



City of Las Cruces[®]

PEOPLE HELPING PEOPLE

Council Action and Executive Summary

Item # 17Ordinance/Resolution# 16-125For Meeting of _____
(Ordinance First Reading Date)For Meeting of December 7, 2015
(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 MESA DRIVE, SIERRA VISTA AVENUE AND JIMMIE STREET ASSOCIATED WITH A PROPOSED SUBDIVISION KNOWN AS GUTIERREZ SUBDIVISION ON A 2.09 ± ACRE PARCEL LOCATED AT 5230 MESA DRIVE. SUBMITTED BY MOY SURVEYING, INC. ON BEHALF OF HORTENCIA GUTIERREZ, PROPERTY OWNER (S-15-018W).

PURPOSE(S) OF ACTION:

Subdivision road improvement waiver.

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

BACKGROUND / KEY ISSUES / CONTRIBUTING FACTORS:

The proposed subdivision known as Gutierrez Subdivision is for a single-family residential tract located on the northeast corner of Mesa Drive and Sierra Vista Avenue, west of the Las Cruces First Assembly of God church property. The proposed subdivision will split one (1) existing 2.09 ± acre single-family residential tract into two (2) new rural single-family residential lots. The proposed subdivision would place the existing home on one lot and the other lot will be vacant/undeveloped. The City of Las Cruces Subdivision Code and Design Standards require the dedication of right-of-way and the construction of road improvements along applicable roadways as part of the subdivision process.

The proposed subdivision is adjacent to Mesa Drive, a proposed collector roadway as classified by the Mesilla Valley Metropolitan Planning Organization (MPO). Mesa Drive currently consists of 60 feet of right-of-way and a 24 ± foot wide paved roadway that does not comply with City standards. The applicant is responsible for providing the additional required right-of-way dedication for Mesa Drive to meet the required one-half (1/2) of the required 85-foot wide street section for Mesa Drive (12.5 feet). The applicant is also responsible for constructing the 42.5-

foot wide street segment for Mesa Drive, including sidewalk and curb and gutter adjacent to the subdivision. The applicant is proposing to dedicate all of the required adjacent right-of-way, but is requesting a 100% waiver to required road improvements.

The proposed subdivision is also located adjacent to Sierra Vista Avenue and Jimmie Street, designated local roadways. Both are currently unimproved dirt roadways. The applicant is responsible for dedicating the additional right-of-way required, 25 feet, for a cumulative 50 foot wide street segment for both Sierra Vista Avenue and Jimmie Street. The applicant is also responsible for constructing the entire 50 foot wide street segment for Sierra Vista Avenue and Jimmie Street adjacent to the subdivision to local roadway standards. The applicant is proposing to dedicate the required additional right-of-way for Sierra Vista Avenue and Jimmie Street, but is requesting a 100% waiver to the required road improvements for both roadways.

On October 27, 2015, the Planning and Zoning Commission (P&Z) recommended approval for the waiver request by a vote of 6-0-0, (one Commissioner abstention). During the meeting, discussion took place on the issue of the specific standards requested to be waived. The P&Z questioned the need to have the three adjacent roadways improved to City standards and the potential need of amending City standards to reflect their concerns about requiring road improvements for minor subdivisions such as the one proposed. Please see Attachment "C" for a more detailed summary of the discussion that took place at the P&Z meeting. Staff received no comments from the public about the proposed waiver request.

SUPPORT INFORMATION:

1. Resolution.
2. Exhibit "A", Proposed Subdivision.
3. Attachment "A", Waiver Request.
4. Attachment "B", Staff Report to the Planning and Zoning Commission for Case S-15-018W.
5. Attachment "C", Draft minutes from the October 27, 2015 Planning and Zoning Commission meeting.
6. Attachment "D", Vicinity Map.

SOURCE OF FUNDING:

Is this action already budgeted? N/A	Yes	<input type="checkbox"/>	See fund summary below
	No	<input type="checkbox"/>	If No, then check one below:
	<i>Budget Adjustment Attached</i>	<input type="checkbox"/>	Expense reallocated from:
		<input type="checkbox"/>	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 of the proposed waiver request. No road improvements shall be required for Mesa Drive, Sierra Vista Avenue and Jimmie Street in association with the proposed subdivision known as Gutierrez Subdivision.
2. Vote "No"; this will reverse the recommendation made by the Planning and Zoning Commission. Either road improvements or a payment in lieu of road improvements for Mesa Drive, Sierra Vista Avenue and Jimmie Street shall be required in association with the proposed subdivision known as Gutierrez Subdivision.
3. Vote to "Amend"; this could allow City Council to modify the Resolution by adding conditions as determined appropriate.
4. Vote to "Table"; this could allow City 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. Ordinance 694.

RESOLUTION NO. 16-125

A RESOLUTION APPROVING A WAIVER FROM 100% OF THE REQUIRED ROAD IMPROVEMENTS TO MESA DRIVE, SIERRA VISTA AVENUE AND JIMMIE STREET ASSOCIATED WITH A PROPOSED SUBDIVISION KNOWN AS GUTIERREZ SUBDIVISION ON A 2.09 ± ACRE PARCEL LOCATED AT 5230 MESA DRIVE. SUBMITTED BY MOY SURVEYING, INC. ON BEHALF OF HORTENCIA GUTIERREZ, PROPERTY OWNER (S-15-018W).

The City Council is informed that:

WHEREAS, Moy Surveying, Inc. on behalf of Hortencia Gutierrez, property owner, has submitted a request to waive 100% of the required road improvements for Mesa Drive, Sierra Vista Avenue and Jimmie Street associated with the Gutierrez Subdivision; and

WHEREAS, Mesa Drive, Sierra Vista Avenue and Jimmie Street currently do not meet City Design Standards; and

WHEREAS, pursuant to Chapter 37 (Subdivisions), Article XII (Construction Standards) and Chapter 32 (Design Standards), Article II (Standards for Public Rights-of-Way) of the Las Cruces Municipal Code, dedication of right-of-way, when applicable, and road improvements are required on streets adjacent to a proposed subdivision; and

WHEREAS, the Planning and Zoning Commission, after conducting a public hearing on October 27, 2015, recommended that said waiver request be approved by a vote of 6-0-0 (one Commissioner abstention).

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 Mesa Drive, Sierra Vista Avenue and Jimmie Street associated with the proposed subdivision as shown in Exhibit "A", and attached hereto, be approved.

(II)

THAT the applicant will provide all necessary right-of-way for all adjoining roadways.

(III)

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

DONE AND APPROVED this _____ day of _____ 20__.

APPROVED:

Mayor

ATTEST:

City Clerk

(SEAL)

Moved by: _____

Seconded by: _____

APPROVED AS TO FORM:



City Attorney

VOTE:

Mayor Miyagishima:	_____
Councillor Gandara:	_____
Councillor Smith:	_____
Councillor Pedroza:	_____
Councillor Eakman:	_____
Councillor Sorg:	_____
Councillor Levatino:	_____



MOY SURVEYING, INC.

414 N. DOWNTOWN MALL, LAS CRUCES, N.M. 880
 PHONE: (575) 525-9683 – FAX (575) 524-3238

ATTACHMENT A

September 17, 2015

Public Works Dept.
 Community Development Dept.
 City of Las Cruces
 700 N. Main Street
 Las Cruces, NM 88001

Re: Gutierrez Tracts Subdivision
 Waiver to street improvements

Department Directors;

On behalf of our client, Hortencia Gutierrez, we are submitting for waiver to the City of Las Cruces Munciple Code, Chapter 32 - Design Standards, Article II, Sec. 32-36 - City Streets.

The City of Las Cruces is requesting right of ways to be applied to both proposed lots on both Jimmie Street and Mesa Dr. and Sierra Drive. Our client is willing to comply to the road dedications, and is requesting a complete waiver to road improvements to Mesa Dr and Jimmie St. and Sierra Drive. Mesa Drive is already a paved road and additional improvements would make Mesa drive unsafe, while Sierra Drive is not used and presently does connect to Jimmie St. and Jimme is an unpaved roadway that has been this way for years.

For the above mentioned conditions, we strongly feel the that no further improvement to Mesa Drive and Jimmie Street and Sierra Drive is warranted and will not have any negative impact on the immediate neighborhood or community.

Thank you.


 Henry Magallanez LS# 18078
 Moy Surveying, Inc.

September 21, 2015

To Whom it May Concern:

I Hortencia G. Gutierrez, owner of the residence located at 5230 Mesa Dr. in Las Cruces, NM am writing to you so that you may please take into consideration the following situation in my home and the reason why I do not have the money to make the necessary arrangements for the paving improvement of Jimmy Ln. and Sierra Vista Street as requested by you.

First of all I am a 56 year old single mother that works very hard to support my two sons; provide them a home in which to live, food, clothes and medical attention. Recently my youngest son returned home from the U.S. Navy diagnosed with Schizophrenia and my oldest son suffers from unspecified Sycosis. They both live with me are in need of special medical care which is beyond what I can afford being that I earn minimum wage. Therefore I appeal to you since you have the authority to approve or disapprove the process of subdividing my property. Unfortunately I do not have the money to make the improvements requested by you if my financial circumstances were different I would gladly do as you requested.

Once again I appeal to your generosity and kindness and thank you in advance for your attention on this matter.

Sincerely,

Hortencia G. Gutierrez
Hortencia G. Gutierrez

Sep. 21 - 2015
Date

STATE OF NEW MEXICO

COUNTY OF DOÑA ANA

The foregoing instrument was signed and acknowledged by me this 21st day of September
in the year of 2015.

My commission expires the 16 day of May in the year of 2018

Mary Helen Gonzalez
Mary Helen Gonzalez / Notary Public





**Planning & Zoning
Commission
Staff Report**

Meeting Date: October 27, 2014
Drafted by: Adam Ochoa, Planner

CASE # S-15-018W **PROJECT NAME:** Gutierrez Subdivision Waiver Request

**APPLICANT/
REPRESENTATIVE:** Moy Surveying, Inc. **PROPERTY OWNER:** Hortencia Gutierrez

LOCATION: The northeast corner of Mesa Drive and Sierra Vista Avenue; 5230 Mesa Drive **COUNCIL DISTRICT:** 5 (Councillor Sorg)

SIZE: 2.09 ± acres **EXISTING ZONING/
OVERLAY:** R-1a (Single-Family Medium Density)

**REQUEST/
APPLICATION TYPE:** Request for approval for a waiver from the corresponding road improvements for a proposed subdivision known as Gutierrez Subdivision

EXISTING USE: Tract with one (1) single-family residence

PROPOSED USE: Two (2) single-family residential lots; one lot undeveloped and one lot with a single-family residence

DRC RECOMMENDATION: Denial of the waiver based on findings for case S-15-018W

TABLE 1: CASE CHRONOLOGY

Date	Action
June 19, 2015	Application submitted to Development Services
June 19, 2015	Initial review sent out for review to all reviewing departments
September 17, 2015	Final comments returned by all reviewing departments
October 7, 2015	DRC reviews and recommends denial for the proposed waiver request
October 11, 2015	Newspaper Advertisement
October 6, 2015	Public notice letter mailed to neighboring property owners
October 9, 2015	Sign posted on property
October 27, 2015	Planning and Zoning Commission public hearing

SECTION 1: SYNOPSIS OF PROPOSAL

The applicant is proposing a waiver to road improvements associated with a proposed alternate summary subdivision known as Gutierrez Subdivision that will split one (1) existing 2.09 ± acre tract into two (2) new single-family lots. The City of Las Cruces Subdivision Code and Design Standards require the dedication of right-of-way along applicable roadways as part of the subdivision process. The applicant is required to dedicate the additional right-of-way for Mesa Drive, Sierra Vista Avenue and Jimmie Street. The applicant is also required to provide all required road improvements to the roadways as required by the City of Las Cruces Design Standards. The applicant is proposing to dedicate the required right-of-way fronting the proposed subdivision along Mesa Drive, Sierra Vista Avenue and Jimmie Street, but is requesting to waive 100% of the required road improvements. No alternative, including a fee-in-lieu of improvements, is proposed.

TABLE 2: DEVELOPMENT STANDARDS & SITE CHARACTERISTICS

Standard	Existing	Proposed	Zoning Code Req.
ROW Improvements	<u>Mesa Drive:</u> 24 + foot wide paved road <u>Sierra Vista Avenue:</u> unimproved, dirt road <u>Jimmie Street:</u> unimproved , dirt road	No improvements proposed	<u>Mesa Drive:</u> 42.5-foot wide street segment w/ sidewalk, curb and gutter adjacent to the subdivision <u>Sierra Vista Avenue:</u> 50-foot wide minor local street segment adjacent to the subdivision <u>Jimmie Street:</u> 50-foot wide minor local street segment adjacent to the subdivision
ROW Dedication	<u>Mesa Drive:</u> 30 feet <u>Sierra Vista Avenue:</u> 25 feet <u>Jimmie Street:</u> 25 feet	<u>Mesa Drive:</u> 12.5 additional feet (42.5 feet total) <u>Sierra Vista Avenue:</u> 25 additional feet (50 feet total) <u>Jimmie Street:</u> 25 additional feet (50 feet total)	<u>Mesa Drive:</u> 42.5 feet <u>Sierra Vista Avenue:</u> 50 feet <u>Jimmie Street:</u> 50 feet

TABLE 3: SPECIAL CHARACTERISTICS

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

TABLE 4: ADJACENT ZONING AND LAND USE INFORMATION

Location	Existing Use	Overlay District	Zoning Designation
Subject Property	Single-family residence	N/A	R-1a (Single-Family Medium Density)
North	Single-family residences	N/A	R-1a (Single-Family Medium Density)

South	Non-conforming mobile home park	N/A	R-1a (Single-Family Medium Density)/C-1 (Commercial Low Intensity)
East	Religious campus	N/A	C-3C (Commercial High Intensity-Conditional)
West	Single-Family Residences	N/A	REM (Single-Family Residential Estate Mobile)

TABLE 5: PARCEL HISTORY

Number	Status
Permit	N/A
Ordinance # 694	Established the initial zoning of R-1 on the subject property
Resolution	N/A

SECTION 2: REVIEWING DEPARTMENT/AGENCY RECOMMENDATIONS

Department Name	Approval (Yes/ No)	Conditions (Yes/No)
CLC Development Services	No	No
Metropolitan Planning Organization (MPO)	No	No
CLC CD Engineering Services	No	No
CLC Traffic	No	No
CLC Fire & Emergency Services	No	No
CLC Utilities	Yes	Yes – The Utilities Department has no issues with the waiver request, but supports the decisions of the other City departments
CLC Parks	Yes	No

SECTION 3: STAFF ANALYSIS AND CONCLUSIONS

Analysis:

The applicant is proposing a waiver from road improvements associated with the subdivision of one (1) existing 2.09 ± acre single-family residential tract zoned R-1a (Single-Family Medium Density) into two (2) new single-family residential lots that meet all development standards of the R-1a zoning district. The City of Las Cruces Subdivision Code and Design Standards require all subdividers to provide the necessary amount of right-of-way dedication and road improvements to all streets adjacent to the proposed subdivision. Those requirements are outlined below:

Mesa Drive

The proposed subdivision is adjacent to Mesa Drive, a proposed collector roadway as classified by the Mesilla Valley Metropolitan Planning Organization (MPO). Mesa Drive is currently made up of 60 feet of right-of-way and a 24 ± foot wide paved road. Mesa Drive does not currently comply with City standards. The applicant is responsible for providing the additional required right-of-way dedication for Mesa Drive to meet the required one-half (1/2) of the required 85-foot wide street section, which entails 12.5 additional feet of right-of-way to meet the required 42.5 foot wide right-of-way dedication. The applicant is also responsible for constructing the 42.5-foot wide street segment for Mesa Drive including sidewalk, curb and gutter adjacent to the subdivision. The applicant is proposing to dedicate the required additional right-of-way for Mesa Drive along the subdivision line, but is requesting to waive 100% of the required road improvements.

Sierra Vista Avenue

The proposed subdivision is also located adjacent to Sierra Vista Avenue, a designated local roadway. Sierra Vista Avenue is currently an unimproved dirt road. The applicant is responsible for dedicating the additional right-of-way required, 25 feet, to provide a 50-foot wide street segment for Sierra Vista Avenue along the subdivision boundary. The applicant is also responsible for constructing the 50-foot wide street segment for Sierra Vista Avenue adjacent to the subdivision to minor local roadway standards. The applicant is proposing to dedicate the required additional right-of-way for Sierra Vista Avenue, but is requesting to waive 100% of the required road improvements.

Jimmie Street

Jimmie Street is another adjacent roadway to the proposed subdivision and is a designated local roadway. Jimmie Street is also currently an unimproved dirt road. The applicant is responsible for dedicating the additional right-of-way required, 25 feet, to provide a 50-foot wide street segment for Jimmie Street along the subdivision boundary. The applicant is also responsible for constructing the 50-foot wide street segment for Jimmie Street adjacent to the subdivision to minor local roadway standards. The applicant is proposing to dedicate the required additional right-of-way for Jimmie Street, but is requesting to waive 100% of the required road improvements.

Conclusion

The applicant has stated that the proposed subdivision is being done to sell off the vacant/undeveloped portion of the tract to help financially support the property owner and her two sons that are in need of special medical care. The applicant has also stated that providing the required roadway improvements would create a substantial financial hardship for the family. The applicant's representative added by stating that the required roadway improvements are not warranted for simply subdividing a large single-family residential tract into only two new single-family residential lots and that the subdivision and the additional traffic of one additional single-family lot will not negatively affect the traffic of the surrounding area.

The hardships expressed by the applicant (please see Attachment #5 for additional details) do not demonstrate a substantial hardship for approval of a waiver request as outlined in Article 6, Section 37-332 of the City of Las Cruces Subdivision Code; specifically, the hardship must be "due to exceptional topographic, soil, or other surface or sub-surface conditions or that such conditions would result in inhibiting the objectives of the code." Furthermore, as areas throughout the City have been developed and waivers to road improvements granted, the proliferation of roads that are not improved to City standards has created access issues that have the potential for safety hazards as well as a monetary burden to the City and Citizens of Las Cruces for the future improvement to these roadways to rectify their inadequacies. Article I, Section 38-2 of the 2001 Zoning Code, as amended, specifically states the intent of the Code is "to promote the health, safety, and general welfare of the community," to "secure safety..." and is to "facilitate adequate provision for transportation..."

DRC RECOMMENDATION

On October 7, 2015 the Development Review Committee (DRC) reviewed the proposed waiver request. The DRC reviews subdivisions from an infrastructure, utilities and improvement standpoint. After some discussion between staff and the applicant and the applicant's representative the DRC recommended denial for the proposed waiver request. Please refer to Attachment #6 for more details about the discussions that took place at the DRC meeting.

STAFF RECOMMENDATION

Staff recommends **DENIAL** for the proposed waiver to road improvements based on the following findings:

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)
3. A subdivider is responsible for providing road improvements for one-half (1/2) of an adjacent collector roadway including sidewalk, curb and gutter. (Design Standards Article 2, Section 32-36)
4. The applicant and the applicant's representative have not demonstrated the need for the waiver due to a substantial hardship due to exceptional topographic, soil, or other surface or sub-surface conditions or that such conditions would result in inhibiting the objectives of the code. (Subdivision Code Article XI, Sec. 37-332)

ATTACHMENTS

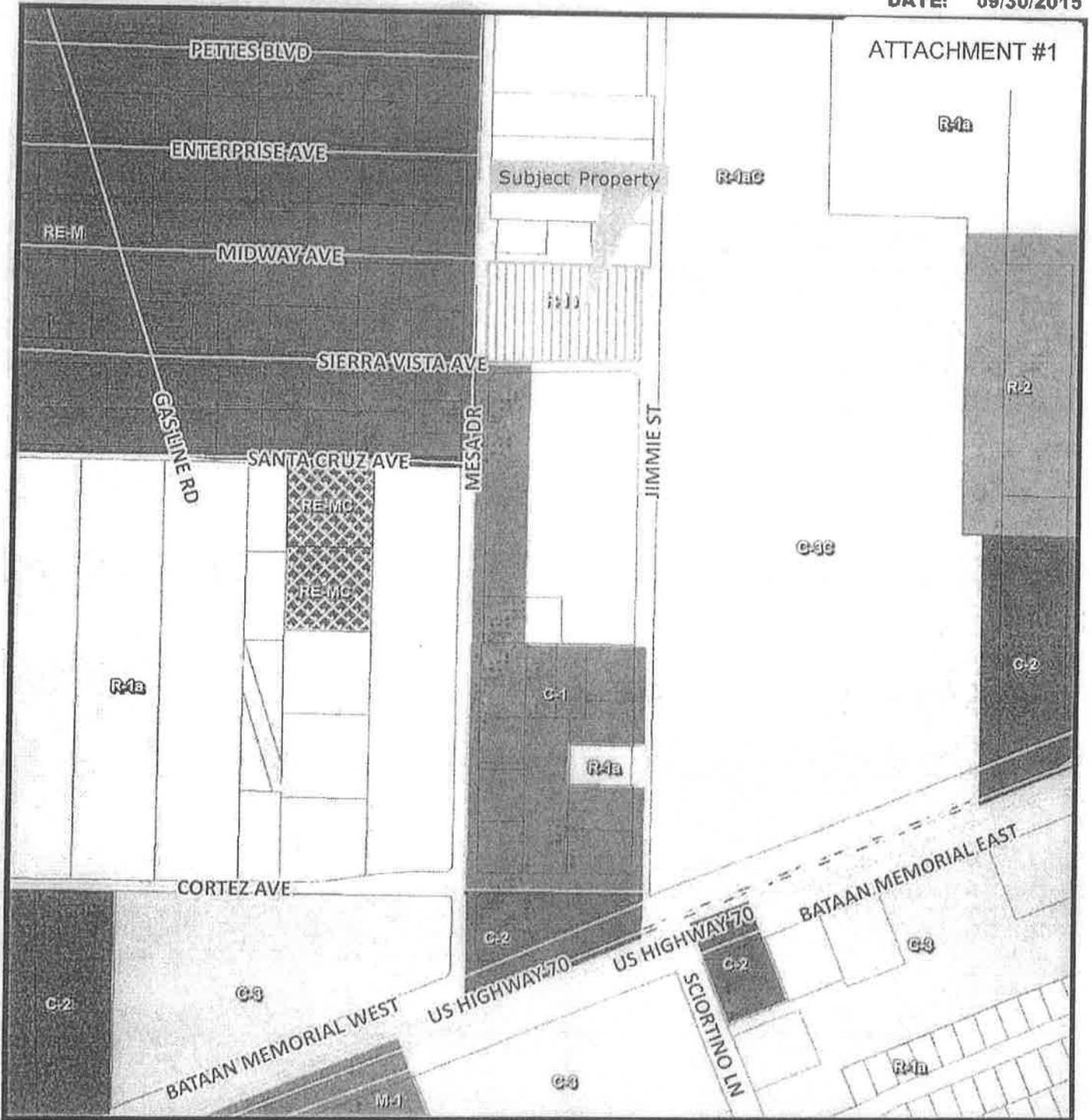
1. Vicinity Map
2. Aerial Map
3. Development Statement
4. Proposed Subdivision
5. Waiver Request
6. DRC Minutes dated October 7, 2015

VICINITY MAP

ZONING: R-1A
OWNER: HORTENCIA GUTIERREZ

PARCEL: 02-19098
DATE: 09/30/2015

ATTACHMENT #1



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

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

AERIAL MAP

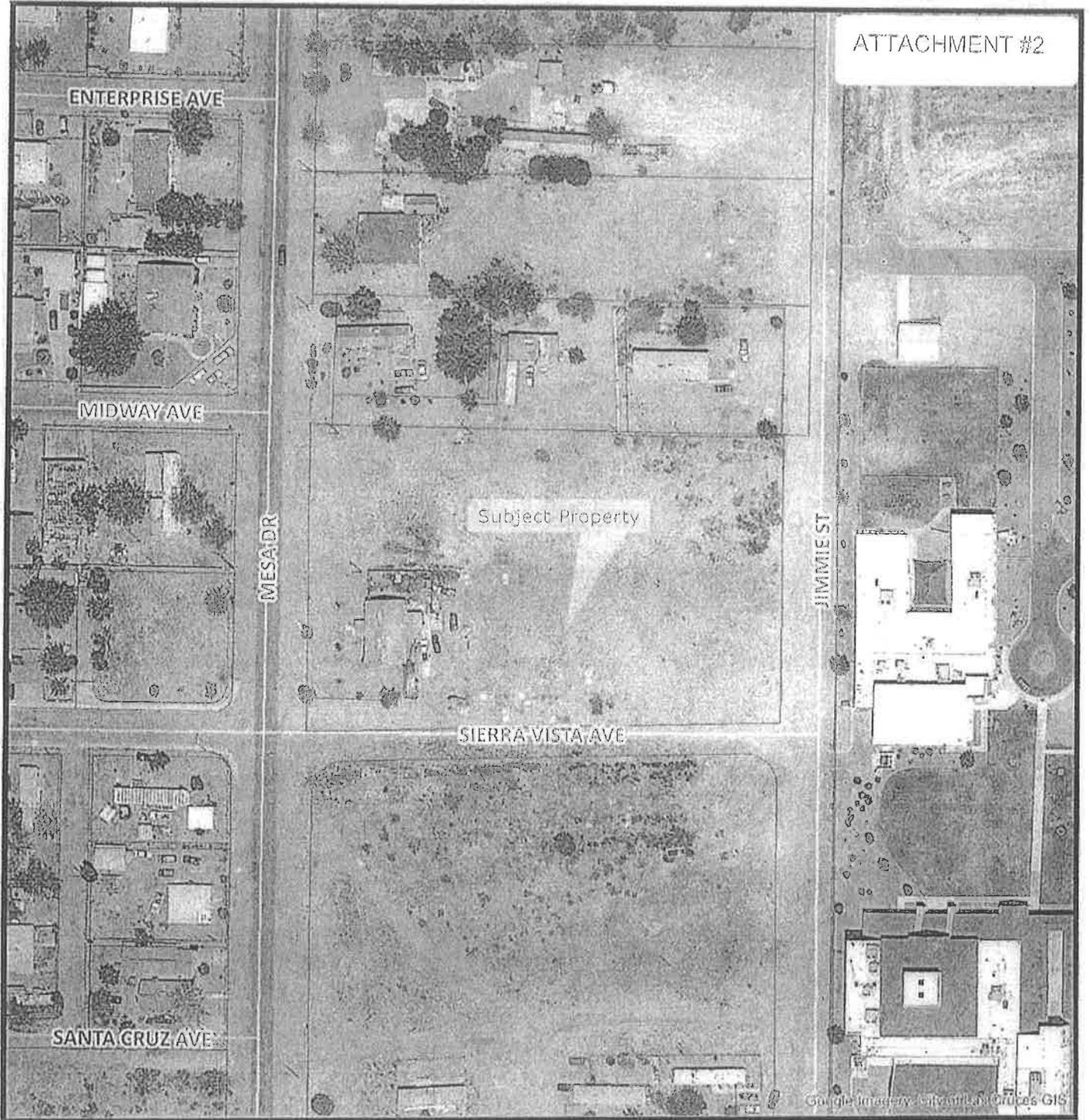
ZONING: R-1A

OWNER: HORTENCIA GUTIERREZ

PARCEL: 02-19098

DATE: 09/30/2015

ATTACHMENT #2



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

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

DEVELOPMENT STATEMENT for City Subdivision/Zoning Applications

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

Applicant Information

Name of Applicant: Hortencia Guterrez
Contact Person: _____
Contact Phone Number: 575-201-4185
Contact e-mail Address: _____
Web site address (if applicable): _____

Proposal Information

Name of Proposal: Guterrez Subdivision
Type of Proposal (single-family subdivision, townhouse, apartments, commercial/industrial)
Single Family Subdivision

Location of Subject Property 5230 Mesa Dr., Las Cruces, NM 88012

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

Acreage of Subject Property: 1.887 ac

Detailed description of **current** use of property. Include type and number of buildings:
single dwelling for residence, and seperate garage

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

Zoning of Subject Property: Las Cruces

Proposed Zoning (If applicable): N/A

Proposed number of lots 2, to be developed in 1 phase (s).

Proposed square footage range of homes to be built from 1200 to 2000

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

Not to exceed zoning criteria

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

N/A

Anticipated traffic generation 12 trips per day.

Anticipated development schedule: work will commence on or about JMay
and will take 180 days to complete.

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

on-lot ponding

Will any special landscaping, architectural or site design features be implemented into the proposal (for example, rock walls, landscaped medians or entryways, entrance signage, architectural themes, decorative lighting)? If so, please describe and attach rendering (rendering optional). N/A

Is the developer/owner proposing the construction of any new bus stops or bus shelters? Yes ___ No XX Explain: not required

Is there existing landscaping on the property? Yes, Mature trees, shrubs, and grass

Are there existing buffers on the property? No

Is there existing parking on the property? Yes XX No ___

If yes, is it paved? Yes ___ No XX

How many spaces? 2 How many accessible? N/A

Attachments

Please attach the following: (* indicates optional item)

Location map

Subdivision Plat (If applicable)

Proposed building elevations

*renderings of architectural or site design features

*other pertinent information

GUTIERREZ SUBDIVISION

A SUBDIVISION SITUATED
IN SECTION 14, T.22S., R.2E., N.M.P.M.
OF THE U.S.G.L.O. SURVEYS
CITY OF LAS CRUCES
DOÑA ANA COUNTY, NEW MEXICO

JULY, 2015 SCALE 1" = 60'
1.801 ACRE TOTAL

2

UTILITY APPROVAL
THIS PLAN HAS BEEN APPROVED FOR EXISTING UTILITIES ONLY. THE BORING
UNDETERMINED COMPARED TO THE SUBDIVISION
CONTRACT COORDINATION COMPLETION

STRENGTH FROM DESIGN, CONSTRUCTION, AND MAINTENANCE TO BE PROVIDED TO
THE UTILITIES COMPANY, THE CONTRACTOR SHALL BE RESPONSIBLE TO
THE UTILITIES COMPANY FOR THE DESIGN, CONSTRUCTION, AND MAINTENANCE OF
THE UTILITIES COMPANY'S UTILITIES. THE CONTRACTOR SHALL BE RESPONSIBLE TO
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THE UTILITIES COMPANY'S UTILITIES.

DESIGN CONSTRUCTION, DESIGN CONTRACT NO.
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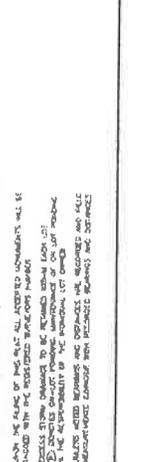
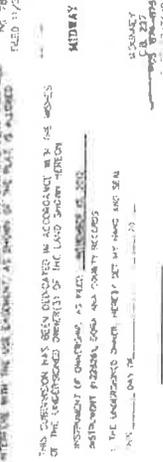
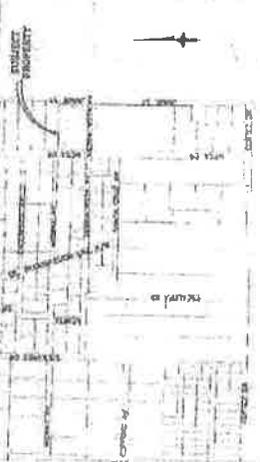
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BY: DATE:
BY: DATE:



DEFINITION
THE LOTS SHOWN HEREIN ARE TO BE KNOWN AS
SUBDIVISION

THE BORING OF NEW PUBLIC UTILITIES SHALL BE THE RESPONSIBILITY OF THE
CITY OF LAS CRUCES. THE CITY OF LAS CRUCES SHALL BE RESPONSIBLE FOR THE
DESIGN, CONSTRUCTION, AND MAINTENANCE OF THE UTILITIES COMPANY'S UTILITIES.
THE CONTRACTOR SHALL BE RESPONSIBLE TO THE UTILITIES COMPANY FOR THE
DESIGN, CONSTRUCTION, AND MAINTENANCE OF THE UTILITIES COMPANY'S UTILITIES.

THIS SUBDIVISION HAS BEEN REVIEWED IN ACCORDANCE WITH THE PROVISIONS
OF THE LEGISLATED CHAPTER 200, AS AMENDED, OF THE STATUTES OF THE STATE
OF NEW MEXICO, AND THE CITY OF LAS CRUCES, NEW MEXICO, AND THE CITY OF
LAS CRUCES, NEW MEXICO, AND THE CITY OF LAS CRUCES, NEW MEXICO.

STATE OF NEW MEXICO
COUNTY OF DOÑA ANA
CITY OF LAS CRUCES

RECEIVED NO. 25
CITY OF DOÑA ANA

PLAT NO. 25
COUNTY OF DOÑA ANA

PLAT NO. 25
COUNTY OF DOÑA ANA

NOT SURVEYING INC
444 N. UNIVERSITY BLVD
LAS CRUCES, NM 88003
PHONE: (505) 935-9083
FAX: (505) 935-3228

THIS IS TO CERTIFY THAT THE PROPERTY DESCRIBED IN THIS PLAN HAS BEEN
REVIEWED AND FOUND TO BE IN ACCORDANCE WITH THE CITY OF LAS CRUCES
ORDINANCES AND THE CITY OF LAS CRUCES, NEW MEXICO, AND THE CITY OF
LAS CRUCES, NEW MEXICO, AND THE CITY OF LAS CRUCES, NEW MEXICO.

DATE OF SURVEY
14 JULY 2015



MOY SURVEYING, INC.

414 N. DOWNTOWN MALL, LAS CRUCES, N.M. 88001

PHONE: (575) 525-9683 – FAX (575) 524-3238

ATTACHMENT #5

September 17, 2015

Public Works Dept.
Community Development Dept.
City of Las Cruces
700 N. Main Street
Las Cruces, NM 88001

Re: Gutierrez Tracts Subdivision
Waiver to street improvements

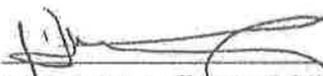
Department Directors;

On behalf of our client, Hortencia Gutierrez, we are submitting for waiver to the City of Las Cruces Municiple Code, Chapter 32 - Design Standards, Article II, Sec. 32-36 - City Streets.

The City of Las Cruces is requesting right of ways to be applied to both proposed lots on both Jimmie Street and Mesa Dr. and Sierra Drive. Our client is willing to comply to the road dedications, and is requesting a complete waiver to road improvements to Mesa Dr and Jimmie St. and Sierra Drive. Mesa Drive is already a paved road and additional improvements would make Mesa drive unsafe, while Sierra Drive is not used and presently does connect to Jimmie St. and Jimme is an unpaved roadway that has been this way for years.

For the above mentioned conditions, we strongly feel the that no further improvement to Mesa Drive and Jimmie Street and Sierra Drive is warranted and will not have any negative impact on the immediate neighborhood or community.

Thank you.


 Henry Magallanez LS# 18078
 Moy Surveying, Inc.

September 21, 2015

To Whom it May Concern:

I Hortencia G. Gutierrez, owner of the residence located at 5230 Mesa Dr. in Las Cruces, NM am writing to you so that you may please take into consideration the following situation in my home and the reason why I do not have the money to make the necessary arrangements for the paving improvement of Jimmy Ln. and Sierra Vista Street as requested by you.

First of all I am a 56 year old single mother that works very hard to support my two sons; provide them a home in which to live, food, clothes and medical attention. Recently my youngest son returned home from the U.S. Navy diagnosed with Schizophrenia and my oldest son suffers from unspecified Sycosis. They both live with me are in need of special medical care which is beyond what I can afford being that I earn minimum wage. Therefore I appeal to you since you have the authority to approve or disapprove the process of subdividing my property. Unfortunately I do not have the money to make the improvements requested by you if my financial circumstances were different I would gladly do as you requested.

Once again I appeal to your generosity and kindness and thank you in advance for your attention on this matter.

Sincerely,

Hortencia G. Gutierrez
Hortencia G. Gutierrez

Sep. 21 - 2015
Date

STATE OF NEW MEXICO

COUNTY OF DOÑA ANA

The foregoing instrument was signed and acknowledged by me this 21st day of September
in the year of 2015.

My commission expires the 16 day of May in the year of 2018

Mary Helen Gonzalez
Mary Helen Gonzalez / Notary Public



1 **DEVELOPMENT REVIEW COMMITTEE (DRC)**

2
3 Following are the minutes from the City of Las Cruces Development Review Committee
4 meeting held Wednesday, October 7, 2015 at 9:00 a.m. at City Hall, Room 1158, 700
5 North Main Street, Las Cruces, New Mexico.

6
7 **DRC PRESENT:** Robert Kyle, Community Development
8 Ted Sweetser, Fire Department
9 Lorenzo Hernandez, Utilities
10 Rocio Dominguez, Engineering Services
11 Geremy Barela, Engineering Services
12 Karmela Espinoza, Traffic

13
14 **STAFF PRESENT:** Adam Ochoa, Development Services
15 Katherine Harrison-Rogers, Community Development
16 Becky Baum, Recording Secretary, RC Creations, LLC

17
18 **OTHER PRESENT:** Robert Laws, Moy Surveying
19 Hortencia Gutierrez
20 Samson Gutierrez

21
22 **I. CALL TO ORDER**

23 **II.**

24 Kyle: I'm going to go ahead and call this meeting of the Development Review
25 Committee to order, it is, what is it, it is October the 7th, approximately
26 9:03 AM

27
28 **III. APPROVAL OF MINUTES - May 27, 2015**

29
30 Kyle: The first item of business is approval of minutes. We have minutes from
31 the May 27th DRC meeting for approval. Are there any corrections to
32 note? I did have one, the, the minutes are actually listed, the title of the
33 minutes is listed as May 26th, and it should be May 27th. I didn't have any
34 other corrections. So noting that correction I'd entertain a motion to
35 approve the minutes.

36
37 Dominguez: So moved.

38
39 Kyle: Is there a second?

40
41 Sweetser: Approved, or seconded. Second. Sorry.

42
43 Kyle: Moved and seconded. All those in favor please signify by saying "aye."

44
45 **MOTION PASSED UNANIMOUSLY.**

46

1 Kyle: Any opposed? Seeing none. The minutes are approved.
2

3 **IV. OLD BUSINESS - NONE**
4

5 Kyle: We have no old business on the agenda.
6

7 **V. NEW BUSINESS**
8

9 1. **S-15-018W: Gutierrez Subdivision Waiver**

- 10 • A request for approval of a waiver to the required road improvements
11 associated with a proposed alternate summary subdivision known as
12 Gutierrez Subdivision.
- 13 • The proposed subdivision requires the applicant to provide the required
14 road improvements to the three adjacent roadways, which includes
15 Mesa Drive, Sierra Vista Avenue and Jimmie Street.
- 16 • The applicant is proposing a 100% waiver to the required road
17 improvements and is not offering alternatives to the full improvements.
- 18 • The subject property encompasses 2.09 +/- acres, is zoned R-1a (Single-
19 Family Medium Density) and is located on the northeast corner of Mesa
20 Drive and Sierra Vista Avenue at 5230 Mesa Drive.
- 21 • Submitted by Moy Surveying, Inc. on behalf of Hortencia Gutierrez,
22 property owner.

23
24 Kyle: We have one New Business item, Case S-15-018W, Gutierrez Subdivision
25 Waiver. Staff, can you give us a review?
26

27 Ochoa: Sure thing. This is a request for the waiver to all required road
28 improvements for a proposed alternate summary subdivision known as
29 Gutierrez Subdivision. The Gutierrez Subdivision is subdividing an
30 existing roughly 2.09 acre property zoned R-1a into two new lots. One lot
31 will encompass approximately 0.89 acres and the other one approximately
32 0.91 acres. With this subdivision as City Design Standards require and
33 the Subdivision Code requires road improvements are required to the
34 adjacent roadways which in this is Mesa Drive, Sierra Vista Avenue, and
35 Jimmie Street. The applicant is proposing to provide all required
36 dedication to those roadways but no road improvements. That's what the
37 waiver's for is to the road improvements. The applicant has stated that
38 since this is just a subdivision creating two large lots they, they do not
39 believe the additional lot would warrant any type of road improvements.
40 They are just being financially burdensome on them in order to provide
41 those road improvements but other than that ... and I'm sorry, the
42 property's located at the address of 5230 Mesa Drive. But other than that
43 the applicant is here as well as the applicant's representative if you have
44 any questions for them. I stand for questions as well.
45

1 Kyle: Okay. The applicant, do you have anything that you want to add to what
2 staff has just outlined, rationale, or, or justification for the, for the waiver
3 request?
4
5 Gutierrez, S: SPEAKING SPANISH.
6
7 Laws: Go ahead.
8
9 Gutierrez, S: SPEAKING SPANISH.
10
11 Gutierrez, H: SPEAKING SPANISH.
12
13 Gutierrez, S: She, she can't understand every single detail in the, like she doesn't fully
14 understand like everything that's being said. Yeah I'm more or less
15 translating.
16
17 Ochoa: Okay.
18
19 Kyle: Okay.
20
21 Ochoa: Just a ... SPEAKING SPANISH.
22
23 Gutierrez, H: SPEAKING IN SPANISH.
24
25 Ochoa: Can I translate?
26
27 Gutierrez, S: Yeah.
28
29 Ochoa: Okay. If you don't mind I'll translate.
30
31 Gutierrez, S: Go ahead. Go ahead.
32
33 Ochoa: Basically she just stated that she's seeking a subdivision to try to sell off a
34 piece of the property to, one of the lots on there. She is the only person
35 working in her household and she has two sons that need certain
36 treatments and medical help and like selling this will help her do that,
37 supporting her family. She just can't afford monetarily to pay for the
38 improvements to the roads, so that's what the waiver is for.
39
40 Kyle: Does the applicant fully understand that the Subdivision Code and, and
41 the City's Design Standards require these improvements and that ... just
42 want to make sure that we don't have a, a breakdown of understanding
43 that the Code requires those improvements and that's why we're going
44 through this process.
45
46 Ochoa: EXPLAINED TO APPLICANT IN SPANISH.

1
2 Gutierrez, S: SPEAKING SPANISH.
3
4 Kyle: Okay.
5
6 Laws: One of your comments they have Jimmie Street, Sierra Vista, and Mesa
7 Drive improvements to City of Las Cruces Design Standards or pay the
8 cost for improvements to the City of Las Cruces. Do you have a dollar
9 amount on that?
10
11 Kyle: No you'd have to give us a cost estimate.
12
13 Laws: Get a ...
14
15 Ochoa: An engineer to do that.
16
17 Laws: An engineer to do that. That's curb and gutter and sidewalks and ...
18
19 Kyle: Curb, gutter, yeah basically back to back and sidewalk.
20
21 Laws: That'd be the only place up there that has curb and gutter and sidewalks.
22
23 Kyle: Well actually, actually given the, that could be the rationale for, for the
24 waiver. Given the lot size, the average lot size there a sidewalk might not
25 actually be required. But definitely pavement, curb, gutter, in accordance
26 with standards or you pay the pro rata share.
27
28 Laws: But they're already paved aren't they.
29
30 Kyle: I don't know. Do we know what the, the status, the paving status of any of
31 these road are?
32
33 Ochoa: Sure I, I definitely know. I could take care of that. Currently Mesa Drive is
34 paved but it's only about 60 feet wide. But both Jimmie Street and Sierra
35 Vista are both just dirt roads now currently.
36
37 Kyle: Okay. Well keep in mind even if they are paved, they, they're not up to the
38 required standard (*inaudible*).
39
40 Laws: I just wondered why (*inaudible*). That's the thing, one up the road you
41 know.
42
43 Kyle: Well that's why in a case like this the, the provision of funds as opposed to
44 actually doing the improvements might make more sense so you don't
45 have one tiny little segment. The City will collect the monies and when
46 the, the, the pot money's big enough or you know ...

1
2 Laws: You know if you got your right, right-of-ways whenever you decided to do
3 it you could always assess it (*inaudible*).
4
5 Kyle: The City doesn't build roads, development does. That, that's the general
6 policy of the City. With that in mind we'll go around the room to the
7 remaining departments. Fire.
8
9 Sweetser: We're actually okay with Mesa Drive the way it is right now because it
10 does meet the Fire Code, so we're, we're okay with that. However with
11 that additional lot it would require that the roads on Sierra Vista, Jimmie
12 and what was the other street?
13
14 Ochoa: That's it.
15
16 Sweetser: Oh okay, Sierra Vista and Jimmie would have to come up to code and it
17 would also I, I believe necessitate the need for a fire hydrant as well
18 adding that additional property there. That's all the comments that Fire
19 has for now.
20
21 Kyle: Okay. Utilities.
22
23 Hernandez: We have, Meei approved the approval. She stated that the only, gas is
24 the only, is located on what, Sierra Vista, and they're currently on gas.
25 Water is by Mesa Development and currently City Utilities is trying to
26 acquire that water company and, but it's under, it's pending PRC approval
27 right now so when that goes through the City will rehab that, that area.
28 And there's sewer on Sierra Vista and Midway and the closest connection
29 would be Sierra Vista but it's up to them to connect.
30
31 Kyle: Did utilities have any specific comments related to the waiver request?
32
33 Law: There's already sewer on Sierra Vista.
34
35 Ochoa: That, that's a separate issue. That's what the subdivision (*inaudible*).
36
37 Gutierrez, S: SPEAKING SPANISH.
38
39 Kyle: Those comments are applicable to the actual subdivision, not the waiver.
40
41 Gutierrez, S: SPEAKING SPANISH.
42
43 Ochoa: The, the City of Las Cruces Utilities Department did not have any issues
44 with the waiver but they will support the decision of whatever the, the DRC
45 does.
46

- 1 Kyle: Engineering/Technical Services. Any comments?
2
- 3 Dominguez: Yes. I stated on my comment that Sierra Vista or Jimmie, cause you're
4 right, Mesa is already developed not standards, not to the full collector I
5 believe that's what it is.
6
- 7 Ochoa: Correct.
8
- 9 Dominguez: But Sierra Vista and Jimmie are not developed at all so we will not be
10 willing to support the waiver. We will definitely take money in lieu of or
11 even do what we have done before to do a pro rata share on that.
12
- 13 Gutierrez, S: SPEAKING SPANISH.
14
- 15 Kyle: Planning.
16
- 17 Ochoa: No other questions. Unfortunately the, the, the waiver request does not
18 meet the definition of the waiver or the requirement for hardship.
19
- 20 Kyle: Have the applicants looked at doing a Proportionate Share Agreement
21 where in looking at instead of actually, we have in, in, in cases where
22 we're just doing a little small subdivision like this, gone to Council with a
23 Proportionate Share Agreement as part of the waiver basically saying that
24 look based on the increased impact caused by this new lot and the
25 potential development that occur, it equates into dollar amount X as far as
26 impact to the infrastructure and provide that in lieu of actual compliance
27 with the design standards which is you know paving both of those roads
28 actually to full standards instead of locals and then half a collector status
29 for Mesa Drive which we're probably talking about tens and tens of
30 thousands of dollars if not more. The Proportionate Share analysis
31 equates into a much smaller dollar amount and really it, it's tied to what
32 the increased impact of this additional lot on the, on the infrastructure will
33 be and we have gone forward on, on this one occasion with one of those
34 and it was approved by the City Council. And that is an option to pursue
35 if, if you want or again you did request the waiver and we can take the
36 waiver through the, the full process. I just wanted to throw that out there
37 that the applicant does have some options to, to potentially consider in
38 regards to compliance with the City's Codes. And I'm sorry I did, Karmela
39 came in after we had started the meeting. So Traffic do you have any
40 comments?
41
- 42 Espinoza: Per Willie Roman, he said that he does not recommend that the waiver be
43 approved. He recommends payment in lieu of if they cannot do the
44 improvements.
45
- 46 Kyle: Okay. Are there any other comments? Applicant do you have anything?

1
2 Gutierrez, S: SPEAKING SPANISH.

3
4 Gutierrez, H: SPEAKING SPANISH.

5
6 Gutierrez, S: Yeah as far as paving the road goes, she's in the, she's, she, she, she'll
7 allow for, for, for some, for some of her land to be paved as well. Like
8 she's willing to, to use some of her land for the road.

9
10 Kyle: Okay. That's being provided.

11
12 Ochoa: Right, the dedication.

13
14 Laws: They've give the right-of-way. That's not what, they want the right-of-way
15 and (*inaudible*).

16
17 Gutierrez, H: SPEAKING SPANISH.

18
19 Kyle: Understood.

20
21 Ochoa: Okay.

22
23 Kyle: All right with that I'd entertain a motion in regards to the request which is a
24 waiver to all road improvements for the proposed subdivision.

25
26 Dominguez: I entertain a motion to approve the waiver.

27
28 Kyle: You move to approve the waiver.

29
30 Dominguez: I move ... I'm sorry. I apologize. I move to approve the waiver the way it
31 is in the 100%.

32
33 Kyle: Is there a second? Will somebody second the motion?

34
35 Dominguez: And then we can deny it.

36
37 Sweetser: I'll, I'll second the motion.

38
39 Kyle: Okay, motion's been moved and seconded. All those in favor of approval
40 of the waiver please signify by saying "aye." Any opposed?

41
42 MOTION OF DENIAL PASSED UNANIMOUSLY.

43
44 Kyle: It is unanimous denial of the waiver request for recommendation of the
45 waiver request. The case will now go forward to the Planning and Zoning
46 Commission for their recommendation and then ultimately to City Council.

1 So we are just the, the DRC is just a recommending body in this particular
2 instance to the Planning and Zoning Commission and so the DRC will be
3 recommending denial of the waiver but ultimately the Planning and Zoning
4 Commission will now have purview over it.
5

6 Gutierrez, S: SPEAKING SPANISH.
7

8 **VI. ADJOURNMENT (9:17 a.m.)**
9

10 Kyle: Is there any other business before the DRC today? Seeing none. I'd
11 entertain a motion to adjourn.
12

13 Dominguez: So moved.
14

15 Sweetser: Second.
16

17 Kyle: It's been moved and seconded. All those in favor please signify by saying
18 "aye."
19

20 MOTION PASSED UNANIMOUSLY.
21

22 Kyle: Any opposed? We are adjourned.
23
24
25
26
27

28
29 _____
Chairperson
30

1 Crane: Okay. Commissioner Alvarado.

2
3 Alvarado: Aye based on discussion and staff recommendation.

4
5 Crane: Commissioner Ferrary.

6
7 Ferrary: I vote aye, based on discussion and staff recommendation.

8
9 Crane: Commissioner Stowe.

10
11 Stowe: I vote aye based on discussions and *(inaudible)*.

12
13 Crane: Commissioner Gordon.

14
15 Gordon: I vote no.

16
17 Crane: Commissioner Clifton.

18
19 Clifton: I vote no based on there are no specifics as to how this pedestrian access
20 and landscaping requirements will be included or based in review. And
21 additionally now is not the time to impose additional restrictions on already
22 struggling new businesses in Las Cruces.

23
24 Crane: So the motion passes, oh correction I have to vote. I'm so modest. The
25 Chair votes aye based on the findings of the, and recommendation of the
26 Community Development Department. So this passes five to two. Thank
27 you.

28
29 **VI. NEW BUSINESS**

30
31 1. **Case S-15-018W:** Application of Hortencia Gutierrez to waive 100% of the
32 road improvement requirements for Mesa Drive, Sierra Vista Avenue and
33 Jimmie Street. The proposed waiver is associated with improvements
34 required for a proposed alternate summary subdivision known as Gutierrez
35 Subdivision on a 2.09 +/- acre tract located on the northeast corner of Mesa
36 Drive and Sierra Vista Avenue; 5230 Mesa Drive; Parcel ID# 02-19098.
37 Proposed use: Two (2) new single-family residential lots. Council District 5
38 (Councilor Sorg).

39
40 Crane: Next item is the one item of New Business, application by Hortencia
41 Gutierrez to waive the road improvement requirements for her lot at 5230
42 Mesa Drive. This is Case S-15-018W. And Ms. Harrison-Rogers is going
43 to speak to us on this.

44
45 H-Rogers: Good evening. I am acting on behalf of Mr. Ochoa tonight. This was his
46 project and I will be presenting. The property in question that's proposing

1 subdivision and, and the waiver to road improvements is located along
2 Mesa Drive in between Jimmie Street and Sierra Vista Avenue. And it is
3 not too far off Highway 70 and Bataan Memorial. You can see that its
4 north of that area. It is zoned R-1a which means that ultimately they, they
5 could have 5,000 square foot lots, of course that's not what they're
6 proposing. The property's 2.09 acres and they're simply proposing to, to
7 split it into two.

8 Again as I'd mentioned, it fronts Mesa Drive, Sierra Vista, and
9 Jimmie Street. Currently Sierra (*Sierra was stated but the real road is*
10 *Mesa that is paved*) Drive is approximately 24 feet, it's paved, but it does
11 not have sidewalks, curb, or gutter. Sierra Visa Avenue is an unimproved
12 dirt roadway and Jimmie Street is also unimproved, perhaps a little bit
13 better than Sierra Vista Avenue. The property has never been previously
14 subdivided. You can see the property here. Of course you can see
15 Jimmie Street, Sierra Vista Avenue, and then Mesa Drive. And sort of far
16 off to your, your east is actually a, a large church campus over here. Let's
17 see. This is a, just an example of the existing roadway on Mesa Street.
18 You can see just simply two lanes, paved with asphalt, essentially the
19 drainage and the gravel swales on the side.

20 They are proposing to subdivide this into two new lots as I, as I'd
21 mentioned before, both a little under an acre. The Design Standards of
22 course require that any subdivision and subdivider are responsible for
23 dedicating the necessary right-of-way and also for the improvements to all
24 adjacent roadways. So in this case they'd be required to provide a half of
25 a street section for Mesa Drive which is a collector, 42.5 feet that would
26 include curb and gutter, and a full street section which is 50 feet, also curb
27 and gutter, for a local roadway to Sierra Vista Avenue and Jimmy Street.
28 They're proposing to dedicate all of the additional adjacent right-of-way, so
29 that, that's not part of the waiver request tonight. However, they're not
30 proposing any other roadway improvements or alternatives as part of their
31 request to subdivide. The applicant has stated that the improvements
32 would create a substantial financial hardship for the family. The
33 improvements aren't warranted for simply subdividing a large single-family
34 residential tract into two single-family residential lots and that the
35 additional traffic of the one additional single-family wont negatively impact
36 what's already there.

37 Here is a visual of what this subdivision will look like, what it's
38 proposed to look like. Simply two lots. You can see this is Mesa Drive,
39 Jimmie Street, and of course Sierra Vista right here. This just shows you
40 what they would be paving, what they would be responsible for. Of course
41 the half collector along this portion of Mesa Drive and of course the locals
42 along Sierra Avenue and then Jimmie Street just adjacent to those
43 properties. Just an example of what a minor local consists of and then
44 what a collector consists of. You can see sidewalk, curb, gutter, lighting.
45 Although valid, the hardships expressed by the applicant do not
46 demonstrate the substantial hardship as outlined in our code, specifically a

1 waiver must be due to exceptional topographic, soil or other surface or
2 subsurface conditions that would result in inhibiting the objectives of the
3 code. Staff has received absolutely no public input on this proposed
4 waiver request.

5 On October 7th we did have our DRC meeting. Of course they
6 review all of these matters from a technical standpoint and after
7 discussion the waiver request was recommended for denial. Based on
8 our ordinance, our design standards, and the unfavorable
9 recommendation of the DRC, staff is recommending denial on this project
10 based on the findings outlined in the staff report. Of course you're a
11 recommending body to City Council on this matter. And listed here are
12 your findings or at least the findings that have been presented by staff.
13 And I'm happy to answer any questions if you do have them. And the
14 applicant is here and has an interpreter if, if you would like to ask her
15 questions as well.
16

17 Crane: Thank you Ms. Harrison-Rogers. Commissioner Beard and then
18 Commissioner Gordon.
19

20 Beard: Was this property bought before the land was incorporated into the City?
21

22 H-Rogers: My understanding, yes it was. It was purchased when it was still the ETZ
23 in that area prior to annexation. So according to ETZ regulations if you
24 are splitting a property into two pieces that has never been subdivided,
25 you would not be subject to road improvements.
26

27 Beard: And the other question is, I don't see how Mesa Drive is affected, even
28 though the code may say that it is, but I don't know how it's affected by
29 subdividing these two pieces of property. Can you explain that?
30

31 H-Rogers: Ultimately, Members of the Commission, Commissioner Beard. Ultimately
32 the code was put into place not only to deal with large subdivisions, of
33 course that you're well aware of that do have significant impacts, but also
34 the cumulative effects that these small subdivisions have over time. And
35 ultimately what happens is that then the taxpayer has to improve those
36 roadways as people subdivide and get, get waivers, as opposed to putting
37 that, that burden on the, on the people who are subdividing.
38

39 Beard: The proper, oh, the, one of the biggest problems I have is that this
40 property owner if she does subdivide and if she is required to pay her
41 share of the improvements, that money may sit unused forever. I mean
42 the rest of this road may never get paved out, guttered, sidewalked and
43 she is not benefiting from having paid for these improvements. I, that is a
44 bother to me. If the City would say, "Okay if you're going make these, this
45 improvement and give us the money," then I think the City should sit down

1 and say "We will make these improvements by so and so." And, and not
2 20 years from now. That's a comment.

3
4 Crane: Commissioner Gordon.

5
6 Gordon: We, we've had matters like this before us and it seems like every time I
7 have to look at one of these things I say "Here we are trapped again." I
8 have great empathy for people who are stuck in this situation. Mesa Drive
9 is 1.1 miles long. The required road improvement and just that portion of
10 Mesa Drive in front of this petitioners' residence represents one percent of
11 the total length of Mesa Drive. Now can you imagine what this would look
12 like if the improvement were done, you'd have Mesa Drive extending 1.1
13 miles with a little bulge of concrete, sidewalk, and gutters representing 43
14 feet. I mean it's ridiculous.

15 Now I sat there on Mesa Drive for about 15 minutes and I watched
16 the traffic. What traffic? I mean if I saw five cars it was, I thought it was a
17 lot. And if two cars had to pass each other going either way, you know
18 opposite direction, there was certainly no way that they would ever have to
19 move over to avoid hitting each other. Mesa Drive is certainly wide
20 enough to handle traffic. I then rode along the length of Mesa Drive, on
21 the east side there are about 11 residences I think I counted and on the
22 west side there were about 15. So they're basically on this total 1.1 mile
23 stretch of road hardly anybody lives there. I think that, this property was
24 acquired before annexation and to comply with the current subdivision
25 laws in, in this case would be a travesty, I just can't believe that the person
26 would have to do this. It just doesn't make any sense and I just, we just
27 have to do something about this and I'm gonna make a comment later that
28 perhaps we would be able to look into this situation where people don't get
29 stuck in the situation wherein they moved into this property 20 years ago
30 or however long that was with the intent sometime in the future to do
31 something and now that that time has arrived and the property has been
32 annexed by the City, suddenly they find out that sure they can do it, but it's
33 gonna cost you far more than these people could ever assume to have
34 accumulated to be able to do this. So I, I mean I know that, I don't know
35 how my fellow Commissioners think but like he just expressed I think that
36 this is something that we have to deal with.

37
38 Crane: It's appropriate for me to mention right now that three people in this room
39 at the moment have something they want to read into the record after we
40 finish this New Business item under the heading of Other Business and it
41 pertains to whether Mr. Gordon and others of us have on our minds about
42 this kind of situation where people get a surprise from the City when they
43 want to do something new to their lots. So those who are interested
44 tonight may wish to stay in the room for a few minutes after we have
45 finished with this particular item and hear what the others have to say. Mr.

1 Beard you're next after me, cause I, I've you know short, short-term
2 memory problems and if I forget what I say I may go home.

3 I see the City's view point that if people who have property on say
4 Mesa Drive develop it in some respect or sell it and therefore have to have
5 the street built out according to the specifications we have here, otherwise
6 the taxpayers get stuck with it, that is true and I'm a taxpayer and I, it's
7 something I'd like to think about but it's also inequitable to the people who
8 own the property when it is brought into the City by action of the City and
9 thereby the rules change. So Ms. Gutierrez for example as somebody
10 presented with the requirement that she put tens of thousands of dollars
11 into that, those roadway appearances, improvements on three sides of her
12 lot. And also brings up a point that I've been bothered about before that
13 when this Mesa Drive for example has been completely half paved to half
14 its width all the way out for the 1.1 miles that Mr. Gordon measured, you'll
15 still have a street which is ultimately gonna have to be torn up to put
16 utilities underneath it cause right now it probably doesn't have any storm
17 sewers, it certainly doesn't. It may not have sewers. It may not have
18 drinking water. It may or may not have gas mains and it seems ridiculous
19 to ask people to pave this road piecemeal if it's going to be improved up to
20 City standards as this land gets incorporated more and more into the bulk
21 of the City. So we have a long term and recurring problem here which I'm
22 among those who think it should be addressed. So having said my say it's
23 now Commissioner Beard's floor.

24
25 Beard: We're only addressing a waiver of the, for the fees and improving the
26 roads. We're not, we're not addressing the actual dividing of the lots.

27
28 H-Rogers: Commissioner Beard, Members of the Commission. That's correct.
29 You're just simply reviewing the waiver this evening, not the subdivision
30 plat itself.

31
32 Beard: So regardless of how we go then the applicant can go to the City and
33 without, without a waiver and get the subdivision?

34
35 H-Rogers: So this particular subdivision has never been subdivided before and our,
36 our subdivision code has something called an Alternate Summary
37 Subdivision. So if you've never subdivided before and you're only splitting
38 it into two parcels you can utilize that process. It's administrative. So
39 normally you wouldn't see a subdivision such as this unless they were
40 requesting a waiver.

41
42 Beard: Thank you.

43
44 Crane: Commissioner Ferrary.

45

- 1 Ferrary: Ms. Rogers if we wanted the County Commission to direct staff to modify
2 the code and provide additional options and, for the exemptions in cases
3 like these, we wouldn't see these cases then, is that correct?
4
- 5 H-Rogers: Commissioner Ferrary, Members of the Commission. Ultimately if this
6 Commission is interested in expressing their concerns over issues like this
7 and you wanted to express that to City council and they were to actually
8 change the policies and the rules then, no you, you probable wouldn't see
9 small cases like this. It would only be for the larger subdivisions that, that
10 are requesting a waiver. Money making subdivisions essentially.
11
- 12 Ferrary: And they have that option as City Council to direct staff to come up with
13 different options, is that right?
14
- 15 H-Rogers: Correct. Commissioner Ferrary, Members of the Commission. City
16 Council does have, have the ability to direct staff, that that's the policy
17 direction that they want to go and, and to move forward with some
18 amendments to the code to allow for subdivisions such as this not to have
19 to improve the roadways,
20
- 21 Ferrary: And would you also then suggest that we talk to our City Councilors or
22 even draft a letter to the City Council asking for this to happen?
23
- 24 H-Rogers: Commissioner Ferrary, Members of the Commission. Yes, both of those
25 are very viable options in terms of expressing the opinion of this
26 Commission to the Councilors so that they can at least consider it at any
27 of their subsequent meetings and, and, and decide whether or not they
28 want to have some policy changes and move forward with some
29 amendments to the code.
30
- 31 Ferrary: So if we wanted to draft something formally we should maybe put that on
32 the agenda for future meeting and then discuss that.
33
- 34 H-Rogers: Yes. Commissioner Ferrary, Members of the Commission. We could do
35 that. Absolutely. And it could be formally adopted as essentially an
36 opinion moving forward to, to City Council.
37
- 38 Ferrary: Thank you.
39
- 40 Crane: Commissioner Clifton.
41
- 42 Clifton: Thank you Mr. Chair. Katherine looking at the subdivision plat briefly, just
43 doing some rough calculations it appears that there is dedicated right-of-
44 way, like 12.5 feet for Mesa, 25 feet for Sierra Vista, and 25 feet for
45 Jimmie.
46

- 1 H-Rogers: Correct.
2
- 3 Clifton: Okay so with that said the applicant has, is already essentially giving the
4 City approximately 0.42 acres, almost a half acre of land for future road
5 improvements. I don't know what the land value is out here I'm not even
6 gonna attempt to guess, but you know there is, there is a value to that and
7 so you know maybe as a consideration, I know we used to look at things
8 like that years ago as, in terms of amendments to the Design Standards
9 and subdivision regulations was you know what, what's the cost of the
10 land that you're dedicating for future road improvements as opposed to the
11 actual cost of road improvements. So I think you know it, it clearly doesn't
12 meet the code, it doesn't meet the law as written. It is what it is
13 unfortunately, but the amount of land that the applicant is giving is quite a
14 bit. I mean that's, that's three residential lots inside the City of Las Cruces
15 in your standard subdivision. That's a lot of property that they're giving up.
16
- 17 H-Rogers: I would not disagree with that.
18
- 19 Clifton: Okay. Thank you.
20
- 21 Crane: Commissioner Beard.
22
- 23 Beard: I'd like to make one more comment. I realize that road improvements are
24 done by subdivisions or property improvements as opposed for the City
25 going out and improving the roads on their own. However, when the City
26 incorporated this property all of that land up there on the East Mesa, I
27 think it should've assumed at that time that they, that they are gonna be
28 burdened with more expenses than property that's in the, already in the
29 City and it's abiding by the code. So I, I believe that this property owner
30 really does not have, has a legitimate case for a, a waiver on the road
31 improvements, especially given that the part of the property is being given
32 for the widening of the road.
33
- 34 Crane: Any other questions for Ms. Harrison-Rogers? Thank you ma'am. Would
35 the applicant like to speak? For the record the applicant has an
36 interpreter.
37
- 38 Gutierrez: SPEAKING SPANISH.
39
- 40 Jiron: And for the record this is Magdalena Jiron interpreter certified for the State
41 of New Mexico and interpreting for the client.
42
- 42 Crane: On, on, on the mic please.
43
- 44 Jiron: Oh, again, okay. For the record this is Magdalena Jiron interpreter
45 certified for the State of New Mexico, the administrative office of the courts
46 for interpreters and I am here interpreting for the client.

1
2 Crane: This is a, lady with you is Hortencia Gutierrez.
3
4 Gutierrez: SPEAKING SPANISH.
5 Jiron: Yes sir. Thank you.
6
7 Crane: Okay, you'll have to pass the mic between you and, oh yes I have to
8 swear somebody in. Do you have my oath?
9
10 Gutierrez: SPEAKING SPANISH.
11 Jiron: Very well.
12
13 Crane: Thank you this is for Ms. Gutierrez. Do you swear or affirm that the
14 testimony you are about to give is the truth and nothing but the truth under
15 penalty of law?
16
17 Gutierrez: SPEAKING SPANISH.
18 Jiron: Yes, I swear.
19
20 Crane: Thank you. Go ahead please. Does she wish to talk to us?
21
22 Gutierrez: SPEAKING SPANISH.
23 Jiron: First of all good afternoon.
24
25 Crane: Ma'am you'll, not sure how we can handle this, is there another way we
26 get a mic up there? We don't have enough wire do we? Or perhaps they
27 can both sit down there. For the record the applicant and her interpreter
28 are sitting next to each other at a table instead of at the podium.
29
30 Gutierrez: SPEAKING SPANISH.
31
32 Crane: Your mic isn't on.
33
34 Gutierrez: SPEAKING SPANISH.
35 Jiron: Good afternoon my name is Hortencia Gutierrez.
36
37 Gutierrez: SPEAKING SPANISH.
38 Jiron: And I thank you for the attention you are putting on my case now.
39
40 Gutierrez: SPEAKING SPANISH.
41 Jiron: I'm going to be brief and I would like to mention to you that unfortunately I
42 don't have the money or the means to make things better and to make our
43 streets better in our community the way I would like to do it.
44
45 Gutierrez: SPEAKING SPANISH.

- 1 Jiron: Okay, I, I want to say that I am willing to, to give up part of my land for
2 those streets and as the gentleman mentioned it, I believe it's Mr. Clifton
3 that is a lot of land and I think that that means a lot of money in land. I
4 don't have what is, in other words I'm giving up this land from my heart
5 and for this process and for the continuance of this.
6
- 7 Gutierrez: SPEAKING SPANISH.
8 Jiron: And I would also as a human being I would like to ask you for the
9 opportunity.
10
- 11 Gutierrez: SPEAKING SPANISH.
12 Jiron: I would like to ask you for the approval to continue with this and also to
13 have your approval to be able to do the subdivision. Oh thank you. The
14 opportunity.
15
- 16 Crane: Thank you. Any questions for Ms. Gutierrez? Apparently not. Thank you
17 ma'am. Any member of the public wish to address this? No one so
18 indicates. So we will close this to further input and Commissioners, we
19 have item S-15-018 in front of us. The proposed request for a waiver of
20 the road improvement requirements and we have to vote on the motion
21 expressed in an affirmative way even if we choose to vote against it.
22 Would somebody like to move? Commissioner Beard.
23
- 24 Beard: If there's no discussion, I move to accept S-15-018W.
25
- 26 Crane: Is there a second for that?
27
- 28 Ferrary: Second.
29
- 30 Crane: Seconded by Ms. Ferrary.
31
- 32 Ferrary: Yes.
33
- 34 Crane: Any discussion between us at this point? In that case let's vote starting
35 with Mr. Clifton.
36
- 37 Clifton: I vote yes as the applicant has already provided significant amounts of
38 property for future road improvements.
39
- 40 Crane: Commissioner Gordon.
41
- 42 Gordon: Before I vote just to make sure I clarify correctly what I'm gonna vote, is if I
43 vote no she does not have to put up the money, is that correct?
44
- 45 Crane: No if you vote no you are refusing the waiver. Refusing to grant the
46 waiver. So if you want to grant the waiver you vote yes.

1
2 Gordon: I vote no.
3
4 Crane: No?
5
6 Gordon: I'm sorry. I vote no.
7
8 Crane: Okay. Commissioner Stowe.
9
10 Stowe: I vote yes based on presentation and, and discussions.
11
12 Crane: Commissioner Ferrary.
13
14 Ferrary: I vote yes based on site visit and discussion with also that we make
15 recommendations and, to the City Councilors about this subject.
16
17 Crane: Commissioner Ferrary, Alvarado.
18
19 Alvarado: I abstain.
20
21 Gordon: Oh yeah before we finish.
22
23 Crane: Abstain, abstaining. Commissioner Beard.
24
25 Beard: Commissioner Gordon did you want to change yours?
26
27 Gordon: Well I'm a little confused. If it says, if I vote yes and recommend approval
28 of the waiver ...
29
30 Crane: Granting of the waiver, yep.
31
32 Gordon: That, that's what I want to do. I want to, I want to waive ...
33
34 Crane: You want to grant the waiver.
35
36 Gordon: Right so then I would've had to vote yes.
37
38 Beard: Yes.
39
40 Gordon: Yeah I'm sorry, then I change my vote to yes.
41
42 Crane: Okay. No problem. Commissioner Alvarado abstains. Commissioner
43 Beard:
44
45 Beard: I vote yes based on discussions, site visit, and, and the, discussions.
46

1 Crane: And the Chair votes aye based on the discussions. It passes six/zero, and
2 one abstention. Thank you.
3

4 **VII. OTHER BUSINESS**
5

6 Crane: And I mentioned a little while ago we have some other business in that
7 Commissioner Gordon has prepared something to read into the record
8 which he will do now. We can't have any public input on it at this point
9 because we don't have the means to, it, it is not set up that way but you
10 might be interested to listen. I believe it's possible Commissioner Ferrary
11 wants to add something at this point and I know that our City employee,
12 Katherine Harrison-Rogers has something to put in, so let's go first with
13 Mr. Gordon and then we'll see if Commissioner Ferrary wants to say
14 something and then we'll go to Ms. Harrison-Rogers. Commissioner
15 Gordon you have the floor.
16

17 Gordon: Before I start Commissioner Ferrary has addressed some of this already
18 and I am in full approval of what she has said, but I took the time to sit
19 down and just write a few short paragraphs of how I feel about this and I'd
20 just like to read it for the record so that hopefully maybe somewhere's
21 down the line we can do something that we don't have this problem every
22 time this arises.

23 I think that Community Development should be directed to look into
24 a way to handle requests for zoning changes, variances, etc. for matters
25 that relate to property in areas that were annexed by the City that were
26 originally located in the County and are now covered by the current laws
27 relating to planning and zoning by the City.

28 Properties that were required by residents prior to annexation
29 where they had a future intent to do certain things and now are prohibited
30 from doing so because they are subject to City laws that are in effect now
31 and non-existent in the County prior to annexation.

32 In many cases requests that have come before the P&Z
33 Commission have been denied based on City law, but if the properties had
34 not been annexed, they would've been able to accomplish their original
35 plans. I still believe that each case should be reviewed individually but
36 decided on a different set of rules pertaining to property annexed by the
37 City. Again property owners are trapped under a set of rules that didn't
38 pertain to them when they originally bought the property under existing
39 County rules. Many cases that result in denial hamper development in
40 areas that would benefit from it and something needs to be done to correct
41 this inequity. Thank you.
42

43 Crane: Thank you Mr. Gordon. Ms. Ferrary do you have anything to add?
44

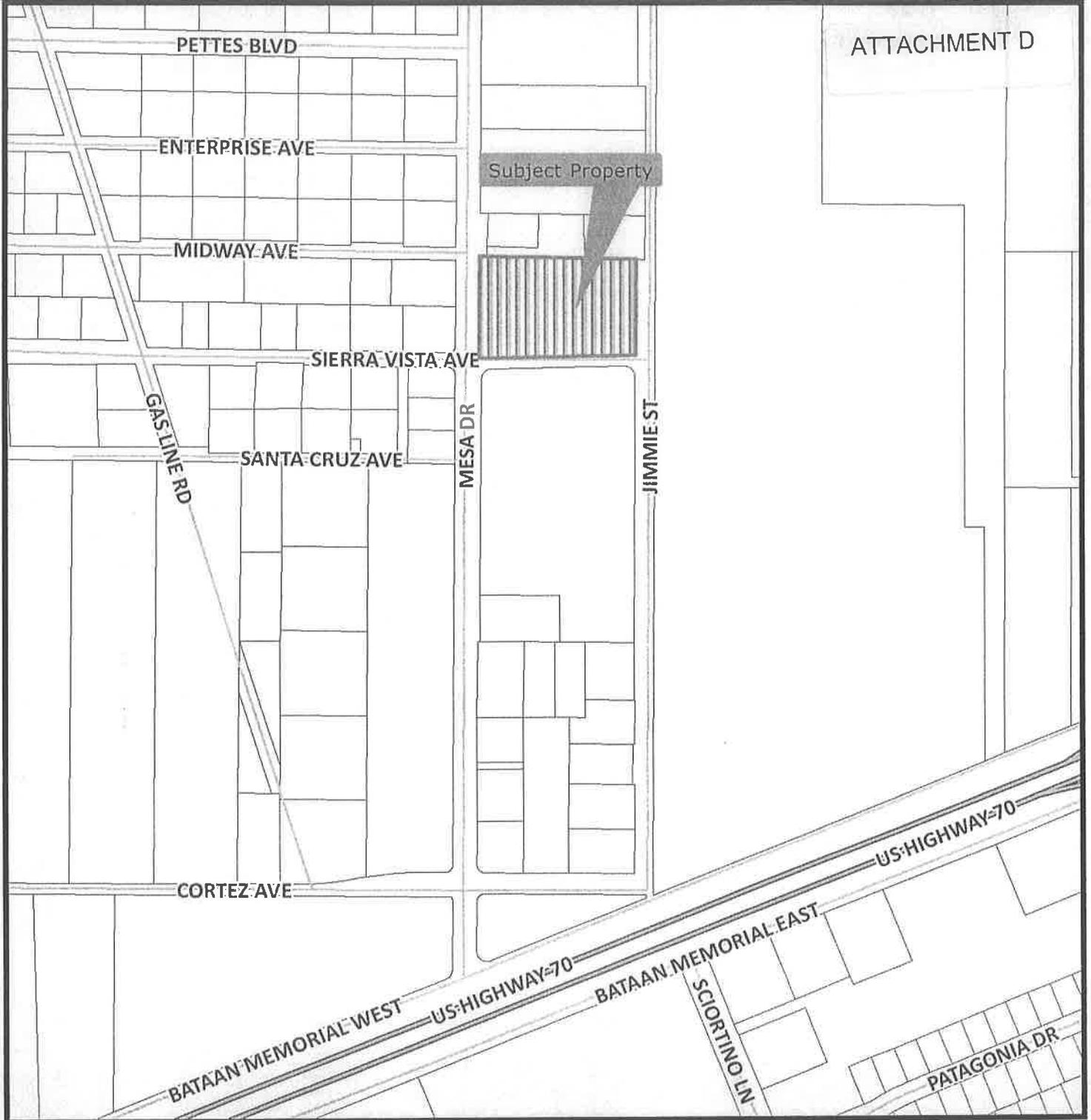
45 Ferrary: Yes. I would like to request that we have this put on the next agenda or
46 one that is appropriate, I'm not sure how soon into the future, but one in

ZONING: R-1A
OWNER: HORTENCIA GUTIERREZ

VICINITY MAP

PARCEL: 02-19098
DATE: 09/30/2015

ATTACHMENT D



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

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

B



City of Las Cruces[®]

PEOPLE HELPING PEOPLE

COUNCIL ACTION AND EXECUTIVE SUMMARY PACKET ROUTING SLIP

For Meeting of _____
(Ordinance First Reading Date)

For Meeting of December 7, 2015
(Adoption Date)

TITLE:

A RESOLUTION APPROVING A WAIVER FROM 100% OF THE REQUIRED ROAD IMPROVEMENTS TO MESA DRIVE, SIERRA VISTA AVENUE AND JIMMIE STREET ASSOCIATED WITH A PROPOSED SUBDIVISION KNOWN AS GUTIERREZ SUBDIVISION ON A 2.09 ± ACRE PARCEL LOCATED AT 5230 MESA DRIVE. SUBMITTED BY MOY SURVEYING, INC. ON BEHALF OF HORTENCIA GUTIERREZ, PROPERTY OWNER (S-15-018W).

Purchasing Manager's Request to Contract (PMRC) {Required?} Yes No

DEPARTMENT	SIGNATURE	PHONE NO.	DATE
Drafter/Staff Contact		528-3204	11/17/15
Department Director		528-3067	11-17-15
Other			
Assistant City Manager /CAO Management & Budget Manager		541-2078	11/18/15
		541-2106	11/18/15
Assistant City Manager/COO	for D. Avila	528-3060	11/19/2015
City Attorney		EXT 2128	20 NOV 29.5
City Clerk - Interim		x2115	12-1-15