

230
City of Las Cruces[®]
 PEOPLE HELPING PEOPLE

Council Action and Executive Summary

Item # 12 Ordinance/Resolution# 14-125

For Meeting of _____
 (Ordinance First Reading Date)

For Meeting of January 21, 2014
 (Adoption Date)

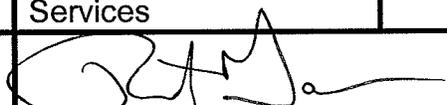
Please check box that applies to this item:

QUASI JUDICIAL LEGISLATIVE ADMINISTRATIVE

TITLE: A RESOLUTION APPROVING A WAIVER FROM 100% OF THE REQUIRED ROAD IMPROVEMENTS TO PORTER DRIVE ASSOCIATED WITH A PROPOSED SUBDIVISION PLAT KNOWN AS GUADALAJARA ACRES ON A 2.107 ± ACRE PARCEL LOCATED AT 4660 PORTER DRIVE. SUBMITTED BY THE LOPEZ AND AISPURU FAMILIES, PROPERTY OWNERS (S-13-023W).

PURPOSE(S) OF ACTION:

Subdivision road improvement waiver approval.

COUNCIL DISTRICT: 6		
<u>Drafter/Staff Contact:</u> Susana Montana	<u>Department/Section:</u> Community Development/Building & Development Services	<u>Phone:</u> 528-3207
<u>City Manager Signature:</u>		

BACKGROUND / KEY ISSUES / CONTRIBUTING FACTORS:

The subdivision known as Guadalajara Acres is for a parcel of land located at the northeast corner of Porter Drive and Jefferson Lane and is addressed as 4660 Porter Drive. The applicants seek to subdivide a property for family members. The parcel is zoned REM (Single-family Residential Estate Mobile) which only allows one dwelling unit per parcel. The proposed subdivision would split the 2.107-acre tract into two (2) new 1± -acre single-family residential lots, each with a mobile home occupied by family members. The City of Las Cruces Subdivision Code and Design Standards require the subdivision to provide one-half street section road improvements for the 281.29 linear feet of frontage of Porter Drive abutting the two new parcels. The Mesilla Valley Metropolitan Planning Organization (MVMPO) has designated Porter Drive as a principal arterial roadway on its Major Thoroughfare Plan; however, Porter Drive is currently developed to a minor local road street standard. The two-lot split qualifies as an Alternate Summary Subdivision which can be approved administratively provided the City Council approves the road improvement waiver. The applicants are requesting a waiver of 100% of the required road improvements. No alternative, including a fee-in-lieu of improvements, is proposed.

The waiver request was recommended for approval by the Planning and Zoning Commission on November 26, 2013 by a vote of 4-0 (three Commissioners absent). The Planning and Zoning Commission determined that: (1) Porter Drive functions well for the current traffic, including the applicant's anticipated trips associated with the lot split; (2) the applicant's need to provide a second unit to facilitate the care for an ailing family member (mother) constitutes a significant hardship that should be accommodated; (3) requiring the applicant to build a half road section to principal arterial standards is wasteful and makes no sense because the City has no plans in the foreseeable future to build Porter Drive to a principal arterial standard and, if the applicant did so, the road would degrade before the City built the rest of the road; (4) the applicant demonstrated through testimony and exhibits that the family suffers from financial hardships due to a serious medical illness of a family member and; therefore, cannot afford to pay the \$100,000 needed to build Porter Drive as a principal arterial road or cannot contribute a portion of that amount as an in-lieu fee; and (5) the Subdivision Code requirement that a 2-lot split should require road improvements along the frontage when the road works perfectly well should not be applicable to this subdivision application. Please see Attachment "C" for a more detailed summary of the discussion that took place at the Planning and Zoning Commission meeting.

SUPPORT INFORMATION:

1. Resolution.
2. Exhibit "A", Proposed Subdivision Plat.
3. Attachment "A", Waiver Request.
4. Attachment "B", Staff Report to the Planning and Zoning Commission for Case S-13-023W.
5. Attachment "C", Draft minutes from the November 26, 2013 Planning and Zoning Commission meeting.
6. Attachment "D", Vicinity Map.
7. Attachment "E", Neighbor Support Petition.

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"/>	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 shall be required for Porter Drive abutting the subdivision.
2. Vote "No"; this will reverse the recommendation made by the Planning and Zoning Commission. Road improvements to Porter Drive abutting the proposed subdivision shall be required.
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. 14-125

A RESOLUTION APPROVING A WAIVER FROM 100% OF THE REQUIRED ROAD IMPROVEMENTS TO PORTER DRIVE ASSOCIATED WITH A PROPOSED SUBDIVISION PLAT KNOWN AS GUADALAJARA ACRES ON A 2.107 ± ACRE PARCEL LOCATED AT 4660 PORTER DRIVE. SUBMITTED BY THE LOPEZ AND AISPURO FAMILIES, PROPERTY OWNERS (S-13-023W).

The City Council is informed that:

WHEREAS, Maria R. Lopez, Jaime G. Lopez, Christina Aispuro and Juan Aispuro, the property owners, have submitted a request to waive 100% of the required road improvements for Porter Drive associated with the Guadalajara Acres subdivision application, Case Number S-13-023; and

WHEREAS, Porter Drive is a paved road developed to minor local road Design Standards but is designated as a principal arterial road by the Mesilla Valley Metropolitan Planning Organization (MVMPO) Major Thoroughfare Plan; 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 proposed subdivision; and

WHEREAS, the Planning and Zoning Commission, after conducting a public hearing on November 26, 2013, recommended that said waiver request be approved by a vote of 4 to 0 (three Commissioners, Ferrary, Beard and Scholz, 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 to Porter Drive for the 281.29 linear feet frontage of that street for the proposed subdivision, as

shown in Exhibit "A" and attached hereto, 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 _____ 2014.

APPROVED:

Mayor

ATTEST:

City Clerk

(SEAL)

Moved by: _____

Seconded by: _____

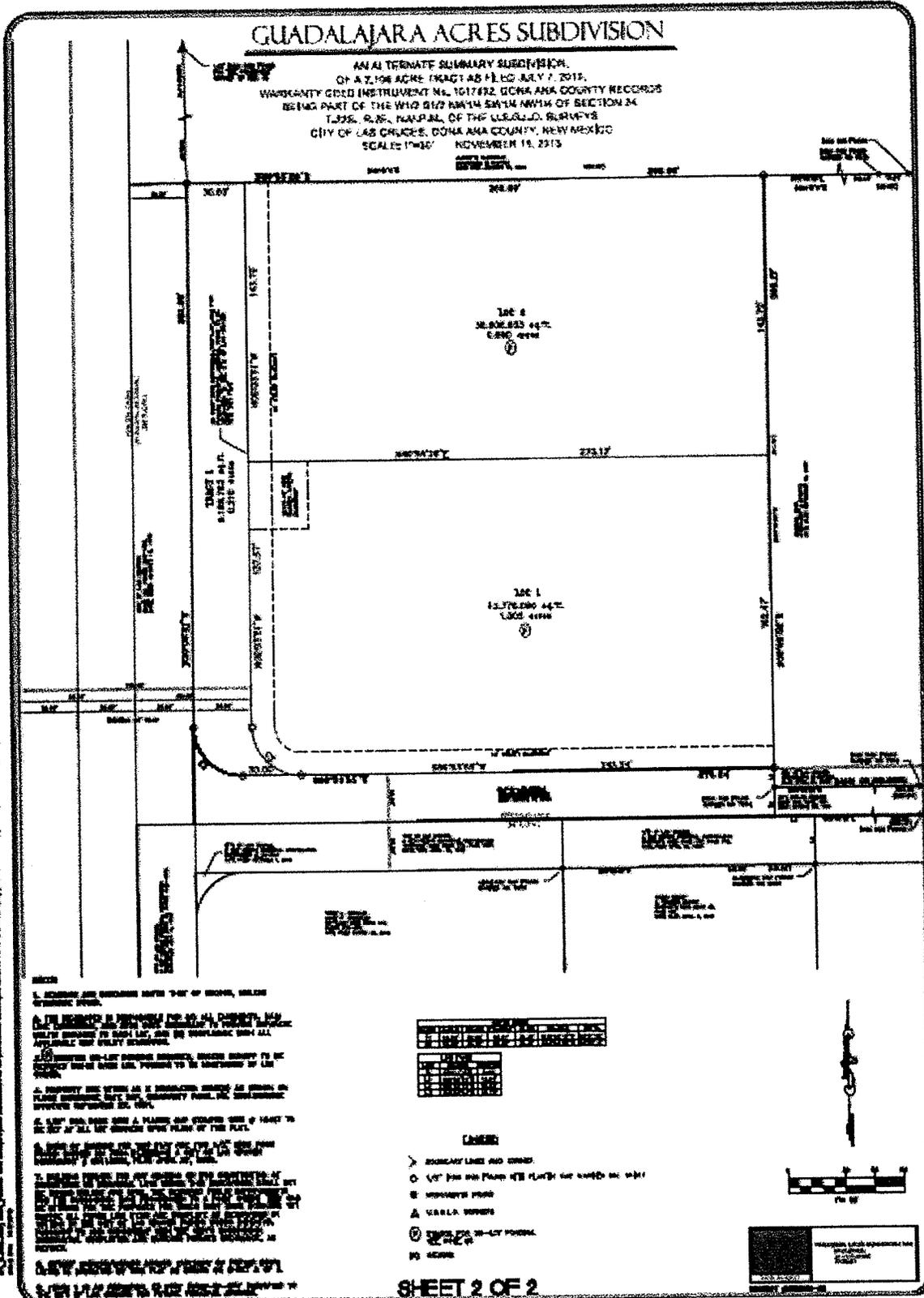
APPROVED AS TO FORM:



City Attorney

VOTE:

Mayor Miyagishima:	_____
Councillor Silva:	_____
Councillor Smith:	_____
Councillor Pedroza:	_____
Councillor Small:	_____
Councillor Sorg:	_____
Councillor Levatino:	_____



Guadalajara Acres Subdivision Improvement Waiver

City of Las Cruces
P.O. Box 20000
Las Cruces, NM 88004

RE: Guadalajara Acres Subdivision- Porter Improvements Waiver Request.

On behalf of Maria R. Lopez, Jaime G. Lopez, Christina Aispuro and Juan Aispuro, please accept this request for a waiver to the Dona Ana County and City of Las Cruces Subdivision Requirements for Roadway improvements.

The subject property is a 2.107 acre parcel located at the intersection of Porter Drive (a 60' paved and a 30' unimproved road on each side of the paved road, being a 120' major arterial public right of way) and Jefferson Lane (a 50' improved road), northeast of the of Las Cruces. This property is part of the W1/2 S1/2 NW1/4 SW1/4 NW1/4 of Section 24, T.22S., R.2E., N.M.P.M., of the U.S.G.L.O. Surveys, City of Las Cruces, Dona Ana County, New Mexico, as filed in July 7, 2010, Warranty Deed Instrument No. 1017802, Dona Ana County Records, bought the property in 2010 with the intention of dividing the property in two equal parcels for their respective homes. In accordance with the Dona Ana County and City of Las Cruces Subdivision Code, we respectfully request a waiver from any payments or improvements along the 30' unimproved east side of Porter Drive due to:

1. Financial hardship. Juan Aispuro is currently employed and only household and Mrs. Aispuro is a student not a full time employee.
2. Jaime G. Lopez and Maria R. Lopez are currently unemployed
3. Quote by R' Construction was \$90,000.00 for clear grub and 6" base course and 6" pavement for 9,000 SF and 1,500 SF of concrete sidewalk.
4. The current pavement section is adequate to carry the existing roadway traffic and the additional traffic caused by the development of the subdivision.
5. No similar infrastructure for a major arterial roadway exists anywhere near the subdivision.
6. No increase in traffic will occur on Jefferson Lane, as both lots front the Porter Drive.
7. Numerous replats nearby were constructed without road improvements.
8. The intent of this subdivision is not for profit, but to benefit family members.

We sincerely appreciate your consideration for this request and if you have any questions or require additional information please contact me.
Sincerely,

Maria R. Lopez
Maria R. Lopez
5925 Pecan Lane
Las Cruces, NM

Jaime G. Lopez
Jaime G. Lopez
5925 Pecan Lane
Las Cruces, NM

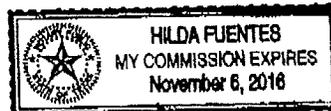
Christina Aispuro
Christina Aispuro
5925 Pecan Lane
Las Cruces, NM

Juan D. Aispuro
Juan Aispuro
5925 Pecan Lane
Las Cruces, NM

SUBSCRIBED AND SWORN TO BEFORE ME ON THIS 23rd DAY OF AUGUST 2013.
PERSONALLY APPEARED JUAN AISPURO.

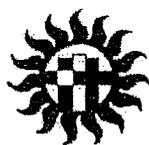
Hilda Fuentes
NOTARY PUBLIC

Victoria Gonzalez
Notary Public



Appeared on to me Sept 9, 2013

1/14/2017 Maria R. Lopez Jaime G Lopez + Christina Aispuro



City of Las Cruces®

PEOPLE HELPING PEOPLE

Planning & Zoning Commission Staff Report

Meeting Date: November 26, 2012
Drafted by: Susana Montana, Planner *SM*

CASE # S-13-023W **PROJECT NAME:** Guadalajara Acres
Subdivision Road
Improvements
Waiver Request

**APPLICANT/
REPRESENTATIVE:** Lopez & Aispuro
families **PROPERTY
OWNER:** Lopez & Aispuro
families

LOCATION: 4660 Porter Drive
at northeast corner
of Jefferson Lane
and Porter Drive **COUNCIL
DISTRICT:** 6 (Thomas)

SIZE: 2.107 ± acres **EXISTING ZONING/
OVERLAY:** REM (Single-Family
Residential Estate
Mobile)

**REQUEST/
APPLICATION TYPE:** Request for approval of a waiver from required road improvements
for Porter Drive.

EXISTING USE: Single-family home.

PROPOSED USE: Two (2) single-family residential lots; one home on each lot.

**DRC
RECOMMENDATION:** Denial of the road improvement waiver request based on findings
noted below in Section 3.

TABLE 1: CASE CHRONOLOGY

Date	Action
5/21/2013	Subdivision application received and transmitted to reviewing agencies
5/31/2013	Agency comments sent to Applicant requiring ROW and road improvements
09/20/2013	Road Improvement waiver request submitted to Development Services
09/30/2013	Waiver request sent out for review to all reviewing agencies
10/8/2013	All comments returned by all reviewing agencies
10/30/2013	DRC reviews and recommends denial of the proposed waiver requests
11/10/2013	Newspaper advertisement for Planning and Zoning Commission meeting
11/5/2013	Property owner letters mailed and sign posted on the property
11/26/2013	Planning and Zoning Commission public hearing

SECTION 1: SYNOPSIS OF PROPOSAL

Background

The Applicants are the Lopez/Aispuro families. They purchased the subject property in 2010. At the time of purchase, there were two mobile homes on the 2.107 ± acre property (Parcel 02-19339). One home is installed and occupied by the Applicant families and one is on blocks, is not connected to utilities, and is not occupied.

The property is zoned REM (Single-family Residential Estates—Mobile) which allows mobile homes on lots but only allows one dwelling unit per lot. The second mobile home cannot be connected to utilities and occupied due to this limitation in density per Sec. 38-31.D Development Standards of the 2001 Zoning Code. To remedy this situation, the Applicants seek to subdivide the lot to allow family members to live in the second mobile home.

Proposed Waiver Request

The proposed alternate summary subdivision known as Guadalajara Acres proposes to split the 2.107 ± acre single-family residential tract into two new single-family lots. The subdivision is located at the northeast corner of the intersection of Jefferson Lane and Porter Drive. The property has not previously been subdivided and, therefore, the two-lot split qualifies for review and administrative approval under the Section 37-176 Alternate Summary Process of the City of Las Cruces Subdivision Code provided that it meets Zoning Code, Subdivision Code and Design Standards requirements or is granted a waiver from any deficiencies.

Sections 37-298 and 37-360 of the City's Subdivision Code require all subdivisions to conform to the City's Design Standards (Chapter 32 of the Las Cruces Municipal Code—LCMC) which require the construction of road improvements along applicable roadways as part of the subdivision approval process.

The proposed Lot 1 would have 245.24 linear feet of frontage on Jefferson Lane which is designated as, and is developed to, minor local road standards. No additional right-of-way (ROW) or road improvements are required along the Jefferson Lane frontage.

Both Lots 1 and 2 would be accessed solely from Porter Drive which is designated as a principal arterial roadway by the Metropolitan Planning Organization (MPO) on its Major Thoroughfare Plan. Porter Drive, as a designated principal arterial roadway, must be designed and developed to the "Major Arterial-2 / Multi-use Path Option" of the City's Design Standards which requires 120 feet of ROW (see Attachment 5). The two lots, combined, would have, 281.29 linear feet of frontage along Porter Drive. Porter Drive is developed only to the City's minor local road standards and currently has only 60 feet of ROW. The Applicants are dedicating 30 feet of ROW for Porter Drive which would satisfy the required 50% of ROW dedication standards of Section 32.36(b) of the City's Design Standards.

The "Major Arterial-2 / Multi-use Path Option" of the Design Standards requires: (1) Two travel lanes in each direction; (2) a median turn lane, each side with curb and gutter; and (3) a parkway, sidewalk, curb and gutter and street light on each side of the road. The existing Porter Drive is deficient in those standards as it has only one travel lane in each direction; no median turn lane; but it has sidewalks, curb and gutter and street lights on each side of the two-travel lane road within a 60 foot ROW. The existing road improvements approximate the Design Standards for a "minor local road" with the exception of the 60-foot ROW width which exceeds the "minor local road" ROW standard by 20 feet.

The Applicants are requesting the City to waive 100% of the required road improvements to Porter Drive. No alternative, including paying a fee-in-lieu of improvements to the City, is proposed.

TABLE 2: ROAD DEVELOPMENT STANDARDS & SITE CHARACTERISTICS

Standard	Existing	Proposed	Code Req
Max # of DU/parcel	1 plus 1 not occupied	1	1
Lot Area	2.1 ± acres	Lot 1: 0.947 ± acres Lot 2: 0.948 ± acres	0.5 acres minimum
Right-of-Way (ROW)			
Porter Drive ROW	60' ROW	30' dedication to satisfy the Applicants' half of the required 120' ROW for a principal arterial road meeting City Design Standards	120' ROW
Jefferson Lane	50' ROW	None required as the existing ROW meets City Design Standards	50' ROW
Road Improvements			
Porter Drive	Built to the City's "Minor Local-1" road standard	None	Principal arterial per MPO which requires a half-section built to the City's "Major Arterial-2 / Multi-use Option" standard (see Attachment 5)
Jefferson Lane	Built to the City's "Minor Local-1" road standard	None	None required as the road is fully built to City Design Standards

TABLE 3: SPECIAL CHARACTERISTICS

Characteristic	Applies to Project?	Explanation
EBID Facilities	No	
Medians/ Parkways Landscaping	Yes	The "Major Arterial-2/Multi-Use Path" option of the City's Design Standards requires a median with a left turn lane and parkways on each side of the street. The Applicants are seeking waivers from these requirements.

TABLE 4: ADJACENT ZONING AND LAND USE INFORMATION

Location	Existing Use	Overlay District	Zoning Designation
Subject Property	Single-Family Residence and storage of manufactured home.	N/A	REM (Single-Family Residential Estate Mobile)
North	Single-Family Residence	N/A	REM (Single-Family Residential Estate Mobile)
South	Single-Family Residence	N/A	REM (Single-Family Residential Estate Mobile)
East	Two Single-Family Residences	N/A	REM (Single-Family Residential Estate Mobile)
West	Vacant land	N/A	REM (Single-Family Residential Estate Mobile)

TABLE 5: PARCEL HISTORY

Number	Status
Permit	N/A
Ordinance	N/A
Resolution	N/A

SECTION 2: REVIEWING DEPARTMENTS / AGENCY RECOMMENDATIONS

For specific comments and/or conditions for see Attachment 6.

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	Yes	Yes if waiver is granted
CLC ROW/Land Management	Yes	Yes if waiver is granted
CLC Fire & Emergency Services	Yes	Yes if waiver is granted
CLC Utilities	Yes	Yes if waiver is granted

SECTION 3: STAFF ANALYSIS AND CONCLUSIONS***Analysis***

Sections 37.298.B and 37-360.A. of the City's Subdivision Code require all subdivisions to conform to the City Design Standards. The MPO has designated Porter Drive as a principal arterial roadway which would be designed and built to the Major Arterial-2/Multi-Use Path Option of the City's Design Standards. A subdivider is responsible for providing road improvements for one-half of an adjacent Major Arterial roadway including sidewalk, curb and gutter (Design Standards Section 32-36).

Porter Drive is paved with sidewalks and street lights on each side of a 60 foot wide ROW along the subject property. Pursuant the City's Design Standards, Porter Drive would require a 120-foot ROW.

Porter Drive is currently deficient in the additional 60-feet of ROW as well as a median with a left turn lane, a parkway on each side of the road, and associated curbs and gutters. The Applicant is providing 30 feet of additional ROW to satisfy the Design Standards' ROW requirement and they are seeking a waiver from 100% of the required road improvements

Section 37-298.C. of the Subdivision Code states that waivers to the Design Standards are discouraged and will be considered only if the subdivision application is processed through the Planned Unit Development (PUD) procedure, or *whenever the subdivider has provided sound evidence in writing substantiating the need for a waiver for said standards.*

Section 37-332 of the Subdivision Code allows waivers from strict compliance with requirements of the Code *"whenever it can be shown that meeting the requirements would result in a substantial hardship to the subdivider because of exceptional topographic, soil or other surface or sub-surface conditions, or that such conditions would result in inhibiting the objectives of this Code."* The Planning and Zoning Commission may vary, modify, or waive non-engineering requirements up to 15% of the required standard. Section 37.333.C states that if more than 15% of the requirements are to be waived, the City Council must approve the waiver pursuant to Section 37-12.D(c) of this Code.

The Applicants' stated rationale for the request is as follows:

1. Financial Hardship. Juan Aispuro is currently employed and only household [income provider] and Mrs. Aispuro is a student not a full-time employee.
2. Jaime G. Lopez and Maria R. Lopez are currently unemployed.
3. Quote by R Construction was \$90,000. For clear grub and 6 inch base course and 6 inch pavement for 9,000 square feet and 1,500 square feet of concrete sidewalk.
4. The current pavement section is adequate to carry the existing roadway traffic and the additional traffic caused by the development of the subdivision.
5. No similar infrastructure for a major arterial roadway exists anywhere near the subdivision.
6. No increase in traffic will occur on Jefferson Lane, as both lots front the Porter Drive.
7. Numerous replats nearby were constructed without road improvements.
8. The intent of this subdivision is not for profit, but to benefit family members.

The subject property has a gentle slope northward and because of the approximately three (3) feet change in elevation between the Jefferson Lane property line and the northern boundary of Lot 2, there is a retaining wall along the Porter Drive frontage of Lot 2. Both lots would share the existing access driveway along Porter Drive to avoid cutting into the retaining wall for the new Lot 2. However, staff has determined that this change in elevation between Lots 1 and 2 does not constitute "exceptional topographic, soil or other surface or sub-surface conditions, or that such conditions would result in inhibiting the objectives of this Code."

DEVELOPMENT REVIEW COMMITTEE (DRC) RECOMMENDATION

The DRC reviews subdivisions from an infrastructure, utilities and improvement standpoint. On October 30, 2013 the DRC reviewed the proposed Porter Drive road improvement waiver request and, after presentation by staff and the Applicant's representative and discussion among Committee Members, the DRC recommended denial of the proposed waiver request. Please see Attachment 7 for details on the discussions that took place at the DRC meeting.

Conclusion:

The Applicants are dedicating the required additional ROW for Porter Drive but are requesting the City to waive 100% of the required road improvements.

The DRC has determined that the hardships expressed by the Applicants do not demonstrate a substantial hardship for approval of a waiver request as noted above in Section 37-332 of the 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." The waiver of the improvements, or a fee in-lieu of the improvements built now, would create a monetary burden to the City and Citizens of Las Cruces for the future improvement of Porter Drive to the principal arterial roadway standard. Article 1, 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 to "facilitate adequate provision for transportation..." Based on the intent of the Code, staff determines that the waiver request is not justified.

STAFF RECOMMENDATION

Staff recommends **DENIAL** of the proposed waiver to Porter Drive road improvements for the Guadalajara Acres Subdivision based on the requirements of the Subdivision Code, the unfavorable recommendation by the DRC, and following findings of fact:

FINDINGS FOR DENIAL

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) and the MPO Major Thoroughfare Plan designates Porter Drive as a principal arterial roadway whose design standards are not currently met on Porter Drive;
3. A subdivider is responsible for providing road improvements for one-half (1/2) of an adjacent Major Arterial roadway including sidewalk, curb and gutter (Design Standards Article 2, Section 32-36); and
4. Although financial hardships due to family illness can be demonstrated, the Applicants 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 (Sec. 37-332 of the Subdivision Code).

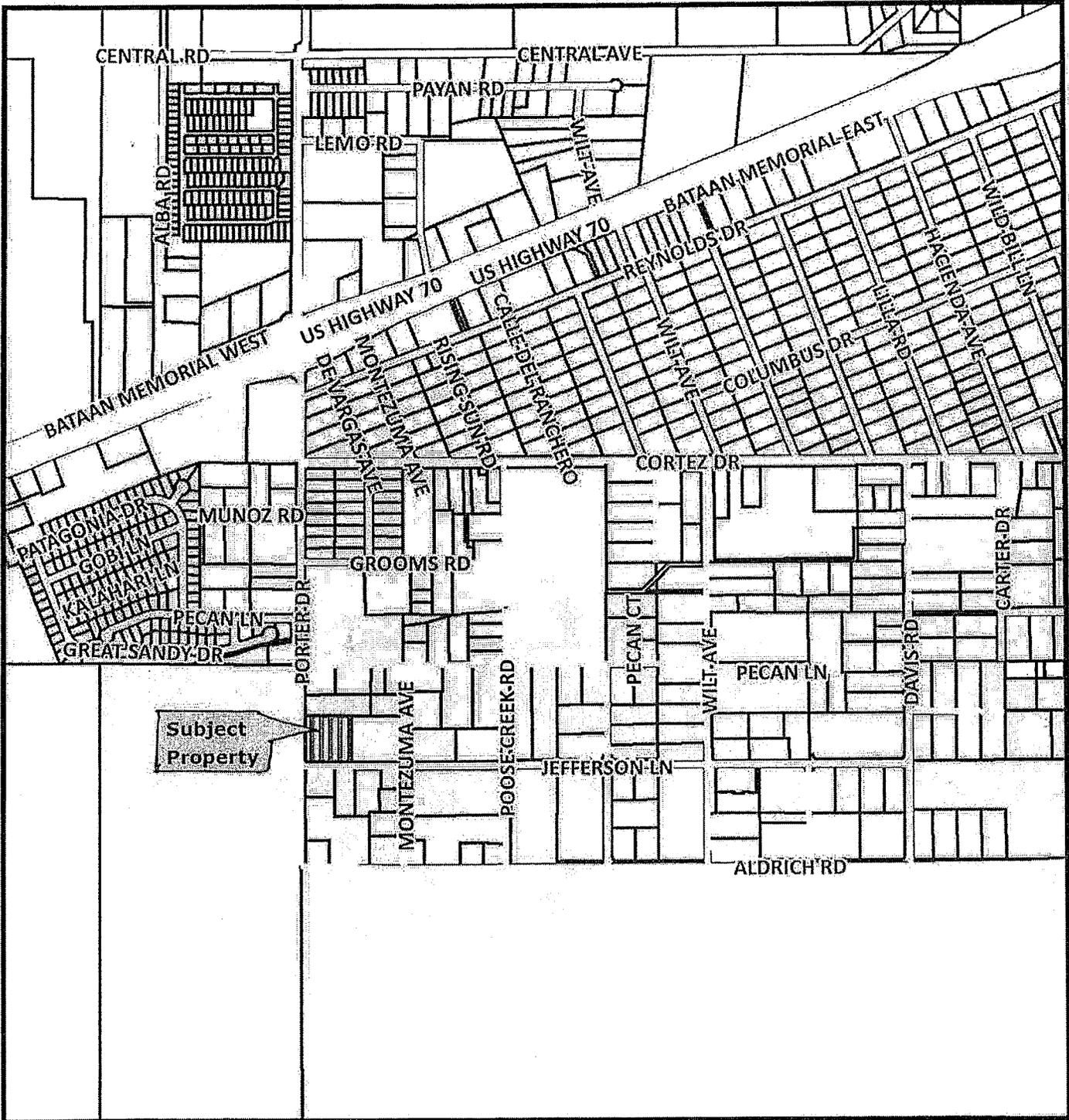
ATTACHMENTS

1. Location Map
2. Aerial Map
3. Waiver request
4. Proposed Subdivision Map
5. Road Section for Major Arterial-2/Multi-use Path Option
6. Reviewing Department/Agency Comments and/or Conditions
7. DRC Minutes dated October 30, 2013

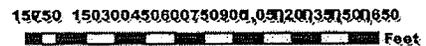
ZONING: RE-M
OWNER: Lopez & Aispuro Families

PARCEL:02-19339
DATE:10/28/13

Attachment 1: Location Map



S-13-023W; Guadalajara Acres Subdivision Road Improvements Waiver Request



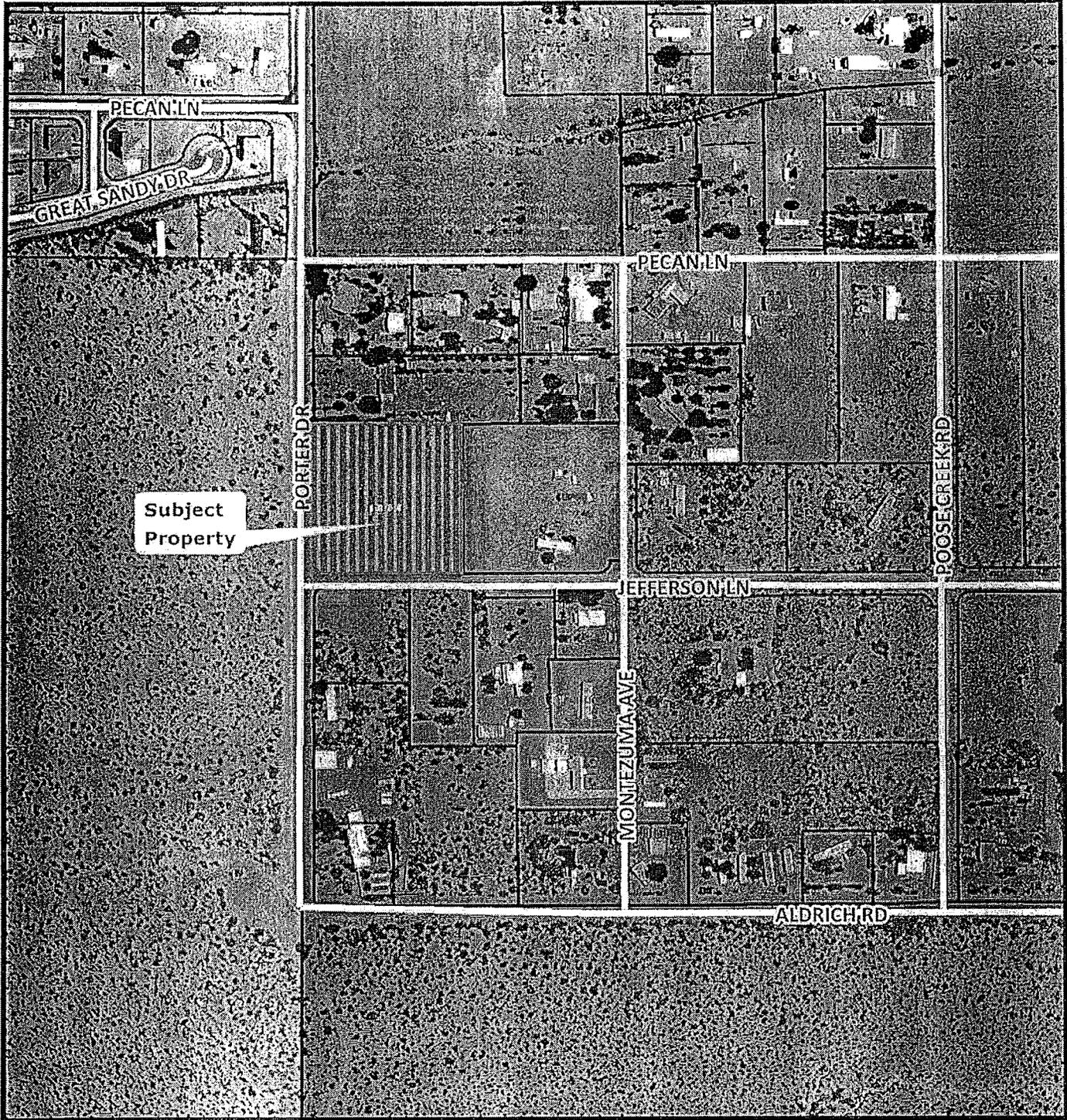
Community Development Department
700 N Main St
Las Cruces, NM 88001
(575) 528-3222

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 responsibility for the information contained in this map. Users noting errors or omissions are encouraged to contact the City (575) 528-3043.

ZONING: RE-M
OWNER: Lopez & Aispuro Families

PARCEL: 02-19339
DATE: 10/28/13

Attachment 2: Aerial Map



S-13-023W; Guadalajara Acres Subdivision Road Improvements Waiver Request



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) 528-3033.

Guadalajara Acres Subdivision Improvement Waiver

City of Las Cruces
P.O. Box 20000
Las Cruces, NM 88004

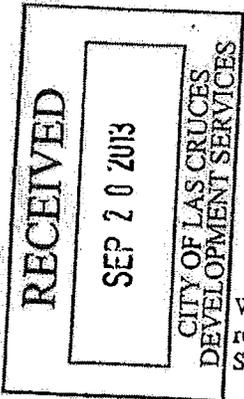
RE: Guadalajara Acres Subdivision- Porter Improvements Waiver Request.

On behalf of Maria R. Lopez, Jaime G. Lopez, Christina Aispuro and Juan Aispuro, please accept this request for a waiver to the Dona Ana County and City of Las Cruces Subdivision Requirements for Roadway improvements.

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The Applicants

1. Financial hardship. Juan Aispuro is currently employed and only household and Mrs. Aispuro is a student not a full-time employee.
2. Jaime G. Lopez and Maria R. Lopez are currently unemployed
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We sincerely appreciate your consideration for this request and if you have any questions or require additional information please contact me.
Sincerely,

<i>Maria R. Lopez</i>	<i>Jaime G. Lopez</i>	<i>Christina Aispuro</i>	<i>Juan Aispuro</i>
Maria R. Lopez	Jaime G. Lopez	Christina Aispuro	Juan Aispuro
5925 Pecan Lane	5925 Pecan Lane	5925 Pecan Lane	5925 Pecan Lane
Las Cruces, NM	Las Cruces, NM	Las Cruces, NM	Las Cruces, NM

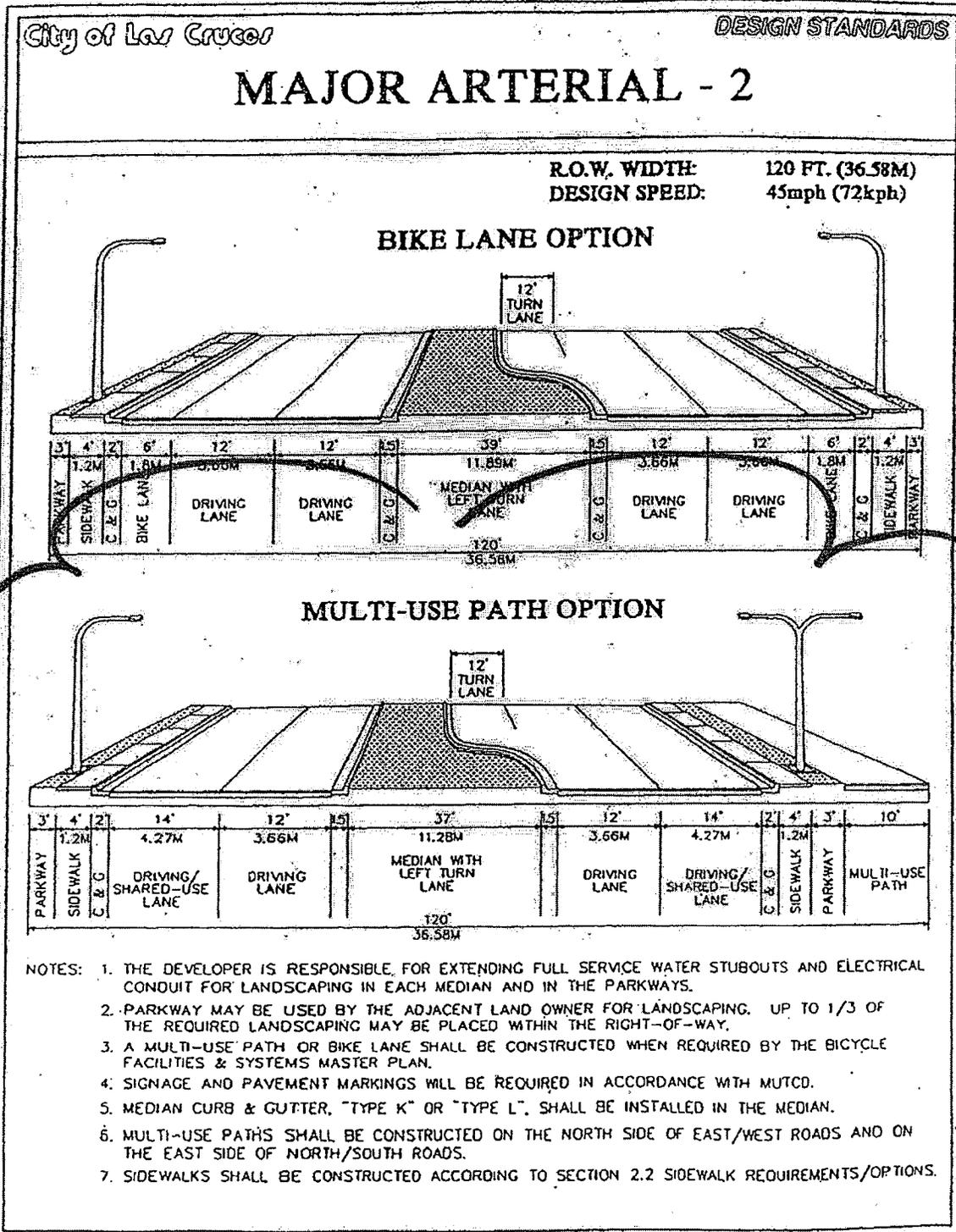
SUBSCRIBED AND SWORN TO BEFORE ME ON THIS 23rd DAY OF AUGUST 2013.
PERSONALLY APPEARED JUAN AISPURO.

Hilda Fuentes
NOTARY PUBLIC

Victor Gonzalez
Notary Public



appeared on to me Sept 9, 2013
exp 1/14/2017 Maria R. Lopez Jaime G. Lopez + Christina Aispuro



CITY SUBDIVISION REVIEW

DATE: September 30, 2013

REVIEW NO.: 2
CASE NO.: S-13-023

- 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: _____ |

FROM: Susana Montana, Planner

SUBJECT: Case No. S-13-023, Guadalajara Acres Alternate Summary Subdivision

PARCEL ID No. 02-19339
Address: 4660 Porter Drive

TAX ID No. 4-012-130-018-165

Project Description: This is a 2-lot split of a 2.1-acre parcel bordered by Jefferson on the south and Porter on the west. Each new lot would have 1.53-acres in a REM zoning District which has a 1/2 acre minimum lot size. **The Applicant is seeking a waiver from road improvements to Porter Drive.**

Community Development/Development Services Contact: Susana Montana, Planner, smontana@las-cruces.org; 528-3207. Please provide your comments to me by Monday, **October 7, 2013**. Thank you.

APPROVED: YES

NO ^{to waiver} YES WITH CONDITIONS ^{to plat}
(STATE CONDITIONS BELOW)

DATE: 10/2/13

REVIEWER NAME: Susana

REVIEWER CONTACT NO.: 528-3207

COMMENTS:
1. add ^{and} "maintenance" to El Paso Electric and Comcast utility blocks.
2. add utilities' note

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

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

CITY SUBDIVISION REVIEW

DATE: September 30, 2013

REVIEW NO.:2
CASE NO.: S-13-023

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

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

FROM: Susana Montana, Planner

SUBJECT: Case No. **S-13-023, Guadalajara Acres Alternate Summary Subdivision**

PARCEL ID No. 02-19339
Address: 4660 Porter Drive

TAX ID No. 4-012-130-018-165

Project Description: This is a 2-lot split of a 2.1-acre parcel bordered by Jefferson on the south and Porter on the west. Each new lot would have 1.53-acres in a REM zoning District which has a ½ acre minimum lot size. **The Applicant is seeking a waiver from road improvements to Porter Drive.**

Community Development/Development Services Contact: Susana Montana, Planner, smontana@las-cruces.org; 528-3207. Please provide your comments to me by Monday, **October 7, 2013**. Thank you.

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

DATE: 10/8/13

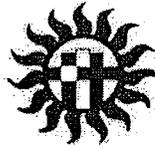
REVIEWER NAME: Andrew Wray

REVIEWER CONTACT NO.: 3010

COMMENTS:

MPO staff recommends approval of the subdivision
MPO staff recommends denial of the waiver request

IF YOU HAVE QUESTIONS ABOUT THE ABOVE COMMENT(S), PLEASE CONTACT THE
****PLEASE PROVIDE ALL REDLINES FROM THE PREVIOUS REVIEW****



City of Las Cruces®

PEOPLE HELPING PEOPLE

Engineering Services City Subdivision Case Review Sheet

Date: September 30, 2013

TO: CLC Engineering Services –Drainage Division

FROM: Susana Montana, Planner

Case No. S-13-023, Guadalajara Acres Alternate Summary Subdivision, Review No. 2

PARCEL ID No. 02-19339

TAX ID No. 4-012-130-018-165

Address: 4660 Porter Drive

Project Description: This is a 2-lot split of a 2.1-acre parcel bordered by Jefferson on the south and Porter on the west. Each new lot would have 1.53-acres in a REM zoning District which has a ½ acre minimum lot size. **The Applicant is requesting a waiver from road improvements on Porter Drive.**

Community Development/Development Services Contact: Susana Montana, Planner, smontana@las-cruces.org; 528-3207. Please provide your comments to me by Monday, October 7, 2013. Thank you.

Approved AS IS: Yes No

Approved with conditions (as stated in Comments on page 2): Yes

Date: 10.4.13

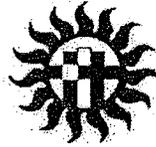
Reviewer: Natasha Parilly

Reviewer contact no. _____

- No issues w/ grading/drainage for this plat.
- Subdivision must meet 32-36(b) for roadway improvements.

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

Waiver for improv must be for ½ a principal arterial section.
→waiver can not be supported



City of Las Cruces®

PEOPLE HELPING PEOPLE

Traffic Engineering Division City Subdivision Case Review Sheet

Date: September 30, 2013
TO: CLC Traffic Engineering
FROM: Susana Montana, Planner

RECEIVED
SEP 30 2013
TRAFFIC

Case No. **S-13-023, Guadalajara Acres Alternate Summary Subdivision, Review No. 2**

PARCEL ID No. 02-19339 TAX ID No. 4-012-130-018-165
Address: 4660 Porter Drive

Project Description: This is a 2-lot split of a 2.1-acre parcel bordered by Jefferson on the south and Porter on the west. Each new lot would have 1.53-acres in a REM zoning District which has a ½ acre minimum lot size. **The Applicant is seeking a waiver from road improvements to Porter Drive.**

Community Development/Development Services Contact: Susana Montana, Planner, smontana@las-cruces.org; 528-3207. Please provide your comments to me by Monday, **October 7, 2013**. Thank you.

Approved AS IS: Yes No

Approved with conditions: Yes

COMMENTS:

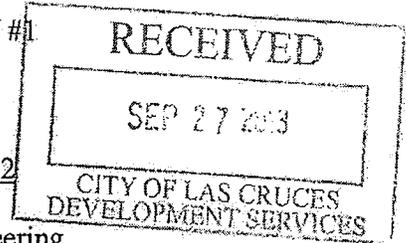
Date: 10/2/13

Reviewer: Willis Romo

Reviewer contact no. 541-2595

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

ADDRESSED COMMENTS SHEET
CITY OF LAS CRUCES SUBDIVISION REVIEW #1
OF **Guadalajara Acres Subdivision**



DATE: September 25, 2013

FOR REVIEW# 2

TO: Willie Roman

DEPT: Traffic Engineering

FROM: Gerry Ibarra for Precision Land Surveyors NM

1. COMMENT: Final Plat:

1. An engineered plan will be required if the driveway is moved in the location of the existing retaining wall.

2. RESPONSE: Final Plat

5. Since moving the existing structure is not possible; access need to remain as existing from Porter Drive. A 30' x 30' shared access easement has been dedicated for both lots.

CITY SUBDIVISION REVIEW

DATE: September 30, 2013

REVIEW NO.: 2
CASE NO.: S-13-023

- TO:
- | | |
|-----------------------------------------------|-----------------------------------------------------|
| <input type="checkbox"/> CURRENT PLANNING | <input checked="" 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: _____ |

FROM: Susana Montana, Planner

SUBJECT: Case No. **S-13-023, Guadalajara Acres Alternate Summary Subdivision**

PARCEL ID No. 02-19339 TAX ID No. 4-012-130-018-165
Address: 4660 Porter Drive

Project Description: This is a 2-lot split of a 2.1-acre parcel bordered by Jefferson on the south and Porter on the west. Each new lot would have 1.53-acres in a REM zoning District which has a 1/2 acre minimum lot size. **The Applicant is seeking a waiver from road improvements to Porter Drive.**

Community Development/Development Services Contact: Susana Montana, Planner, smontana@las-cruces.org; 528-3207. Please provide your comments to me by Monday, **October 7, 2013**. Thank you.

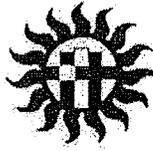
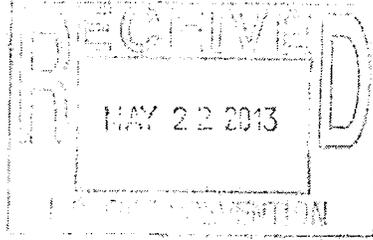
APPROVED: YES NO YES WITH CONDITIONS
(STATE CONDITIONS BELOW)

DATE: 10-3-13 REVIEWER NAME: B. R. HAMM

RECEIVED REVIEWER CONTACT NO.: 528-3410

COMMENTS:
SEP 30 2013
CITY OF LAS CRUCES
LAND MANAGEMENT

IF YOU HAVE QUESTIONS ABOUT THE ABOVE COMMENT(S), PLEASE CONTACT THE
PLEASE PROVIDE ALL REDLINES FROM THE PREVIOUS REVIEW



City of Las Cruces®

PEOPLE HELPING PEOPLE

Fire & Emergency Services Subdivision Case Review Sheet

Date: May 22, 2013

TO: CLC Fire & Emergency Services

FROM: ~~Susana Montana, Planner~~

Case No. **S-13-023, Guadalajara Acres Alternate Summary Subdivision; Review No. 1**

PARCEL ID No. 02-19339

TAX ID No. 4-012-130-018-165

Address: 4660 Porter Drive

Project Description: This is a 2-lot split of a 2.1-acre parcel bordered by Jefferson on the south and Porter on the west. Each new lot would have 1.53-acres in a REM zoning District which has a ½ acre minimum lot size.

Community Development/Development Services Contact: Susana Montana, Planner, smontana@las-cruces.org; 528-3207. Please provide your comments to me by Wednesday, **May 29, 2013**. Thank you.

Approved AS IS: Yes No

Approved with conditions (as stated in Comments on page 2): Yes

Date: 5/29/13

Reviewer: [Signature]

Reviewer contact no. X4150

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

City of Las Cruces Fire Prevention & Emergency Services

Case No. S-13-023, Guadalajara Acres Alternate Summary Subdivision; Review No. 1

ACCESSIBILITY ISSUES: *

CONCERN

	Low	Medium	High
Building Accessibility	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Secondary Site/Lot Accessibility	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Fireflow/Hydrant Accessibility	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

Type of Building Occupancy: unknown

Nearest Fire Station: 5 Distance: approx. .25 mile

Address:

Adequate capacity to accommodate development? Yes No

****Any new improvements, at either the time of subdivision or building permit, will require conformance with City of Las Cruces Design Standards, Subdivision Code, Building Code, and/or Fire Code.***

DEPARTMENTAL COMMENTS:

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



City of Las Cruces®

PEOPLE HELPING PEOPLE

Utilities Division Subdivision Case Review Sheet

Date: May 22, 2013

TO: CLC Engineering Services –Utilities Division

FROM: Susana Montana, Planner

Case No. S-13-023, Guadalajara Acres Alternate Summary Subdivision, Review No. 1

PARCEL ID No. 02-19339
Address: 4660 Porter Drive

TAX ID No. 4-012-130-018-165

Project Description: This is a 2-lot split of a 2.1-acre parcel bordered by Jefferson on the south and Porter on the west. Each new lot would have ~~1.53~~^{1.053} acres in a REM zoning District which has a ½ acre minimum lot size.

Community Development/Development Services Contact: Susana Montana, Planner, smontana@las-cruces.org; 528-3207. Please provide your comments to me by Wednesday, **May 29, 2013**. Thank you.

Approved AS IS: Yes No

Approved with conditions (as stated in comments on page 2):

Yes

(see comment on Utilities case review sheet)

Date: 5/28/2013

Reviewer: Neville Montoya

Reviewer contact no. 528-3525

no water rights issues - FO. 5/23/2013

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

CITY OF LAS CRUCES DEVELOPMENT SERVICES
UTILITIES CASE REVIEW SHEET

Case No. S-13-023, Guadalajara Acres Alternate Summary Subdivision: Review No. 1

WATER AVAILABILITY & CAPACITY*

Water Provider

CLC _____

Other X _____

CLC Water System capable of handling increased usage

Yes _____

No _____

Comment: _____

WASTEWATER AVAILABILITY & CAPACITY*

Wastewater service type

CLC Sewer _____

On-lot Septic X _____

CLC Wastewater System capable of handling increased usage

Yes _____

No _____

Comment: CLC SEWER SYSTEM IS NOT OPERATIONAL AT THIS TIME ^{See additional note below.}

NATURAL GAS AVAILABILITY & CAPACITY*

Natural Gas Provider

City of Las Cruces X _____

Other _____

CLC Gas System capable of handling increased usage:

Yes X _____

No _____

Comment: _____

* To receive City utility service to this property, the property owner/applicant/subdivider is responsible for (1) the acquisition of all necessary water, sewer, and gas easements, (2) the construction of all necessary utility lines, and (3) compliance with all applicable City of Las Cruces requirements.

Comments: In the future when CLC sewer system is operational and depending on the CLC municipal code at that time, the properties may need to connect to the sewer system.

PLEASE PROVIDE ALL REDLINES FROM THE PREVIOUS REVIEW

Attachment 7

**CITY OF LAS CRUCES
DEVELOPMENT REVIEW COMMITTEE**

The following are minutes for the meeting of the Development Review Committee of the City of Las Cruces held on Wednesday, October 30, 2013, at 9:00 a.m. in Room 1158 located at City Hall, 700 N. Main Street, Las Cruces, New Mexico.

DRC PRESENT: Robert Kyle, Community Development (Chair)
Tom Murphy, MPO
Mark Dubbin, Fire Department
Meei Montoya, Utilities
Willie Ramon, Traffic Department
Rocio Dominguez, Community Development/Engr. Services

STAFF PRESENT: Katherine Harrison-Rogers, CD/Development Services
Susana Montana, CD/Development Services
Natashia Billy, CD/Engr. Services
Diana Garcia-Parra, CD-Recording Secretary

OTHERS PRESENT: R. Gerry Ibarra, PLSNM
Christina Atspuro, Applicant

I. CALL TO ORDER (9:01)

Robert Kyle called the meeting to order at 9:01 a.m.

II. APPROVAL OF MINUTES

1. September 4, 2013

Kyle: The first item of business is approval of minutes. We have minutes from the September 4, 2013 DRC meeting. Are there any corrections to the minutes? Seeing none can I have a motion to approve?

Dominguez: Rocio Dominguez. So approved.

Dominguez: Second. Meei Montoya.

Kyle: All those in favor of approving the minutes from September 4th please signify by saying aye.

All: Aye.

Kyle: Any opposed? Very well, the minutes are approved.

1 III. OLD BUSINESS – None

2
3 IV. NEW BUSINESS

- 4
- 5 • **S-13-023 – Guadalajara Acres Subdivision Waiver Request.** The Applicants
6 for this waiver are the Lopez and Aispuro families who are represented by Mr.
7 Gerry Ibarra of Precision Land Surveyors. Both families currently live on the
8 property and would remain if the land were subdivided.
 - 9 • Pursuant to Section 37-332 [Waivers] of the City's Subdivision Code, the
10 Applicants are seeking a waiver from road improvements to Porter Drive abutting
11 the proposed subdivision located on Parcel No. 02-19339 addressed as 4660
12 Porter Drive.
 - 13 • The subdivision application is a two-lot split of a 2.107-acre U.S.G.L.O Survey
14 Tract that has never been previously subdivided and would be processed
15 administratively provided it meets City Design Standards or is granted a waiver
16 by the Planning and Zoning Commission. Access to both lots would be from an
17 existing driveway on the new Lot 1 with an access easement for new Lot 2.
18 Therefore, access to both lots would be from Porter Drive which is designated on
19 the MPO Major Thoroughfares Plan as a principal arterial roadway. The property
20 abuts Jefferson Lane which is designated as a minor local road and is developed
21 to that standard. Neither lot would be accessed from Jefferson Lane.
 - 22 • Section 37-298.B [Subdivision Improvement Requirements] of the Subdivision
23 Code states that subdivisions shall conform to the provisions set forth in the City
24 of Las Cruces Design Standards [Chapter 32 of LCMC].
 - 25 • Pursuant to the City's Design Standards, a principal arterial requires 120 feet of
26 Right-of-Way (ROW) including: (1) Two travel lanes in each direction; (2) a
27 median turn lane, each with curb and gutter; and (3) on each side of the road a
28 parkway, sidewalk, curb and gutter and street light. The existing Porter Drive is
29 deficient in those standards as it has (1) only one travel lane in each direction; (2)
30 no median turn lane; but it has sidewalks, curb and gutter and street lights on
31 each side of the two-travel lane road within a 60 foot ROW. The existing road
32 design approximates the Design Standards for a minor local road with the
33 exception of the 60-foot ROW width which exceeds the "minor local road" ROW
34 standard by 20 feet.
 - 35 • The Applicants are dedicating 30 feet of ROW for Porter Road's principal arterial
36 standard 120 feet ROW, representing 50% of the required ROW.
 - 37 • *The Applicants seek a waiver from the principal arterial standards of Porter Drive*
38 *which would relieve them from making the improvements to their portion of Porter*
39 *Drive or from paying a cost-recovery fee in-lieu of making the improvements now.*
 - 40 • Subsection C. states that waivers to the Design Standards are discouraged and
41 will be considered only if the subdivision application is processed through the
42 Planned Unit Development (PUD) procedure, or whenever the subdivider has

1 provided sound evidence in writing substantiating the need for a waiver for said
2 standards.

- 3 • The Applicant's rationale justifying the waiver is as follows:
- 4 1. Financial Hardship. Juan Aispuro is currently employed and only
5 household and Mrs. Aispuro is a student not a full-time employee.
 - 6 2. Jaime G. Lopez and Maria R. Lopez are currently unemployed.
 - 7 3. Quote by R Construction was \$90,000. For clear grub and 6 inch base
8 course and 6 inch pavement for 9,000 square feet and 1,500 square feet
9 of concrete sidewalk.
 - 10 4. The current pavement section is adequate to carry the existing roadway
11 traffic and the additional traffic caused by the development of the
12 subdivision.
 - 13 5. No similar infrastructure for a major arterial roadway exists anywhere near
14 the subdivision.
 - 15 6. No increase in traffic will occur on Jefferson Lane, as both lots front the
16 Porter Drive.
 - 17 7. Numerous replats nearby were constructed without road improvements.
 - 18 8. The intent of this subdivision is not for profit, but to benefit family
19 members.
- 20
- 21 • The DRC Administrator is asking the DRC for a recommendation to the Planning
22 and Zoning Commission as to whether to grant the Porter Drive road
23 improvement waiver.

24
25 Kyle: We have no old business. We have one new business case. We have one
26 item. It is case S-13-023: Guadalajara Acres Subdivision. It's a Waiver
27 Request to that particular case. Staff, can you give us our briefing?
28

29 Montana: Yes. For the record, Susana Montana. What you have before you is a
30 request for a waiver from road improvements for Porter Drive. The two-lot
31 split fronts both Jefferson Lane and Porter Drive. Jefferson Lane is
32 improved to Minor Local Road Standards and, therefore, no new
33 improvements are required, no new right-of way is required. However,
34 Porter Road is designated as a Principal Arterial. It's improved as a Minor
35 Local road but it's as designated as a Principal in the northwest orientation
36 on the MPO Major Thoroughfare Plan.

37 The two lots would share this existing curb cut on Porter Drive. The
38 reason is that there's an elevation change going from east to west along
39 the frontage of about 2 – 2 ½ feet. The Traffic Engineer did not want a
40 second curb cut, particularly on a Principal Arterial; but cutting through
41 that elevation change and that retaining wall. So the applicants will share
42 this existing curb cut right here at 30 by 30 foot easement.

43 Now Porter Drive, as I said, currently has a 60 foot right-of-way. It's
44 two paved travel lanes with sidewalks, curb and gutters on each side. But
45 it's developed to a Minor Local Road Standard. The Principal Arterial

1 requires 120 foot right-of-way. The applicant is providing their share of that
 2 120 foot right-of-way but they are asking a waiver from the Principal
 3 Arterial improvements which would require a median lane with curb cuts,
 4 parkways on each side. So this slide is showing the deficiencies between
 5 the existing Porter Drive and a Principal Arterial. The applicant did get a
 6 quote of \$90,000 to make these improvements and they're asking for a
 7 waiver from NMED as well.

8 Section 37-298.B of the City Subdivision Code requires
 9 subdivisions to conform to the City's Design Standards. The Code states
 10 that waivers to the Design Standards are discouraged and will be
 11 considered only if the applicant has provided sound evidence
 12 substantiating the need for the waiver. The applicants' justification for the
 13 waiver, I'll read for the record: "1) Financial hardship, Juan Aispuro is
 14 current employed and only household and Mrs. Aispuro is a student, not a
 15 full-time employee; 2) Mr. Lopez and Mrs. Lopez are currently
 16 unemployed; 3) The quote by R Construction was \$90,000 for clear grub
 17 and 6 inch base course and 6 inch pavement for 9,000 square feet of
 18 concrete sidewalk; 4) the current pavement section is adequate to carry
 19 the existing roadway traffic and the additional traffic caused by the
 20 development of the subdivision; 5) no similar infrastructure for a Major
 21 Arterial roadway exists anywhere near the subdivision; 6) no increase in
 22 traffic will occur on Jefferson Lane as both lots front Porter Drive; 7)
 23 numerous replats nearby were constructed without road improvements,
 24 and; 8) the intent of this subdivision is not for profit but to benefit family
 25 members."

26 The DRC Administrator is asking the Committee for a
 27 recommendation to the Planning and Zoning Commission and further on
 28 to City Council as to whether to grant the Porter Drive road improvement
 29 waiver, including a waiver from NMED. That concludes my presentation
 30 and I'm happy to answer any questions you may have.

31
 32 Kyle: Does the applicant have anything they'd like to add? The only comment I
 33 would have is in the justification it said there have been numerous plats
 34 nearby and no improvements. Do we know which ones those are? Can
 35 the applicant tell us what replats have occurred nearby?

36
 37 Ibarra: Yes. Looking at the Google Earth you can see that there's buildings
 38 already encroaching in that 220 foot right-of-way, for example.

39
 40 Kyle: But you don't have any specific replats that have occurred in that
 41 immediate area in the last few years that didn't have to do anything.

42
 43 Ibarra: No. No, I don't.

44
 45 Kyle: Let's just go around the room. Utilities?
 46

- 1 Montoya: Well, when we reviewed the replat of the lot we approved the replat of the
2 lot with information to the developer with information regarding the sewer
3 but Utilities would like to hear what the Transportation Department of
4 Public Works feels about the waiver because we do not have an opinion
5 as far as waiving the improvements or waiving the money to set aside for
6 improvements.
7
- 8 Kyle: Okay. Fire?
9
- 10 Dubbin: Mark Dubbin, Las Cruces Fire Department. I think I would also like to hear
11 what Public Works and Traffic have to say. Looking at the pictures in this
12 section it meets the Fire Code but we're not in favor of waiving the fee in
13 lieu of because of the work that needs to be done on Porter.
14
- 15 Kyle: MPO?
16
- 17 Murphy: Tom Murphy, MPO. I also had a question on what were the other
18 incidences nearby where road improvements were allegedly waived and
19 what were the DRC's recommendations on that. Also I do agree that this
20 one action will not increase beyond the capacity of what's out there;
21 however, the regulations are in place for a reason and that's because no
22 single subdivision is going to be the one does it all by itself but
23 incrementally, cumulatively it's going to have to be done and the cost can
24 either be borne by those benefiting from the subdivision or the cost will be
25 borne by the taxpayer. I would really like to see where the City could
26 develop a method so that they can bank the cost of those improvements
27 and at the time that there is sufficient subdivisions in an area then go out
28 and do that. But until that mechanism is in place I could not support a
29 request for a waiver.
30
- 31 Kyle: Okay. Transportation?
32
- 33 Ramon: We are okay with the construction waiver but not the in lieu. Now if the in
34 lieu doesn't come in then we need it to be constructed because the
35 problem is: if they are occurring one after another they end up adding up. I
36 understand that this is a major expense but that's the reason that this
37 quote came into place and if there's not a mechanism in place that makes
38 sense then we'll need to address that before we start just allowing people
39 to get waivers because then we end up with roads that we don't know how
40 to fund later.
41
- 42 Kyle: Okay. Engineering, Technical Services.
43
- 44 Dominguez: We reviewed the plat and we are okay with the plat. It's hard for us to
45 support the waiver for it. I know it's improved and stuff like that but it's not
46 improved to a Major Thoroughfare.

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Kyle: Development Services, any additional comments or opinions?

Montana: Susana, for the record. We agree with the other DRC members that there should be a minimum fee paid and put into an escrow account of some sort so that incrementally all the applicants for subdivisions would pay their fair share and eventually that road would get improved. So we would not support the waiver.

Kyle: Robert Kyle, Chair. I have a couple of issues. Jim, I'm torn, personally, on this for a couple of reasons: one thing is we specifically call out there will be no access to Jefferson. I know we're not increasing the driveways on the property. Everybody's agreed to utilize the one. Personally, I would prefer that the access be onto Jefferson as we do have policy and the MPO Transportation Plan that does not support direct residential access to Major Thoroughfares. So, from one aspect, I think that if they switched the access it would be a good thing. But we do have an existing driveway and the applicants are willing to live with that one curb cut. So be it.

The roadway is built to a much better standard than a significant number of other roadways in the area. The subdivision in and of itself is not creating any real additional impact but we do have an issue that the rules do say that if you're subdividing you are required to provide those necessary improvements to comply with our adopted Rules, Regulations and Policies and so it makes it a little bit difficult. It's not as though we're dealing with unimproved access and access to the actual subdivision, as well as the property, but we aren't meeting the intent of the adopted Rules and Regulations of the City.

I have concerns over what the action of the City Council may be. We had a case just recently on the agenda very similar to this, two-lot subdivision adjacent to a Thoroughfare, a Major Thoroughfare. City Council indefinitely postponed that and wanted the applicant and the City to consider a Development Agreement. They were not willing to just wholesale approve a waiver. That applicant was providing the necessary right-of-way but was asking to not make any additional improvements to the road which is exactly what we're doing here and so I'm not sure, ultimately, as this goes through the process what the outcome will be but the most recent direction of the City Council appears that they realize that we do have these Rules and Regulations in place and they do need to be followed up on. I'm wondering if... and I'd like input from the Committee if they have any thoughts on it, if perhaps... if we can or if it would be appropriate to consider a condition on the property that would prohibit any future subdivision of the property unless improvements were made. I don't know if actually, legally we could do that. There would have to be deed restriction as well as the plat. Tom?

- 1 Murphy: A question, Mr. Chair. Under current zoning one would be potential for
2 further subdivision (*Inaudible*).
3
- 4 Kyle: That is a question I ask: just what is the current zoning?
5
- 6 Montana: The current zoning is Residential Estates Mobile, which has a half-acre
7 minimum lot size. The requirement is that there's only one dwelling unit
8 per lot. This existing parcel has two units on it so it's nonconforming so
9 one of the remedies is to split it and then it would be just to seek and
10 justify a variance. So they're seeking this lot split to remedy a current
11 violation.
12
- 13 Murphy: So the current two-acre lot could ultimately support four lots under current
14 zoning.
15
- 16 Montana: Yes. That's correct.
17
- 18 Kyle: Conceivably, because it's currently 2.1 acres, correct?
19
- 20 Montana: Yes.
21
- 22 Kyle: They are dedicating additional right-of-way which will drop the acreage.
23
- 24 Montana: That's true.
25
- 26 Kyle: But conceivably you could get one additional lot.
27
- 28 Murphy: One addition so maybe with the potential for future subdivision is
29 practically non-existent. So that condition would probably be moot.
30
- 31 Aispuro: Actually the reason why, when we bought this property, it was my parents'
32 and I, and we've always lived close together. We lived off Del Rey
33 Boulevard and we had... we got two lots off Del Rey Boulevard and we
34 were back to back. So when we bought this property and the prior owner
35 had another mobile home. So it was like, "Okay, so if it's there we can
36 connect it," and he said that there were some connections there but
37 whenever we came to like actually the see if we could connect it there
38 were no services. So it was like, "Oh, no problem. I'll just go and get
39 permits and everything," and when I came to the permit is when they told
40 me that we needed to subdivide in order to get any permits. So since we
41 bought the property the other mobile home has just been there so we want
42 to connect it and just be able to just have the two lots. Pretty much we
43 really don't think about future (*Inaudible*), like subdivisions. It's just that
44 subdivision for my parents to have their home and for me to have mine on
45 that lot.
46

- 1 Montana: May I interrupt for the record? That was Christina Aispuro, the applicant.
2
- 3 Kyle: So when you bought the property there was one dwelling on it?
4
- 5 Aispuro: One connected.
6
- 7 Kyle: There was one connected trailer or *(inaudible)*.
8
- 9 Aispuro: One disconnected.
10
- 11 Kyle: Was it being lived it?
12
- 13 Aispuro: No. No one was there.
14
- 15 Kyle: How long have you had the property?
16
- 17 Aispuro: I've had the property since 2010.
18
- 19 Kyle: Okay. So if there was a nonconforming mobile home or a mobile home
20 there, it not being used, not hooked up, it's lost its nonconformancy so
21 actually, from a zoning standpoint, there is just one dwelling there. The
22 zoning of the property is good to go so the subdivision is being proposed
23 so you can place another dwelling on there. Meei, do you have a
24 comment?
25
- 26 Montoya: I had a quick question but I think I got the answer. When you said
27 "connected" is it connected to the ...
28
- 29 Aispuro: Utilities.
30
- 31 Montoya: Oh, okay, and the other one is just standing over there but there're no
32 utilities, no water, no gas and there's no septic that's dedicated to the lot.
33
- 34 Aispuro: No
35
- 36 Montoya: Could I maybe just make a comment? You have said there's a recent case
37 that the Council has asked the staff to go back and develop, maybe, a
38 cost-sharing or like a...
39
- 40 Kyle: Development Agreement.
41
- 42 Montoya: Right. So is this case is pretty much the same bowl as the other case? So
43 regardless that we could or could not grant the waiver, they said we
44 couldn't grant the waiver, if it the consensus of the DRC and it went up to
45 the P & Z and it goes up the Council, if it goes that far, wouldn't that come
46 back as same did, you know, we need to work together and then not just

1 grant waivers but developing a development assessment, some type of
2 mechanism. Would it be the outcome of....?

3
4 Kyle: I think it's likely to be the outcome. In the previous case, which has no
5 bearing on this except I bring it up because the facts are almost identical.
6 In that particular case DRC recommended denial of the waiver. Planning
7 and Zoning Commission recommended approval of the waiver and City
8 Council, again, indefinitely postponed taking action to give, with the
9 recommendation that the applicant and the City entertain a Development
10 Agreement which ultimately would have to go to the City Council for
11 approval. That was a week ago last Monday. The applicant has not come
12 back to approach the City to forward that at this particular juncture. I don't
13 know if the subdivision is just...

14
15 Montoya: Dead.

16
17 Kyle: ... dead, not gonna happen or if he's weighing his options. I think in any
18 aspect of a Development Agreement the City would be looking for some
19 contribution to those required costs. Now I'm not saying necessarily, from
20 what I know the City Council hasn't determined that. But I don't think the
21 position of the City will be that it would be nothing. I think there has to be
22 some consideration to the potential or the future use the property. So,
23 again, some of this is just conjecture but I'm letting you know, the
24 applicant, this is what just happened with City Council a week ago. This
25 case, with the exception of Porter Drive being basically half of an
26 improved Arterial, in the other case it was paved, it was surfaced but it
27 didn't meet Standards, etc. These cases are virtually identical and so I
28 give you that knowledge just knowing that is the likely outcome of what
29 may occur through this process, but not necessarily what will occur. Did
30 anybody have any other questions?

31
32 Dubbin: Mark Dubbin. I have a question: is this a legal nonconforming use? Is that
33 correct?

34
35 Kyle: It sounds like it's a legal use in that there's a residence on the property
36 that is allowed. That's not a problem. Placing a second dwelling on the
37 property would be a violation. It sounds like at one time there may have
38 been two, which would be a nonconforming situation; however, that
39 second home has not been in use for a period of a year then it would have
40 lost its nonconformancy and it sounds like it hasn't been hooked up. We
41 don't know if it ever has been or if it's just been a mobile home sitting on
42 the property. I'd say the property is conforming at this point. The
43 applicants' intended use of the property would require either subdivision to
44 have a second home because they would have to have a separate lot for
45 that or to seek a variance to the number of dwellings allowed on the lot.
46 And the path that we are entertaining today is the subdivision and then, of

1 course, that has the associated dedication and road improvement
2 requirements with it.

3
4 Dubbin: So the applicant has not attempted to get a variance for the second home
5 on the property? Have they tried to get a variance for the second house
6 there?

7
8 Aispuro: No. The only action that I was given was subdivision.

9
10 Kyle: Well, subdivision is the, I would argue, the most legitimate path to take. A
11 variance is something you have a right to approach but it's a deviation to
12 the zoning requirements. It would have to be entertained by the Planning
13 and Zoning Commission, and potentially the City Council on appeal. So in
14 a case like this would you want to have a second dwelling on the
15 property? The most, I guess, the most appropriate path to take is to
16 subdivide and then go through this particular process. But as the property
17 owner you would have the right all the way to apply for a variance if that's
18 what you so choose. I would question staff's willing to approve that, as
19 well. Typically staff looks at variances fairly critically because you are
20 asking to deviate from again, adopted Standards. In this particular case
21 rationale would be specifically to not have to comply with adopted
22 Standards of the City related to the subdivision process so it kind of places
23 staff in the same boat where you're wanting to get away from the adopted
24 Standards and expectations to not comply with the requirement; either not
25 to comply with the Zoning Requirements, the dwelling units of the lot or
26 not comply with the Improvement requirements to the subdivision process.
27 Any other comments?

28
29 Murphy: Yes, Mr. Chair Tom Murphy, MPO. Does Development staff have any
30 guidelines of the parameters of what a Development Agreement would
31 include from City Council? I mean, I could see us switching to supporting
32 the waiver conditioned on the Development Agreement; however, there's
33 a lot of latitude for what that could include: Porter's going to be a... it
34 connects to the Interchange on US 70 and it's going to be a major corridor
35 in the future and two acres of residential, really, is not going to be that
36 much of a contributor overall to what corridors are ultimately going to
37 become. So I don't think that I would like to see that the Development
38 Agreement call for the full cost on there; however, there needs to be some
39 cost-sharing because of the property's location.

40
41 Kyle: Right. Let's answer your question: no, staff has not been given any
42 specific direction. I do have some copies of previously approved
43 Development Agreements or drafts of previous Development Agreements
44 to use as a template to bring forward. I think the latitude or the direction
45 with staff work with the applicant to decide what seems reasonable so that
46 we don't have any specific direction other than perhaps trying to determine

1 what the impact of the second dwelling is in relation to the cost of the
2 road, etc. I think those are things that would have to be worked out and
3 that's where I'm in a tough road as well. I agree that we do have existing
4 infrastructure that is in good shape in the area. This one lot, in and of
5 itself, obviously creates very negligible impact but we have a long-term
6 future that we have to look at. So, I'm kind of with you, I would be happy to
7 entertain a waiver if we could have some consensus to move forward in
8 looking at a Development Agreement; but I think again, at a bare minimum
9 there would be some expectation of cost-sharing to be part of that. I don't
10 know if this is Porter. Does anybody know: is Porter, this section of Porter,
11 on the City's 5 Year CIP?

12
13 Dominguez: No, it's not because they just came in and did those improvements.

14
15 Kyle: Okay. So that puts us,,, yeah, and then again, it's kind of difficult because
16 you're starting to stretch out what's the appropriate horizon for recapture,
17 etc. so I think it's the probably appropriate direction to move and ultimately
18 that may be the direction of City Council, my take. I think staff does need
19 to spend some time and decide how an agreement of this magnitude
20 would be structured. Susana?

21
22 Montana: I just wanted to throw on the table maybe a couple options. One is that the
23 split be redesigned so that access from Porter would be prohibited, that
24 they would have shared access from Jefferson so that there would not be
25 traffic onto a Major Arterial in the future. That would be one option and
26 maybe we could suggest like a 10% impact fee so if the cost is estimated
27 at \$90,000 they would pay \$9,000 as part of a Development Agreement or
28 their contribution as an in lieu fee. Maybe that would be something that
29 could commit our share with the applicant. Does that sound worth
30 pursuing?

31
32 Kyle: I think at this particular juncture we are simply a recommending body. I
33 think, yes, it's something we would be approving if get direction to pursue
34 a Development Agreement. I think where we're at, we need to act on the
35 actual waiver and let it go through the process. If, at the end of the day,
36 the direction from City Council is to explore a Development Agreement
37 because we don't have anything in place I think that's the time we could sit
38 down and start looking at some specific numbers, etc. if the applicant is
39 interested in that. Ultimately this will move forward one way or another. I
40 just want to make sure that, given what I know, that you understand some
41 likely outcomes but the point is that the City Council ultimately may
42 approve the waiver request based on the existing conditions, etc. They
43 may, again, say, "No. We need to look at a Development Agreement in the
44 end," so to arm you, I guess, with the most knowledge you can as to how
45 this will proceed. With that, if there's no other comments or the applicant

1 has anything they'd like to add I would entertain a motion in regards to the
2 waiver request.
3
4 Murphy: Tom Murphy, MPO. I'd like to move recommendation of approval of the
5 waiver request based with a recommended condition that a Development
6 Agreement be established with the parameters to be further defined
7 through Planning and Zoning discussion and City Council.
8
9 Montoya: Second. Meei Montoya.
10
11 Kyle: Okay, we have a motion and a second. All those in favor of recommending
12 approval of the waiver condition on, as Tom did in regards to the
13 Development Agreement, please signify by saying aye.
14
15 Montoya, Murphy, Dominguez, Ibarra: Aye
16
17 Kyle: Disregard the last aye, is that what the applicant wants us to do? *(All*
18 *laughing)* All those opposed?
19
20 Dubbin, Ramon and Kyle: No.
21
22 Kyle: All right, it appears that we have multiple votes occurring. I'm going to call
23 for a roll call vote. Let's go back there and do a roll call vote. The motion is
24 to recommend approval of the waiver conditioned upon...
25
26 Murphy: The Development Agreement and a request that P & Z and Council give
27 staff parameters for developing such a Development Agreement/
28
29 Kyle: Okay. Meei Montoya.
30
31 Montoya: Aye.
32
33 Kyle: Mark Dubbin
34
35 Dubbin: No.
36
37 Kyle: Tom Murphy.
38
39 Murphy: Aye.
40
41 Kyle: Willie Ramon.
42
43 Ramon: No.
44
45 Kyle: Rocio Dominguez.
46

1 Dominguez: Yes.
2
3 Kyle: And the Chair votes no. The vote is 3 to 3. The motion fails. I will entertain
4 a motion in regards to the waiver request.
5
6 Dubbin: Move to approve the waiver request as presented.
7
8 Kyle: I have a motion. Do I have a second?
9
10 Murphy: Second.
11
12 Kyle: Seconded by Tom Murphy. Meei Montoya.
13
14 Montoya: So can I just ask a question? So this vote is to vote on the waiver request
15 as stated?
16
17 Kyle: Correct.
18
19 Montoya: Which is for...
20
21 Kyle: No improvements at all.
22
23 Montoya: No.
24
25 Kyle: Mark Dubbin.
26
27 Dubbin: No.
28
29 Kyle: Tom Murphy.
30
31 Murphy: No.
32
33 Kyle: Willie Ramon.
34
35 Ramon: No.
36
37 Kyle: Rocio Dominguez.
38
39 Dominguez: No.
40
41 Kyle: Chair votes no so the motion has failed. The recommendation of the DRC
42 will be to deny the waiver request. From here we'll go on to the Planning
43 and Zoning Commission. They'll make their recommendation and it'll
44 proceed to City Council.
45
46 Aispuro: I see.

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V. ADJOURNMENT (9:34 am)

Kyle: Is there any other business. Hearing none may I have a motion for adjournment?

Murphy: So moved.

Dubbin: Second.

Kyle: All those in favor?

All: Aye.

Kyle: Very well. We are adjourned at 9:34.

Chair

DRAFT

PLANNING AND ZONING COMMISSION
FOR THE
CITY OF LAS CRUCES
City Council Chambers
November 26, 2013 at 6:00 p.m.

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BOARD MEMBERS PRESENT:

Godfrey Crane, Chairman
William Stow, Vice Chair
Ray Shipley, Member
Ruben Alvarado, Member

BOARD MEMBERS ABSENT:

Charles Beard, Secretary
Charles Scholz, Member
Joanne Ferrary, Member

STAFF PRESENT:

Katherine Harrison-Rogers, CLC, Senior Planner
Adam Ochoa, CLC, Planner
Susana Montana, CLC, Planner
Bonnie Ennis, CLC, Recording Secretary

I. CALL TO ORDER (6:00)

Crane: Good evening. Welcome to the Planning and Zoning Commission meeting for the 26th of November. Let me start, as we usually do, by introducing the Commissioners present. The Member of the Commission on my far right is Commissioner Shipley He represents District 6; then Commissioner Stowe for District 4; Commissioner Alvarado for, District 3; and I'm Godfrey Crane, the Chairman, and I represent District 4. There seems to be a slight problem. I don't represent... Stowe, who do you represent?

Stowe: One.

Crane: Yeah. I got us mixed. Off to a good start. I represent 4, Stowe represents 1.

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.

1 Crane: Now it's time to ask if any Commissioners or any member of the City staff
2 has any conflict of interest regarding tonight's agenda. No one is
3 indicating there is one so we'll continue.
4

5 III. APPROVAL OF MINUTES

6 1. October 22, 2013 – Regular Meeting

7
8
9 Crane: Next we'll approval of the minutes for the last meeting and I have already
10 communicated a few points directly to our secretary. Commissioner
11 Shipley.

12
13 Shipley: Page 3, line number 12: it says "any against" and "Beard is abstaining.
14 Thank you. It passes 4-0." I believe it should be 5-0. There were 6
15 Commissioners present that night. It was 5-0 with one abstention.

16
17 Crane: That's a good point and I don't know how I knew that Beard was
18 abstaining unless he made a remark and I wonder if Joanne Ferrary was
19 here the previous time.

20
21 Shipley: I don't know who abstained but there was...

22
23 Crane: The one abstention?

24
25 Shipley: ... one abstention but I think there was five.

26
27 Crane: (To Ms. Ennis) Would you please change to 5-0? Thank you.

28
29 Shipley: It should be 5-0 with one abstention.

30
31 Crane: Yeah.

32
33 Shipley: Okay. Then on page 4, line number 19 in the sentence it says the "R-4
34 District allows 'of right' a child care." It's either as "allows 'as a right' or "as
35 a right..." I dunno. It just doesn't ...

36
37 Crane: Isn't that learned language. Isn't that what you call a "term of art?"

38
39 Montana: Mr. Commissioner, as "of right," typically.

40
41 Crane: Is that correct?

42
43 Montana: As of right.

44
45 Crane: Okay. Do you accept that, Mr. Shipley?
46

- 1 Shipley: Okay. I didn't read it ... Okay, on page 7, line number 33, it says there
 2 were two cars that were "head in first." I think it's "parked head in first."
 3 "Parked" is missing.
 4
- 5 Crane: Okay.
 6
- 7 Shipley: Okay, and then on page 8, line 13... Let me flip over to that page just a
 8 second... "I don't think that that drop off..." "I don't think that 'the' drop off
 9 is gonna work." The second "that" should be "the." And then on page 20,
 10 line number 10, I had a question for Ms. Montana, I believe...it's page 20,
 11 line 10. You'd stated "We would look into that and get the address
 12 straightened out." Has that been accomplished?
 13
- 14 Montana: No. It's still confusing but Lorenzo Vigil, our address person, is still
 15 working on that.
 16
- 17 Shipley: All right. Thank you. Can you just let us know when that's done?
 18
- 19 Montana: Yes, I can and also to answer another of your questions from that evening.
 20 I did re-measure the width of East May Avenue and it is 22 feet.
 21
- 22 Shipley: As opposed to 28. Right
 23
- 24 Montana: That is correct.
 25
- 26 Shipley: Okay.
 27
- 28 Crane: Any other Commissioner? Okay. In that event I'll entertain a motion that
 29 the minutes be approved as amended.
 30
- 31 Shipley: So moved.
 32
- 33 Crane: May I have a second? The motion is by Shipley and...
 34
- 35 Alvarado: Second.
 36
- 37 Crane: ... seconded by Alvarado. All in favor, aye?
 38
- 39 All (except Stowe): Aye
 40
- 41 Crane: Three aye and one abstaining. Commissioner Stowe is abstaining. Thank
 42 you, gentlemen.
 43
- 44 **IV. POSTPONEMENTS – NONE**
 45
- 46 Crane: We have no postponements?

1
2 Ochoa: None tonight.

3
4 Crane: Mr. Ochoa's on tonight. No postponements.

5
6 **V. CONSENT AGENDA – NONE**

7
8 Crane: There's no Consent Agenda.

9
10 **VI. OLD BUSINESS – NONE**

11
12 Crane: There's no Old Business.

13
14 Ochoa: Nothing tonight, sir, just two new cases.

15
16 **VII. NEW BUSINESS**

17
18 Crane: Okay. So we go to New Business. Let me describe how we do this for the
19 sake of the public. There're two items and first a member of the City
20 Planning staff, in this Mr. Ochoa, will give an address. The Commissioners
21 may ask questions of him. Then we will invite the applicant or the
22 applicant's representative up to speak about the matter and, again, we
23 may have questions. And finally any member of the public who wishes to
24 speak can come up and identify themselves and we may have questions
25 for them. Before each person speaks I am obliged to ask them to swear a
26 simple oath. Mr. Ochoa, do you swear and affirm that the testimony you
27 are about to give is the truth and nothing but the truth under penalty of
28 law?

29
30 Ochoa: Yes, sir. I do. Thank you. Please proceed.

- 31
32 1. **Case A1721:** Application of Guadalupe and David Telford for a variance to
33 construct one (1) additional dwelling unit on a property zoned R-1aC (Single-
34 Family Medium Density-Conditional) that permits a maximum of one (1)
35 dwelling unit per lot, tract, or parcel for a total of two (2) dwelling units on the
36 subject property. The subject property encompasses 0.95 ± acres and is
37 located 195 ± feet south of Sirena Lane and 215 ± feet west of McGuffey
38 Street at 4492 Sirena Lane, Parcel ID# 02-23734, Council District 5 (Sorg).
39

40 Ochoa: Thank you, sir. Gentlemen, your first case is a variance case, case
41 number A1721. It is a request for a variance from the maximum number
42 of dwelling units on a single lot, parcel or tract, as described in the 2001
43 Zoning Code for property located at 4492 Sirena Lane.

44 Just to give you a rough idea here with the vicinity map: the subject
45 is highlighted here with the stripes, located north of US Highway 70, east
46 of McGuffey Street as you go up there and not actually fronting Sirena

1 Lane but south of Sirena Lane there off an actual road easement leading
2 to the property. Here's a little more of a "zoomed in" photo of the property
3 showing the zoning on that property and the zoning surrounding that
4 property. Everything around it is zoned Single-Family, Medium Density.
5 Of course, this property as well as its neighbors, are zoned R-1aC, Single-
6 Family Medium Density-Conditional, the conditions just being when those
7 properties were initially brought into the city they had a cap on the number
8 of dwelling units allowed per acre, requirements for road improvements
9 and so on, nothing that will actually affect the currently requested variance
10 that we're hearing tonight.

11 What we're looking at tonight is under the 2001 Zoning Code. It is
12 Article IV, Section 38-31D. It describes that under the R-1a Zoning District
13 the maximum number of dwelling units per lot, parcel or tract is one
14 dwelling unit per lot, parcel or tract, essentially. Single-family is all that'd
15 be allowed in that zoning district.

16 Here's a little more specificity on the actual case itself or the
17 property itself: the property is located approximately 200 south of Sirena
18 Lane and about 250 feet west of McGuffey Street, the address being 4492
19 Sirena Lane. The subject property is just under an acre in size,
20 approximately 0.95 acres and zoned R-1aC, as I mentioned before.
21 Currently there is a single-family residence on that property and an
22 accessory structure, a shed, on the property.

23 The applicants tonight, gentlemen, are requesting a variance to add
24 one additional dwelling unit on the subject property for a total of two
25 dwelling units. The applicants did some in and meet with staff. Staff did
26 give them the different options to try to accomplish or different varieties
27 allowed by the Code to accomplish the allowing of one additional dwelling
28 unit on the property or something thereof. But none of those avenues
29 would have worked for the applicants so that is what the variance is for
30 tonight.

31 The additional dwelling unit is intended for one of the applicant's
32 mother, an elderly lady in health, who lives secluded alone in a different
33 area of town. This variance would essentially allow them to build another,
34 smaller dwelling on their property, I believe, about 900 square feet on their
35 own property where they can move her and have her close to them and be
36 surrounded by family since they do have other family members actually
37 surrounding their property.

38 Staff did take a look at this proposed variance and we actually saw
39 no significant issues with the proposed variance or actually the proposed
40 dwelling on the property. There were some issues brought up by
41 Engineering and Traffic, which are more issues that will be taken care of
42 during the building permitting process than the actual variance process so
43 that'll be taken care of in a different time if the variance is approved.

44 Staff, as I stated, really has no significant issues with what is being
45 proposed. As you can see here on the aerial, there is the access road off
46 of Sirena Lane, the subject property here and, with the proposal I believe

1 the new dwelling going here somewhere to the east of the existing home.
 2 Here, looking at a site plan again, that existing dwelling with the proposed
 3 dwelling going somewhere over here east of the existing dwelling.

4 For variances the P & Z must review requests in relation to: the
 5 goals, objectives and policies of the Comprehensive Plan, Plan Elements
 6 and other applicable plans. The purpose and intent of the Code is also
 7 something you must take a look at while reviewing these variances and
 8 which is what staff did to review this variance. As I stated before, we do
 9 see no significant issue with allowing the additional dwelling unit on there
 10 but, unfortunately, there was no way we consider the variance following
 11 the Hardship Criteria as specified in the 2001 Zoning Code, those being: a
 12 physical hardship with the property, potential for spurring economic
 13 development and lastly, a monetary consideration but not as a whole.

14 With that, staff has no significant issues with the proposed
 15 variance. Staff is currently underway in possibly updating the 2001 Zoning
 16 Code to allow something that is somewhat similar to what the applicant is
 17 proposing but currently that is still kind of in the works. It's just initially
 18 being considered right now by staff. It hasn't even gone to any type of
 19 public hearing for any type of public input, if you will. It's currently
 20 something that is being discussed within staff. But with that, the variance
 21 does not meet, as I stated, the criteria specified for a hardship under the
 22 2001 Zoning Code. With that staff, based on that and based on the
 23 findings actually outlined in your staff report recommend denial of the
 24 proposed variance.

25 So with that gentlemen, your options tonight are: 1) to approve the
 26 variance request; 2) to approve the variance request with conditions
 27 determined appropriate by the Planning and Zoning Commission; 3) deny
 28 the request, or; 4) table/postpone the variance request and direct staff
 29 accordingly. There has been no public input about the proposed variance.
 30 As of yet nothing has been brought before us but I believe the applicant
 31 might have something for you all during his presentation. So the applicant
 32 is here for questions and for a small, I guess, presentation to you all and I
 33 stand for questions.

34
 35 Crane: Thank you, Mr. Ochoa. Any Commissioner have a question for Mr.
 36 Ochoa? Go ahead, Commissioner Alvarado.

37
 38 Alvarado: How long has this area been inside the city limits?

39
 40 Ochoa: Mr. Chairman, Commission Alvarado, the actual area itself, the
 41 subdivision around there, was initially zoned and brought into the city back
 42 in 1998.

43
 44 Alvarado: Thank you.
 45

- 1 Crane: And that's when this R-1a Conditional was the zoning tag put on it
2 because houses were already there?
3
- 4 Ochoa: Mr. Chairman, I'm not 100 percent sure if there were already houses
5 existing out there. I do know some homes existed out there when it was
6 brought into the city. I believe the applicant could probably explain a little
7 better the history of the area than I can, unfortunately, but there were
8 some existing homes when the Single-Family, Medium Density residential
9 zoning designation was placed on this area when it was brought into the
10 city.
11
- 12 Crane: Thank you. Any other Commissioner? Commissioner Stowe.
13
- 14 Stowe: You say there was no response to the notice of the variance request?
15
- 16 Ochoa: Mr. Chairman, Commissioner Stowe, that is correct. Staff did follow the
17 new advertising requirements and public notice requirements of the 2001
18 Zoning Code, 100 foot certified letters, 500 feet regular mail and staff did
19 not receive any phone calls, emails, snail mail, or any type of mail from the
20 public, sir.
21
- 22 Stowe: Thank you.
23
- 24 Crane: Any other Commissioner? Thank you, Mr. Ochoa. Would the applicant
25 like to come up or the applicant's representative? Please speak into the
26 microphone and introduce yourself and I'll swear you in. Are there going to
27 be two people?
28
- 29 Telford: Yes, sir. There will be two of us. My name is David Telford. I'm the son-in-
30 law of the person in question.
31
- 32 Rodriguez: My name is Richard Caladias and I'm David's mother-in-law's son.
33
- 34 Crane: Okay. Gentlemen, do you swear and affirm that the testimony you are
35 about to give is the truth and nothing but the truth under penalty of law?
36
- 37 Telford: Yes.
38
- 39 Rodriguez: I do.
40
- 41 Crane: Thank you. Proceed, please.
42
- 43 Telford: Well, as Mr. Ochoa explained pretty well what we are looking at achieving
44 here. We have an acre there, just under an acre, and we want to build a
45 small casita, mother-in-law house, right east of us between our home and
46 one of the other son's home. There's six acres right there. You can see

1 there's six lots and they're all family members. There's four of us that have
 2 homes on there right now and we've been trying to get her up there with
 3 us because she lives on the other side of town. She's 87 years old. She's
 4 in failing health and my wife is a nurse practitioner and takes care of her
 5 medications and everything. But a couple years ago she fell and broke her
 6 leg. It was a really bad break. Her house is down close to NMSU and so
 7 fortunately one of the grandkids had come over to check on her at
 8 lunchtime and found her and since then she's been in a state of a little bit
 9 declining health on a daily basis actually.

10 So we finally got her to agree, you know, she said, "I want to live in
 11 my little house down here, my little house, and I don't want to live up in the
 12 desert." But we finally got her to agree that that would be the best thing for
 13 her 'cause then she's surrounded by four of her children right there and
 14 several of her grandchildren. That's when we started the process. As he
 15 said, when we built up there all those homes were up there when we were
 16 taken into the city and, like he said, they're all...I guess that's just how
 17 when they first bought the property they decided to have it because you
 18 could always have a house on an acre. Now we're just trying to see if we
 19 can build a little supplemental dwelling for Ignacia Rodriguez, my mother-
 20 in-law to get her up there. That way we can all be checking on her all the
 21 time and we won't end up having one of those situations like we did
 22 happen to my aunt as well but she wasn't quite as lucky and it took two
 23 days before my cousins found her. So since then we've been working on
 24 trying to do this. We've gone through the process with Mr. Ochoa's help of
 25 the applications, the advertising and everything and we're just coming to
 26 you to ask if we could get this slight variance to build a second little
 27 dwelling right next to us so she still has her independence but we're all
 28 around her and can take care of her.

29
 30 Crane: Thank you. Do you have anything, sir?

31
 32 Rodriguez: No, I just want to mention that, yeah, we're really concerned about her
 33 health. She's not getting around nearly as well as she used to and seems
 34 to be getting worse. Every time we go see her it seems like she's having
 35 more and more difficulty getting around. It's pretty far away from where
 36 we live so it's kind of difficult for us to go see her that often. So with her
 37 there surrounded by us it would be a lot easier and we could spend a lot
 38 more time with her.

39
 40 Crane: Commissioners? Commissioner Shipley

41
 42 Shipley: The current home that where it says the subject property... are you going
 43 to attach this to that?

44
 45 Telford: No. As you can see, we've got a wall all around the house and at one time
 46 we thought about that but it wasn't practical to do it with the way it's set up

1 and everything with it walled off; plus she wants to still have her
2 independence. At one time when we were in the pre-application process
3 they said, "Well, if it was guest house then maybe you could do it but you
4 couldn't have a kitchen because, by definition, it's just a guest house and
5 it doesn't have a kitchen," but she needs to have her kitchen. That's one of
6 the things she enjoys is cooking for the grandkids. So we've tried all the
7 different things we could think of and it basically came down to see if we
8 could get the variance to build her that little place there and, like I said,
9 we're really trying to hurry because, as I said, she's getting a little further
10 along each day and she keeps asking us, "How is my casita coming?" So
11 we're really hoping to get her in there.

12
13 Shipley: Is this going to be a manufactured home or...?

14
15 Telford: No. No. We would build it. She has the two sons. There's eight children.
16 They all live here and, like I said, six of the acres, four of us all live around
17 her. In fact it was funny because then the kids or the grandkids or the
18 brother and sister would come over, "We got this registered letter. What
19 do we do?" because most of the people that it had to be advertised to are
20 us because that's our little area where we live. So, yeah, the sons and the
21 sisters-in-laws and the brothers-in-laws and everybody would all pitch in
22 we would build it. We've all done some building before. My brother-in-law
23 drew up some plans with the elevations. Basically it would be like a little
24 apartment, just a one bedroom with a kitchen and a bathroom, plenty of
25 storage because she has a bunch of stuff that we joke about. So it would
26 be this kind of setup here. Here's our house and then there's their house
27 and there's their eldest son's right here.

28
29 Shipley: Could we see that? That wasn't included in our packets.

30
31 Telford: Yeah, that's something that we kind of put together, my brother-in-law, has
32 kind of put together. He did the designing of the home.

33
34 Crane: Mr. Ochoa is passing around the plan of where the house will be and what
35 the design of it will be. The Commissioners will look at it. While that's
36 happening any other Commissioner have anything to say? Well, thank
37 you, gentlemen. Any member of the public, if there are any, wish to
38 speak? I think you are the public.

39
40 Telford: As he had mentioned we would have further design elements or aspects
41 to the plan if we get to that point as far as ponding for where the water
42 would pond and as far as roads and curbs and gutters there wouldn't be
43 anything because basically it would just be, while not literally attached to
44 our house, it would be just part of our house and they would just park
45 where they park when they come to our house and we can have a little
46 walkway from her front door to our back gate.

1
2 Crane: Thank you. Well, I think that's the end of our input. Gentlemen, may I
3 have a motion that the variance be approved so that we can have a
4 discussion or do you wish to discuss first?
5
6 Stowe: I could comment and say there seems to be a rather low level of
7 complaint, that is, no one seems to be against the proposition. I'm not sure
8 I have anything more to say than that. I'm in favor of making people do
9 well for their own family.
10
11 Crane: Thank you. Commissioner Shipley, do you want to say something?
12
13 Shipley: I was just curious to see what they were looking at because I thought
14 maybe they could attach it to the current residence there.
15
16 Crane: The lady doesn't want it, apparently.
17
18 Shipley: I understand that but I'm just saying... that enlarging the size of the house
19 doesn't...to do that for another bedroom and a kitchen and that. So that
20 was just a thought that I had as I read this case. But the area's big
21 enough to support it. I didn't see...there's not any driveway improvements.
22 So I don't see it as a problem.
23
24 Crane: My view is that we would be evil people if we voted against this and I'm
25 wondering if, while I do respect the regulations under which the
26 Community Development Department has recommended denial, it
27 seemed to me there was perhaps a way that the applicant could meet the
28 requirements because on page 4 of your package, Mr. Ochoa, where the
29 hardship cases are listed in number 3 it says: 'Monetary considerations
30 not as a whole but relative to options available to meet the applicant's
31 stated objectives when such options cause considerable monetary
32 hardship under strict application of code provisions.'" It seems to me that
33 the applicant's stated objectives are to move this lady in failing health, who
34 is 87, close by her relatives so she can be taken care and this can be
35 done relatively cheaply on the existing lot by building the casita. But if they
36 were denied this then it seems that the alternative would be to buy another
37 lot and build a house on it and surely that would be a considerable
38 monetary hardship. My conscience is quite clear at the prospect of
39 granting this family what they ask for. I can't image there's anybody in the
40 City who would...particularly bearing in mind that the City is considering
41 permitting this doubling up on a large lots because we have seen so many
42 such cases. In fact I think we have another one tonight that's similar in
43 many respects. So, any other Commissioner have a comment?
44 Commissioner Alvarado.
45

1 Alvarado: I also think that it's a good reason to go against the Ordinance. We should
 2 all be that lucky when we get to a stage in a life where our kids want us to
 3 be right next to them. I've seen a lot of cases, especially in my later years,
 4 where there's people that nobody wants. I've been in nursing homes. I've
 5 been in hospitals. I've seen people living on their own that nobody cares
 6 for them when they're up in age. So I think it's a good reason to vary the
 7 Ordinance.
 8

9 Crane: Thank you. Any other Commissioner have a point? Commissioner
 10 Shipley.

11
 12 Shipley: I move to approve case number A1721 and I didn't see any...

13
 14 Crane: There were no conditions.

15
 16 Shipley: There were no conditions.

17
 18 Ochoa: Mr. Chairman, there were no conditions with this proposed variance, but
 19 just kind of an FYI as with other cases, if you do choose to go against
 20 what staff recommended the Members to need to come up with their own
 21 findings for whatever it is that you vote for, sir.
 22

23 Crane: Right. Thank you. Is there a second to Mr. Shipley's motion?

24
 25 Alvarado: Second the motion.

26
 27 Crane: Seconded by Mr. Alvarado. Roll call, Mr. Shipley.

28
 29 Shipley: I vote aye for the variance based upon discussion and site visit.

30
 31 Crane: Thank you. Mr. Stowe.

32
 33 Stowe: Based on discussions tonight I vote aye.

34
 35 Crane: Thank you. Mr. Alvarado.

36
 37 Alvarado: I vote aye based on discussion and site visit and reason for the request.

38
 39 Crane: And the Chair votes aye, based on discussion and site visit. It passes 4-0.
 40 Thank you.
 41

42 2. **Case S-13-023W:** Guadalajara Acres Subdivision Road Improvement
 43 Waiver Request. Application by the Lopez and Aispuro families to be relieved
 44 of the requirement to improve Porter Drive from the current minor local road
 45 condition to a principal arterial road condition as is required by the City's

1 Subdivision Code for a requested 2-lot split. The subject property is Parcel
2 02-19339 located at 4660 Porter Drive, Council District 6 (Thomas).

3
4 Crane: Next, Mr. Ochoa, is S-13-23W.

5
6 Ochoa: Yes, sir. I'll pass this off to our other Planner, Susana Montana.

7
8 Montana: Thank you, Mr. Chair, Commissioners. What you have before you is a
9 request for a waiver of road improvements associated with a small two-lot
10 subdivision. It's a 100 percent waiver request.

11 The property is located at 4660 Porter Drive and that's south of
12 Highway 70 down Porter Drive to this northeast corner of Porter and
13 Jefferson Lane. Here's an aerial photo showing the property. This is an
14 old photo. I'll show you a subsequent slide that has a newer photo that
15 shows a second mobile home on the property.

16
17 Crane: Excuse me. I hate to interrupt, Ms. Montana. I forgot to swear you in and
18 so you have to go back and start over after I swear you in. Do you swear
19 and affirm that the testimony you are about to give is the truth and nothing
20 but the truth under penalty of law?

21
22 Montana: Yes, I do.

23
24 Crane: Thank you. Just continue where you are.

25
26 Montana: Okay. Again, this is case number S-13-023W, "W" representing the waiver
27 request for property at 4660 Porter Drive. This is within District 6, our new
28 Councillor Levatino's district, and again, this is a request for 100 percent
29 waiver from the road improvement requirements for Porter Drive. Now,
30 Porter Drive was designated by the Metropolitan Planning Organization in
31 1991 as a Principal Arterial. The Arterial would extend from the
32 northernmost part of the city down through Porter at the property and
33 down south to Dripping Springs Road so it is in the future, and we don't
34 know if it's 10 years from now or 20 years from now, in the future it is to be
35 a major north-south thoroughfare. This is a closer look at the property in
36 relation to Porter Drive, the Arterial.

37 The property is proposed to be subdivided into two lots. It's now
38 approximately 2 acres and it would be split horizontally from Porter Drive
39 into two parcels for the purpose of accommodating a family member on
40 the second parcel. As you can see from the slide there is a mobile home
41 on the southern part of the property and it is occupied. It is fully hooked up
42 to all utilities. There's a mobile home sitting on the northern part of the
43 property. It is not hooked up to utilities and is not occupied. The families
44 do want to occupy this mobile home with family members. They're all
45 living now in this unit and they'd like Mom and Pop to move to this unit.
46 However, because of its zoning, Residential Estates Mobile, only one

1 dwelling unit is permitted on the property. It's a similar problem as the
2 case you just heard. In this case one of the first remedies is to split the lot.

3 Again, the property's about 2 acres. It's a single-family residential
4 tract never before subdivided so it qualifies as an Alternate Summary
5 Subdivision, which can be approved administratively if the subdivision met
6 all the conditions and requirements of the Subdivision Code. The
7 Subdivision Code, however, does require that a subdivider must make the
8 improvements to the adjacent roadways per the MPO Thoroughfare Plan
9 and the City's Design Standards.

10 The property faces two streets. Jefferson Lane is designated a
11 Minor Local road and it is fully developed as a Minor Local road and has
12 the complete right-of-way designated to the city so that is not a problem
13 for this subdivision. However, Porter Drive is currently 60 feet wide and so
14 the applicant must and will dedicate their fair share of the half, their half, of
15 that right-of-way so that's an additional 30 feet. They will make that
16 dedication but their waiver request states they simply cannot afford to
17 make the road improvements to the Principal Arterial standard so,
18 therefore, they're seeking a waiver. Now the City's Design Standards
19 requires the subdivider to build that road to the half point, to the centerline,
20 so it would be half of the road to the Principal Arterial standard and in a
21 later slide I'll show you what that looks like.

22 Porter Drive... they have about 281 feet of frontage for the two lots
23 on Porter Drive. Porter Drive is fully developed as a Minor Local road. As
24 you can see it, there's two lanes paved with curb and gutter and sidewalk.
25 It also has street lights. There is one driveway and our Traffic Engineer
26 has requested that the two lots share this driveway because there is an
27 elevation change from Jefferson to the northern part of the property and
28 about a 3 foot retaining wall and the Traffic Engineer did not want the
29 applicant to cut into this retaining wall at this point for the purpose of
30 accessing the two lots. So the applicant is establishing an easement, 30
31 by 30 foot easement so that both family members can enter the same
32 driveway. Now, this is an elevation change but staff did not feel it qualified
33 as a significant topographical feature which would meet the criteria for the
34 hardship and the waiver.

35 This diagram on this slide shows the Principal Arterial that the road
36 eventually will be designed to with a median, two lanes of travel each
37 direction, curb, gutter, street light and a parkway or a landscaped area and
38 a multi-use path. The applicant would be required to build half of this along
39 their 281 feet of frontage. Now recently the City built a similar addition to
40 Sonoma Ranch Road, which is a Principal Arterial road. The price for that
41 was \$375 per linear foot so this cost to the applicant would be about
42 \$105,000 and some change. The applicant's engineer gave them an
43 estimate of \$90,000 and the applicant said they simply cannot afford that
44 so, therefore, they're seeking 100 percent waiver.

45 This Commission can approve up to 15 percent waiver, a 15
46 percent reduction, in that cost. Beyond that the City Council must approve

1 the 100 percent waiver so you would be recommending to City Council
 2 whether or not to approve, approve with conditions or deny the waiver
 3 request. Because the Code simply states that a subdivider must develop
 4 the road if it is on the MPO Thoroughfare Plan, must develop that road to
 5 that standard before they can file or record their subdivision, even if it's a
 6 two-lot split.

7 The Development Review Committee and staff finds that they
 8 simply don't meet the words of the waiver requirement in the Code so staff
 9 and the DRC, the Development Review Committee, has recommended
 10 denial. The applicant's justification, you've seen in your staff report. I
 11 won't read it. The applicant can explain later. She's here. But staff finds
 12 that their rationale does not meet that criteria in the Code, although it can
 13 be demonstrated that there are extraordinary medical expenses that can
 14 demonstrate financial hardship. Again, DRC and staff are recommending
 15 denial simply because it doesn't meet the letter of the Code. You have the
 16 findings suggested by staff in your staff report so I won't read through this.

17 Your options tonight, Commissioners are: to recommend approval
 18 to City Council, to recommend denial to City Council, recommend to
 19 modify by adding a condition or conditions of approval to the waiver
 20 request or to vote to table or postpone this and direct staff accordingly
 21 should you seek further information. This concludes my presentation. I'm
 22 happy to answer any questions you may have. One of the family members
 23 is here tonight to also answer any questions you may have. There has
 24 been no response to our public notice, no letters, no emails, no telephone
 25 calls, no protests, no inquiries and that concludes my presentation.

26
 27 Crane: Thank you, Ms. Montana. Commissioners? Commissioner Shipley.

28
 29 Shipley: Thank you, Ms. Montana, for your presentation and it's very well done.
 30 On page 3 of the handout where, I believe, is the Development Review
 31 Committee has a number 7 there that says, "Numerous replats nearby
 32 were constructed without road improvements." Can you show us on the
 33 map where those were?
 34

35 Montana: That is one of the statements by the applicant. They believe that no roads
 36 were constructed. This property was annexed into the city in 1986 and we
 37 believe many of those properties were split while they still were in the
 38 county. and I'll see if I can get you an aerial so I can show those. So
 39 there are some smaller lots here, not in front of the subdivision. This, of
 40 course, is part of a subdivision and there are some very rural dirt roads in
 41 this area that have had smaller splits but we believe it was prior to the
 42 city's annexation.

43
 44 Shipley: Thank you.
 45

- 1 Montana: I would like to mention, since I have this slide, that the City did build out
2 Porter Drive to the Minor Local road standards in the 1990s and did
3 develop Jefferson Lane to the Minor Local road in 2011.
4
- 5 Crane: Ms. Montana, I have a question... oh, Mr. Shipley.
6
- 7 Shipley: Just one follow up question: when I drove that today the side that they're
8 on has sidewalk on that side but they're going to be required to 30 feet
9 additional, as I understand.
10
- 11 Montana: That is correct. The subdivision has dedicated 30 feet to the City for when
12 the City is ready to improve the road to the Principal Arterial standard but
13 it's already being dedicated.
14
- 15 Shipley: So the sidewalk that's there will have to be torn up and it'll be moved?
16
- 17 Montana: That is correct.
18
- 19 Shipley: Okay. So they won't be able to just go from that point and go to the other
20 side of the road?
21
- 22 Montana: I don't know if I understand your question.
23
- 24 Shipley: There was nothing constructed on the opposite side of the road so you put
25 in the two lanes, the median and the sidewalk on the other side, plus the
26 curb, the gutter and the lighting on the opposite side of the street. This is
27 not really even a half is what's done so far.
28
- 29 Montana: That is correct. It's about half but not to the full standard. So there's a
30 sidewalk here and a street light on the other side, two lanes of travel. So
31 the new median would be about here, two lanes of travel and then the
32 parkway
33
- 34 Shipley: Okay.
35
- 36 Crane: So it's not possible to take the missing 60 feet from the other side of the
37 street entirely and leave everything else as is given that the other side of
38 the street has no construction on it.
39
- 40 Montana: The other side of the street is vacant and there are no...
41
- 42 Crane: But it's still going to be 30 feet the applicant's side and 30 feet the
43 opposite side ultimately.
44
- 45 Montana: There'll be 60 on the applicant's side and 60 on the other side as well for
46 120.

- 1
2 Crane: Right, but 60 of it's already in place. Correct?
3
4 Montana: It's in place but not necessarily in the correct location so when the City
5 eventually does build it out there'll be some readjusting of the centerline.
6
7 Crane: So what needs to be done right away if we deny and the applicants decide
8 to go ahead, what will have to happen right away?
9
10 Montana: Right away, there'll be half a median, two new lanes, part of which will be
11 on their property, and then a sidewalk, curb, gutter, street light, landscape
12 strip and the multi-use path. All of that.
13
14 Crane: At which point they can then move people into the other mobile home.
15
16 Montana: I'm sorry.
17
18 Crane: At which point, when all that's done the people can move out of the
19 current mobile home into the other one.
20
21 Montana: That is correct. Then we can approve. If they agree to these
22 improvements then they'll provide construction drawings. When those are
23 approved then they can file the subdivision, a substantial completion of the
24 road then they can file the subdivision.
25
26 Crane: We all know that we've run into this so often before, in fact, last meeting, I
27 think. This is very wasteful, among other things. I was looking at manhole
28 covers. There's a sewer or a storm drain running down that street, I
29 suspect a sanitary sewer. There's lights on both sides, a perfectly good
30 sidewalk runs all the way up to 70 and for current traffic that road is
31 perfectly adequate, in fact more than adequate I suppose. It just doesn't
32 seem to be rational to require a family to come up with a 100 grand to
33 demolish 281 feet of perfectly good highway to make something that
34 should really be a driving hazard. And again, this is part of this matter
35 under reconsideration by Community Planning, is it not, that people can
36 split a lot or put a second building on a lot without having to improve the
37 adjacent street.
38
39 Montana: That is correct, Mr. Chairman. There is an adopted Affordable Housing
40 Strategy and one of the actions of the Strategic Plan is to expand the use
41 or the allowance of secondary units.
42
43 Crane: Another thing that occurs to me is that this will be a useless street as a
44 Major Arterial unless it is consistent in its size and design all the way from
45 70 down to Dripping Springs. If it's a patchwork of this and four-lane it's
46 going to be like I've mentioned that George Dieter was and many other

1 streets on the east side of El Paso when that was being developed and
 2 some places in town. I can't recall one. I think Del Rey, but there's a
 3 number of them in 70 area and I am pretty sure that some of that is going
 4 to get made into four-lane at City expense rather than the whole thing
 5 remaining a patchwork until the very last lot is sold and some homeowner
 6 comes up with 100 grand to fix his part. It just seems irrational though I
 7 know it's grown out of perfectly good considerations. My view is that in
 8 the circumstances this family should be allowed to do what they want and
 9 to get a complete waiver. You've mentioned 15 percent. That means we
 10 say that they can do something that costs only \$85,000 instead of a
 11 hundred thousand? How do you figure a percentage?
 12

13 Montana: The Code allows this Commission to grant a 15 reduction so if the
 14 applicant was able to pay the \$85,000 then you could grant the remaining
 15 as a waiver.
 16

17 Crane: And who would pay the balance and who would pay the 15?
 18

19 Montana: That would be the City.
 20

21 Crane: Okay. Thank you. Any other Commissioner have a question for Ms.
 22 Montana? Are you the applicant, ma'am? Please come up and
 23 introduce... sorry, Mr. Alvarado.
 24

25 Alvarado: I just wanted to make a comment. I think a lot of these problems are
 26 occurring because people bought this land 10, 15, 20 years ago when it
 27 was in the county without realizing that maybe, eventually, they would be
 28 in the city and would have to meet all these requirements. I think that's
 29 what's happened with a lot of these parcels.
 30

31 Crane: Please identify yourself, ma'am, and I'll swear you in.
 32

33 Aispuro: My name is Christina Aispuro.
 34

35 Crane: And do you swear and affirm that the testimony you are about to give is
 36 the truth and nothing but the truth under penalty of law?
 37

38 Aispuro: Yes, sir.
 39

40 Crane: Thank you.
 41

42 Aispuro: Basically, like Susana said, we're requesting a waiver for a 100 percent
 43 because due to financial hardship currently. Well, when we purchased the
 44 property it was with the thought that we would bring my parents in and I
 45 would be able to support them... but due to the fact that my mother has
 46 been having low back issues since 1999. She had a few surgeries in her

1 back and recently... I've been taking care of her for the past 6 months due
2 to the fact that she had a brain tumor and she just had the surgery last
3 month to withdraw it but I still need to be taking care of her. So at this
4 point, well, I am not working. I am separated from my husband so the
5 income that we have is due for the child support and my father has heart
6 problems, well, with blood pressure problems so we've been having a little
7 bit of difficulty. So that's why we're all living in one unit for right now and
8 we were requesting the waiver for us to be able to subdivide and put all
9 the utilities, connect the other unit for them to live there and then,
10 hopefully, once my mom gets better I'll be able to find a job and be able to
11 help them out. I didn't have enough time to get the doctor's report so I
12 brought in the sticker...

13
14 Crane: Ms. Aispuro's showing the handicapped sticker. It is for your mother?

15 Aispuro: Yes, for my mother.

16
17
18 Crane: The...what do they call that? The tag, year for her parking.

19
20 Aispuro: Yes, and I also once we had the poster up in the lot, the one that says
21 about this audience, about this meeting, one of the neighbors came by
22 and he's like, "What is it about?" so I told him a little bit about what was
23 going on and he's like, "Why don't you go around the neighborhood and
24 get some signatures? We just don't think that's fair. So if that's going to
25 help you we're willing to help you out by signing." So considering the
26 weather I didn't get too many signatures from the neighborhood but I did
27 get about 44 different households.

28
29 Crane: Since you've gone to all that trouble perhaps you would bring it up, start
30 over there and we'll pass it around. Thank you. Would you like to say
31 anything else?

32
33 Aispuro: No, that's it.

34
35 Crane: Okay. Commissioners, any questions for Ms. Aispuro?

36
37 Aispuro: Yes, the signatures are in support of my waiver.

38
39 Crane: Any questions for Ms. Aispuro? Well, I think you've met all our needs.
40 Thank you.

41
42 Aispuro: Thank you.

43
44 Shipley: Before you leave I have one question or maybe more than one. When
45 you purchased the property it was in 2010. Is that correct?
46

1 Aispuro: Yes, sir.
2
3 Shipley: And both of these mobile homes were on the property when you
4 purchased it?
5
6 Aispuro: Yes. My engineer, at that point when he measured, he had both of the
7 units on the ...
8
9 Shipley: On the plot.
10
11 Aispuro: Yes, but the title person, he told us that we had to remove it because it
12 didn't count as a real property because it was not connected.
13
14 Shipley: When you bought it was someone living in both units?
15
16 Aispuro: No. No, only in one but considering that it was more than two acres and
17 we were not aware that this was going to be an Arterial road or anything
18 like that until I came to ask for permits and I was denied.
19
20 Shipley: Just because I'm trying to understand, when you purchased the property
21 in 2010 both units were on the property?
22
23 Aispuro: Yes, sir.
24
25 Shipley: But only people were occupying one unit. Is that correct?
26
27 Aispuro: Yes, sir.
28
29 Shipley: So how long had the other unit been on the property?
30
31 Aispuro: It had been there recently because the former owner of the property, he
32 was from California and he purchased that unit because they had plans to
33 have two families. But with the economy he went into bankruptcy and sold
34 the property and that's how we got ahold of it.
35
36 Shipley: Okay. But the unit had never been hooked to a sewer or no utilities or...?
37
38 Aispuro: No. When we moved in there was like old concrete and old connections so
39 that's why we thought that...well, everything was pretty old because even
40 in the unit that we live in it was pretty destroyed due to the fact that gang
41 members would go in there. It was abandoned for 6 years so even horses
42 would go in there so it was pretty destroyed when we went in there.
43
44 Shipley: All right. Thank you.
45
46 Crane: You're going to have to pay to do all the hookups for the second unit?

- 1
2 Aispuro: Yes, sir. We want to do all the hookups, put a new septic tank, the
3 electricity, pay for everything. We're willing to give the right-of-way of the
4 30 feet into our land. It's just that at this point it's impossible for us to meet
5 any kind of fees for road improvement.
6
- 7 Crane: I understand. Thank you. Commissioners, anybody else have questions
8 for Ms. Aispuro? Okay. Thank you. No one in the public is present so we'll
9 close to further discussion and Commissioners will discuss among
10 ourselves. Mr. Shipley, you often have something to say.
11
- 12 Shipley: Well, this is again is one of those where we have a lot-split. It's not a
13 subdivision and I just don't see that, although it's not in our authority to
14 approve it, we make a recommendation to the City Council but I just don't
15 see that this is necessary at this point in time.
16 The thing, I think, that we need to ask Community Development
17 and the City and the City Council is that there comes a time when we
18 need to do a timeline on when we're gonna build stuff like Porter Drive, for
19 example. You'd mentioned earlier about some of the other roads in this
20 city that have been piecemealed: Roadrunner is a good example; Sonoma
21 Ranch Boulevard is a good example, because there's still pieces of
22 Sonoma Ranch Boulevard that haven't been completed and that's not
23 mentioning the part that goes from Lohman to Dripping Springs, which is
24 now a two-lane road, which is great for people using it very extensively but
25 it needs to be done to the complete standards and everybody wants to
26 wait and let somebody else take responsibility for it. But the Municipality of
27 the City has got to take responsibility for that and if we can't afford to build
28 the roads out there we can't afford to ask the citizens to do that. It's
29 inappropriate, I think. So, especially on a small split like this, this is not a
30 subdivision. This is just basically a lot-split and I think the sooner we get
31 this resolved in Community Development and get the ordinances changed
32 and the Code changed...It's just something that has to be done right
33 away.
34
- 35 Crane: Ms. Aispuro, these signatures are all from the immediate vicinity of your
36 home?
37
- 38 Aispuro: Most of them are from around and some of them are basically from the
39 neighborhood, still around the same area.
40
- 41 Crane: When you say "from around" how far are you talking?
42
- 43 Aispuro: Like from Holman...
44
- 45 Crane: Like, are they all south of 70?
46

1 Aispuro: Yes. Pretty much.
2
3 Crane: Okay.
4
5 Aispuro: *(Using mouse to indicate on aerial map)* Yes, from around this area.
6
7 Crane: Did you collect these by going house to house?
8
9 Aispuro: Some of them I did and some of them were from church.
10
11 Crane: From?
12
13 Aispuro: From church.
14
15 Crane: I congratulate you. You've worked very hard on this with short notice. You
16 should come get this back. You may need it. Okay, any other
17 Commissioner want to address this? Then I'll entertain a motion that the
18 applicant's case S-13-023W be approved.
19
20 Shipley: If it's a request for approval of a waiver from road improvements for Porter
21 Drive?
22
23 Crane: That is Mr. Shipley.
24
25 Shipley: Then I would move for that be approved.
26
27 Crane: Okay. Do I have a second?
28
29 Stowe: I second.
30
31 Crane: Commissioner Stowe seconds. We'll do the roll call starting with Mr.
32 Alvarado this time.
33
34 Alvarado: Based on discussion and site visit I vote aye.
35
36 Crane: Mr. Stowe?
37
38 Stowe: Based on discussion this evening I vote aye.
39
40 Crane: Mr. Shipley?
41
42 Shipley: Based on discussion and site visit I vote aye.
43
44 Crane: And the Chair votes aye, based on discussion and site visit. This passes
45 4-0. Thank you.
46

1 **A. OTHER BUSINESS –NONE**

2

3 Crane: Ms. Montana, any other business tonight?

4

5 Montana: No, sir. There are no other business.

6

7 **B. PUBLIC PARTICIPATION**

8

9 Crane: No other business, no public participation.

10

11 **C. STAFF ANNOUNCEMENTS**

12

13 Crane: Staff announcements?

14

15 Montana: None, sir.

16

17 **D. ADJOURNMENT (7:03)**

18

19 Crane: In that case we are adjourned at 7:03. Thank you all.

20

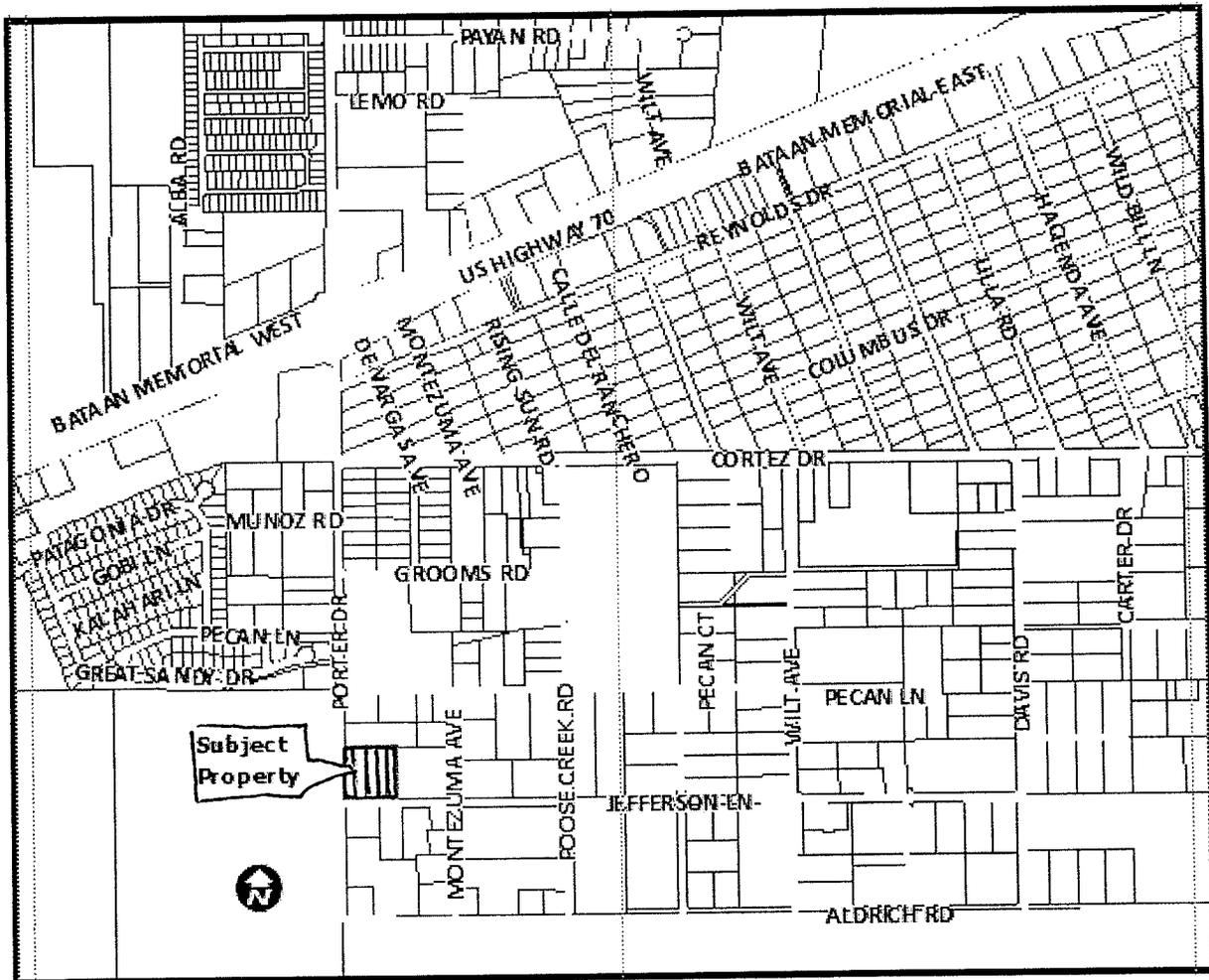
21

22

23 _____
Chairperson

DRAFT

Attachment "D"



4660 Porter Drive Location Map

Neighborhood Signatures supporting the Road Improvement Waiver for the:

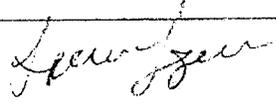
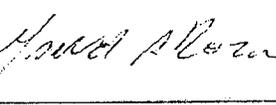
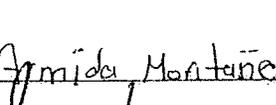
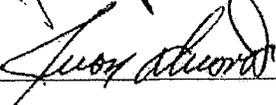
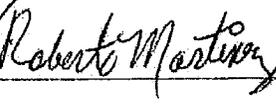
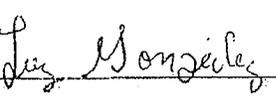
Guadalajara Acres Subdivision

The applicants (Jaime G. Lopez, Maria R. Lopez, Juan D. Aispuro and Christina Aispuro) and owners of the property located at 4660 Porter Drive, Las Cruces New Mexico, 88011 are seeking for a 100% waiver relief from making the principal arterial improvements to their portion of Porter Drive due to the following reasons:

1. Financial Hardship
2. Currently cooperating with the City by providing a 30 feet x 281.29 feet, equivalent to 9,188.763 sq. ft. or .210 acres right of way for future principal arterial road. Requesting to Subdivide: current 2.107 tracts of land acres into 2 even parts excluding the right of way.
3. No significant (1 vehicle) increase of traffic impact on Porter Drive.
4. Subdivision purpose: Residential (provide proper medical care and support to immediate family).
5. There are smaller lots around the area with 2 housing units to one lot.

NOTE:

Bureau of Land Management (BML) makes future project (Porter becoming a main artery) feasibility a little challenging.

	<u>Name</u>	<u>Signature</u>	<u>Address</u>	<u>Comments</u>
1.	Ismael Azcar		4927 Calle Billa	
2.	Manuel Alvar		5820 4 th St Organ NM	
3.	Armida Montañez		5121 Galaxy	
4.	Gilbert Tarin		5071 Wild Bill Cn.	
5.	Juan Alvarado		575 496 3237	
6.	Roberto Martinez			
7.	Luz Gonzalez			

8.	Jesus Hernandez	Jesus Hernandez	3122148	
9.	Enc Cheni-		382-5349	
10.	Mario Torres		382-5221	
11.	Olga Torres		" "	
12.	Maria Garcia	Mario Garcia	496 5138	
13.	José L. Varela	Juan L. Varela	642 8393	
14.	J. Mayke Varela	J. Mayke Varela	681-4709	
15.	Maria E. Jojola	Maria E. Jojola	202-4840	
16.	Juan Alvarado	3666 Australite		
17.	Rosaura Alvarado	3666 Australite		
18.	Sergio Salinas	9310 Arrowhead st Las Cruces NM 88012		
19.	Rosie Ataway	2408 Napalito	312 0621	
20.	Enrique E Antonia Soriano	6976 Vereda Grande Las Cruces NM 88012	382-5861	
21.	Roman Rodriguez	FRI CK S O U T H	382-7931	
22.	Cesar Renteria	Cesar Renteria	(675) 652-2706	7735 Mitchell Cir. Las Cruces NM 88012

23.	Rosa Renteria	Rosa la Renteria	202-6792	7175 Parrigan Way Las Cruces, N.M. 88015
24.	Lupe Barela	Lupe Barela	575 382-5658	9243 Higgins Ln Las Cruces, NM 88011
25.	Anna Barela	Anna Barela	382-5658	9243 Higgins LC NM 88011
26.	Osrae Ferris	Rosa Luis	382-8329	6879 Coyote Rd L.C. 88012
27.	Lepros Ferris	Lepros Ferris	382-8329	6879 Coyote Rd 88012
28.	Efraim Torres	Efraim	575 932-4246	6120 Ermita L.C. NM 88012
29.	Tomas Torres	Tomas	932-8473	6120 Ermita Rd Las Cruces NM
30.	Diana F. Gonzalez	Diana	373-8138	6873 Fox rd. Las Cruces NM 88012
31.	Leslie Cruz		382 2166	7852 CROUSE RUN
32.	José Cruz		382 2166	7857 CROUSE RUN
33.	Francisco Cruz		382 2166	7852 CROUSE RUN LAS CRUCES
34.	Hortencia Toranzo	Hortencia	373-1370	8930 E Corona LC NM 88012
35.	José Aranda	Jose Aranda	99164	Kenmore Rd. LC, NM 88012
36.	Rosadinda Valenzuela		575 54-3415	5975 Rhonda Las Cruces NM
37.	Manuel Valenzuela		(575) 54134/15	8975 Rhonda Lanc

38.	Christina Litwary	Christina Litwary	644-1521	5315 Central Rd Las Cruces NM 88022
39.	Valentine Martinez		373-9096	Joe Cresson 71 6635 Petralda 7172
40.	Lina Alvarado	Lina Alvarado	382 5817	5142 Wild Bill Ln Las Cruces N.M. 88011
41.	RAMONA Hernandez	Ramona Hernandez	524-0380	8951 Engorgo of the Las Cruces 71 2004 88012
42.	Carmen Renteria	Carmen Renteria	312-5100	7735 Mitchell
43.	VIRGINIA	GUADALUPE	805-6384	6730 - H.S. Morales
44.	Lucy Sciortino	Lucy Sciortino	635-6511	4500 Carter Dr.
45.	Gabriela Amias	Gabriela Amias	382 6971	4825 Porter Dr
46.	Jenny Martin		382 4979	6207 PECAN ^{LAND}
47.	Janet Chandler	Janet Chandler	382-5231	4520 Porter Dr
48.	Juan y Rasca	Rasca	496-5833	5955 Pecan Ln LCNM
49.	Crista Orozco	Erika Orozco	639-1794	5925 Pecan Pecan Ln LCNM 88011
50.	Manuel Lopez	Manuel Lopez	642-9000	5925 Pecan Ln Las Cruces NM 88011
51.	Guadalupe	Guadalupe Amias	636-2272	6140 Pecan Ln Las Cruces 88011
52.				