Mr. Valverde speaking from the audience – inaudible)*
39
40 Crane: Sir, come up. We can't hear you. You're Mr. Valverde?
41
42 Valverde: Yes, sir. Mr. Chairman, my name is Richard Valverde.
43
44 Crane: Do you swear and affirm that the testimony you are about to give us is the
45 truth and nothing but the truth under penalty of the law?
46

1 Valverde: Yes, I do.

2
3 Crane: Thank you.

4
5 Valverde: The only thing I wanted to point out is that I believe the water is up to that
6 white trailer where it says "Kennedy" to the left. There's a little white trailer
7 there and it's up to the 6 inch line... right there. The water goes to there
8 and the rest of it over here is well water or whatever. There's a cap off
9 there.

10
11 Crane: Off to the west, southwest.

12
13 Valverde: Yes. And coming in from the Elks Drive, those two houses for sure are
14 gonna be taken and the rest of those houses are within 3 or 4 feet from
15 the 60 foot center of the road, which will equal the 120 foot. Another thing I
16 wanted to point out, by doing this we will only be losing and dedicating the
17 road to you guys, it's 40 feet. We gave 5 foot seven years ago or
18 whatever. We're also including the 25 foot arroyo in the back, which was
19 given as an arroyo so we're losing that, too. That's it.

20
21 Crane: Thank you.

22
23 Valverde: Thank you.

24
25 Crane: Is there anybody else from the public? Then, Commissioners, we'll close
26 it to public discussion and ... what is your wish?

27
28 Scholz: We have to rise from the

29
30 Crane: Oh, yeah.

31
32 Shipley: We have to reinstate the rules.

33
34 Scholz: There we go. Thank you. I so move.

35
36 Crane: One moment. If we have some further discussion among ourselves about
37 the whole package then we should leave the rules suspension in place for
38 the moment. Don't you agree?

39 Well, I suppose none of us has any great problem with the idea of
40 the lot split and I think all of us probably have some problem, I certainly
41 do, with the requirement that the applicant build so much highway
42 regardless of the details. It seems to me that everybody else in the
43 neighborhood lucks into, what in NASCAR they call the "Lucky Dog." In
44 other words, they get basically a free highway. These people get
45 penalized because they happen to want to split a lot at this point and I
46 can't in all conscience see why we should refuse the waiver for them. I

1 don't see what harm he's done to anybody. Their lot split is not going to be
 2 the death of Kennedy Road, which I'm sure can take another few cars a
 3 day. Anybody else want to comment? Mr. Shipley.

4
 5 Shipley: I would say that this is one of those things where we need to have the
 6 Code modified with regards to a lot split versus a development. If we were
 7 building, you know, a hundred new homes out here in a subdivision that
 8 was going to increase traffic it would be mandatory and this would be the
 9 way to do that because the cost of that could be split up among all of the
 10 50, 100 homes, whatever was going to be done. It is not fair and it should
 11 not be done this way now.

12 The other thing I think is unfair is that the City is the one that's
 13 planning and doing the work to lay out where the streets are gonna go,
 14 where the utilities are gonna go and they are the ones that need to drive
 15 the train on this and they're the ones that need to go and either purchase
 16 or secure the right-of-way from all of the residents at one time as opposed
 17 to trying to do it a little piece at a time. The biggest problem we have in
 18 this community is we piecemeal everything. We do not plan and say,
 19 "We're gonna build five roads this year and we're gonna start from Point A
 20 and go to Point B and everything's gonna be taken of in that Point A to
 21 Point B." If we were to do that and we had a plan that says that in twenty
 22 years this much of the roads would be completed in the city we'd be much
 23 better off because we could do the kinds of things right now. We are a
 24 rural community out in this area. So I don't think that this is appropriate at
 25 all.

26 In fact, if I were Mr. Valverde, I think I would be inclined to withdraw
 27 my dedication and say, "Come and pay me for it if you want it." I'd be
 28 happy to let you do that and, "Come pay me." But that's just my personal
 29 thing now. That's not what I would vote for.

30
 31 Crane: Commissioner Scholz.

32
 33 Scholz: We've had, I think, since I've been on the Commission half-a-dozen
 34 similar cases and, with one exception, and that was to a specific
 35 developer, I believe, we've made this allowance and we've said, "Okay.
 36 You can divide this lot and you don't have to pay for road all the way as
 37 long as you're giving us the dedication," and then they're willing to do that.
 38 They're willing to give us the dedicated right-of-way.

39 The other thing that I wanted to mention was that at least a year
 40 ago we had a fellow in the audience who spoke at one of the public
 41 sessions at the end of a P & Z meeting who said that we are gonna face
 42 more of these situations where people have a large lot that they want to
 43 subdivide, whether they want to do it for personal gain or if it's for family or
 44 whatever, and we're gonna have to deal with this kind of small subdivision
 45 and there really has to be something in the Subdivision Code which allows
 46 this and I think we have to encourage the Community Development

1 people to develop this sort of thing and get the City Council to pass it
2 because we shouldn't have a penalty on some, you know, this is small
3 potatoes.
4

5 Crane: I agree and it strikes me a further nail in this coffin is that if the applicant
6 went ahead and did what is asked of him there will be a very long delay
7 while planning is done, engineering planning as to where the utilities
8 would go, and that would have to include, if they're going to bring
9 everything up to date, storm drains and potable water and that would also
10 be a burden on the applicant.

11 I don't know quite how to handle this in a parliamentary way but it
12 seems to me that there have been a couple of other good ideas that this
13 Commission has had since I've been on it, and that's not my fault. One of
14 them was about the realtors being given some kind of formal presentation
15 at intervals by the City as to what is simply the matters of zoning in
16 residential areas so they don't tell people, "Oh, yes. You can you can stick
17 a porch on there," which has nailed a number of people who said, "The
18 realtor said I could do this." Now it may or may not be true but we did
19 make that recommendation, I believe that got the notice of City Council.

20 I think we should be able to vote on a resolution, which I will
21 suggest Mr. Shipley word that we recommend, respectfully, to the City
22 Council that this matter be addressed. Would you care to do something
23 like that? In the matter of a developer being asked to do something
24 expensive on an individual mark.
25

26 Shipley: Well, I really think what we need to do is task Community Development to
27 come up with a modification to the Development Code that says that for a
28 small split... and this is basically a lot split. This is not a subdivision. We're
29 not building 50 homes or 20 homes or whatever. So a lot split that has no
30 impact on traffic should be able to be done, especially in the rural areas
31 and we may want to have Community Development put together that word
32 to take it to City Council because they need to say, "What size lots are we
33 talking about? Are they half-acre lots? Where are they in relation to the
34 infrastructure in the city?"

35 We had a lot split last month that was in town and everything was
36 built-out but basically it was taking one lot and splitting it into two and
37 there was some objections to that. But, again, that was in the urban area
38 of downtown and all the streets were laid out and all the utilities were
39 covered and there was no problem then doing that except for: where do
40 we locate the driveways and how do we handle the traffic coming out of
41 those two houses? But this is a little bit different and so I don't know that
42 we can make a motion to do that. I think what we just do is just make a
43 recommendation to the Community Development Department to bring us
44 some language that talks about lot splits in this particular case.
45

- 1 Crane: I agree. The Community Development Department is here and is listening
2 intently will remember this until tomorrow. Right?
3
- 4 Ochoa: Yes, sir, Mr. Chairman, I will bring that up to my superiors.
5
- 6 Crane: Thank you.
7
- 8 Scholz: He was writing things down, too. *(All laughing)*
9
- 10 Crane: He wrote it down, too? Okay, I think we can move to...
- 11
- 12 Shipley: Mr. Chairman, at this point I would like to move that we reinstate the rules
13 and treat these two cases.
14
- 15 Crane: You took the words out of my mouth. May I have a second?
16
- 17 Scholz: Second.
18
- 19 Crane: Seconded by Scholz. All in favor?
20
- 21 All: Aye.
22
- 23 Crane: Against? None. Thank you. It passes 5-0. So the rules are reinstated. Let
24 us then proceed to vote on the lot split, the Replat S-12-012. We probably
25 all had our say. Anybody want to address this issue other than to vote?
26
- 27 Shipley: I move to approve.
28
- 29 Scholz: Second.
30
- 31 Crane: And seconded by Mr. Scholz. Let's start with Mr. Shipley this time.
32
- 33 Shipley: Aye, findings and discussion and site visit.
34
- 35 Crane: Commissioner Ferrary.
36
- 37 Ferrary: Aye, site visit, discussion and findings.
38
- 39 Crane: Commissioner Scholz.
40
- 41 Scholz: Aye, findings, discussion and site visit.
42
- 43 Crane: Commissioner Alvarado.
44
- 45 Alvarado: Aye, findings, discussion and site visit.
46

- 1 Crane: And the Chair votes aye, based on findings, discussion and site visit. This
2 passes 5-0. Thank you.
3
- 4 Shipley: Mr. Chairman, I move to approve S-12-012W with conditions and I'll read
5 those conditions.
6
- 7 Crane: Go ahead.
8
- 9 Shipley: Number 1: the construction of all subdivisions, public and private
10 improvements, within the corporate limits of the city shall conform to all
11 applicable sections of the City Design Standards. Subdivision Code Article
12 12, Section 37-360. Number 2: access to lots within a residential
13 subdivision shall be from a dedicated and accepted improved public right-
14 of-way, Design Standards Article 2, Section 32-36.
15
- 16 Ochoa: May I interject? I'm sorry. Mr. Chairman, Mr. Shipley, I'm sorry. There are
17 no conditions on the case S-12-012W. That was a recommendation of
18 denial.
19
- 20 Crane: Okay.
21
- 22 Shipley: It's just for the denial. I'm sorry. Okay, then I just move for approval.
23
- 24 Crane: Do I have a second?
25
- 26 Scholz: Second.
27
- 28 Crane: Seconded by Commissioner Scholz. I will start with Commissioner
29 Alvarado.
30
- 31 Ochoa: I'm sorry, sir. One more interjection. Again, since staff did recommend
32 denial if anybody does vote for approval it'd have to be based on anything
33 but findings since findings are for denial. Just for clarification, sir.
34
- 35 Crane: You up to there, Mr. Alvarado?
36
- 37 Alvarado: Yes. I vote aye to allow the waiver based on discussion.
38
- 39 Crane: Mr. Scholz.
40
- 41 Scholz: Aye for the waiver based on discussion.
42
- 43 Crane: Commissioner Ferrary.
44
- 45 Ferrary: Aye for the waiver, discussion and site visit.
46

1 Crane: And Commissioner Shipley.

2

3 Shipley: Aye for the waiver, discussion and site visit.

4

5 Crane: And the Chair votes aye, based on discussions and site visit. So this
6 passes 5-0. Thank you.

7

8 **VIII. OTHER BUSINESS –NONE**

9

10 Crane: Any further business, Mr. Ochoa? I think you do have something. Yes.

11

12 Ochoa: Yes, sir. Just for clarification we have no other business for you all tonight
13 and it might not have a meeting next month considering our notification
14 requirements and so forth. I believe we may not have cases ready for next
15 month so you all might get the night off. On top of that I also want to
16 introduce our new Associate Planner. This is Ezekiel. I will let him
17 introduce himself a little further but he's been with us for a while. He's
18 actually started off with the MPO and we lured him away from the...
19 uh...dark side, I guess. I dunno. They're pretty nice guys, too. But he is
20 our Associate Planner now and he is getting trained very well, hopefully,
21 and he'll be coming forward to the public hearings with his own cases
22 sometime soon as well.

23

24 Guza: Hi. It's very nice to meet you guys. I attended the last meeting also so I'm
25 starting to get a hang of the procedures and everything and hopefully I'll
26 be before you guys before not before too long.

27

28 Crane: Thank you. We're pleased to be cooperating with you in the future and
29 you have tough shoes to fill with Mr. Ochoa.

30

31 Ochoa: Oh, I'll still be here.

32

33 **IX. PUBLIC PARTICIPATION**

34

35 None

36

37 **X. STAFF ANNOUNCEMENTS**

38

39 Crane: Any other business? Staff announcements apart from that one?

40

41 Ochoa: No, sir. There are none.

42

43 **XI. ADJOURNMENT (8:14)**

44

45 Crane: In that case we are adjourned at 8:14. Thank you.

46

ZONING: REM
OWNER: RICHARD & AURORA VALVERDE

587
Zone Map

PARCEL: 02-20689
DATE: 04/22/2013

ATTACHMENT D



Legend		
	EXISTING LIMITED ACCESS	
	EXISTING PRINCIPAL ARTERIAL	
	EXISTING MINOR ARTERIAL	
	EXISTING COLLECTOR	
	PROPOSED LIMITED ACCESS	
	PROPOSED INTERCHANGE/UNDERPASS	
	PROPOSED PRINCIPAL ARTERIAL	
	PROPOSED MINOR ARTERIAL	
	PROPOSED COLLECTOR	
	PROPOSED CORRIDOR	
	Non Designated Trail	
	Proposed Paved EBID	
	Proposed Unpaved EBID	
	City Parcel	
	Interstates_Highway	
	EBID Water System	
	Railroad	



Community Development Department
700 N Main St
Las Cruces, NM 88001
(575) 528-3222



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