



City of Las Cruces®

PEOPLE HELPING PEOPLE

Council Action and Executive Summary

Item # 6Ordinance/Resolution# 17-011For Meeting of _____
(Ordinance First Reading Date)For Meeting of July 18, 2016
(Adoption Date)

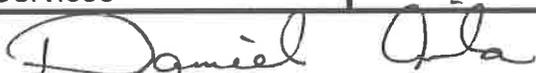
Please check box that applies to this item:

 QUASI JUDICIAL LEGISLATIVE ADMINISTRATIVE

TITLE: A RESOLUTION APPROVING A WAIVER FROM 100% OF THE REQUIRED ROAD IMPROVEMENTS TO 331.98 ± LINEAR FEET OF BELL ROAD ASSOCIATED WITH A PROPOSED SUBDIVISION KNOWN AS CARDON ESTATES SUBDIVISION ON A 2.40 ± ACRE PARCEL LOCATED AT 5301 BELL ROAD. SUBMITTED BY DONOHUE LAND SURVEYS ON BEHALF OF SYLVIA CARDON, PROPERTY OWNER (65729W).

PURPOSE(S) OF ACTION:

Waive subdivision road improvements.

COUNCIL DISTRICT: 5		
<u>Drafter/Staff Contact:</u> Sara Gonzales	<u>Department/Section:</u> Community Development/Building & Development Services	<u>Phone:</u> 528-3085
<u>City Manager Signature:</u>		

BACKGROUND / KEY ISSUES / CONTRIBUTING FACTORS:

The City of Las Cruces (City) Subdivision Code and Design Standards, which are part of the Las Cruces Municipal Code, require the construction of road improvements along applicable roadways as part of the subdivision process. A waiver request is requisite whenever the subdivider desires to vary from any related requirements and must be submitted in writing. City Council is required to review and take final action on all waiver requests per Section 37-333(E) of the Subdivision Code.

The proposed subdivision known as Cardon Estates Subdivision is for a single-family residentially zoned tract located on the west side of Bell Road, 336 ± feet south of its intersection with Stanley Road in the outer most northeastern area of the City adjacent to the municipal boundary. The subject property is currently non-conforming because there are two existing mobile homes located on a single tract of land. The proposed subdivision will split one (1) existing 2.40 ± acre single-family residential tract into three (3) new rural single-family residential lots. This will create three (3) 0.80 ± acre lots within a REM (Single-Family Residential Estate Mobile) zoning district. Both existing mobile homes will be placed on their

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 P&Z recommendation for approval of the proposed waiver request. No road improvements shall be required for Bell Road in association with the proposed subdivision known as Cardon Estates Subdivision.
2. Vote "No"; this will reverse the recommendation made by P&Z. Either road improvements or a payment in lieu of road improvements for Bell Road shall be required in association with the proposed subdivision known as Cardon Estates Subdivision.
3. Vote to "Amend"; this could allow the City Council to modify the Resolution by adding conditions as determined appropriate.
4. Vote to "Table"; this could allow the 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 No. 664.



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 July 18, 2016
(Adoption Date)

TITLE:

A RESOLUTION APPROVING A WAIVER FROM 100% OF THE REQUIRED ROAD IMPROVEMENTS TO 331.98 ± LINEAR FEET OF BELL ROAD ASSOCIATED WITH A PROPOSED SUBDIVISION KNOWN AS CARDON ESTATES SUBDIVISION ON A 2.40 ± ACRE PARCEL LOCATED AT 5301 BELL ROAD. SUBMITTED BY DONOHUE LAND SURVEYS ON BEHALF OF SYLVIA CARDON, PROPERTY OWNER (65729W).

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

DEPARTMENT	SIGNATURE	PHONE NO.	DATE
Drafter/Staff Contact	<i>Slonzales</i>	528-3085	6-9-16
Department Director	<i>W. Wen</i>	528-3067	6-9-16
Other			
Assistant City Manager /CAO Management & Budget Manager	<i>David DeLeon</i>	541-2078 541-2107	6-10-2016 6-9-2016
Assistant City Manager/COO	<i>[Signature]</i>	541-2271	6-14-16
City Attorney	<i>[Signature]</i>	EXT 2128	15 June 2016
City Clerk	<i>[Signature]</i>	82115	6-20-16

RESOLUTION NO. 17-011

A RESOLUTION APPROVING A WAIVER FROM 100% OF THE REQUIRED ROAD IMPROVEMENTS TO 331.98 ± LINEAR FEET OF BELL ROAD ASSOCIATED WITH A PROPOSED SUBDIVISION KNOWN AS CARDON ESTATES SUBDIVISION ON A 2.40 ± ACRE PARCEL LOCATED AT 5301 BELL ROAD. SUBMITTED BY DONOHUE LAND SURVEYS ON BEHALF OF SYLVIA CARDON, PROPERTY OWNER (65729W).

The City Council is informed that:

WHEREAS, Donohue Land Surveys on behalf of Sylvia Cardon, property owner, has submitted a request to waive 100% of the required road improvements for Bell Road associated with the proposed Cardon Estates Subdivision; and

WHEREAS, Bell Road currently does 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, 1997, as amended, road improvements are required on streets adjacent to a proposed subdivision; and

WHEREAS, the Planning and Zoning Commission, after conducting a public hearing on May 24, 2016, recommended that said waiver request be approved by a vote of 3-1-0 (three Commissioner absent) based on the findings outlined in the staff report.

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 Bell Road for 331.98 ± linear feet associated with the proposed subdivision and 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 _____ 20__.

APPROVED:

Mayor

ATTEST:

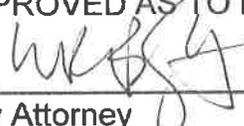
City Clerk

(SEAL)

Moved by: _____

Seconded by: _____

APPROVED AS TO FORM:



City Attorney

VOTE:

Mayor Miyagishima: _____

Councillor Gandara: _____

Councillor Smith: _____

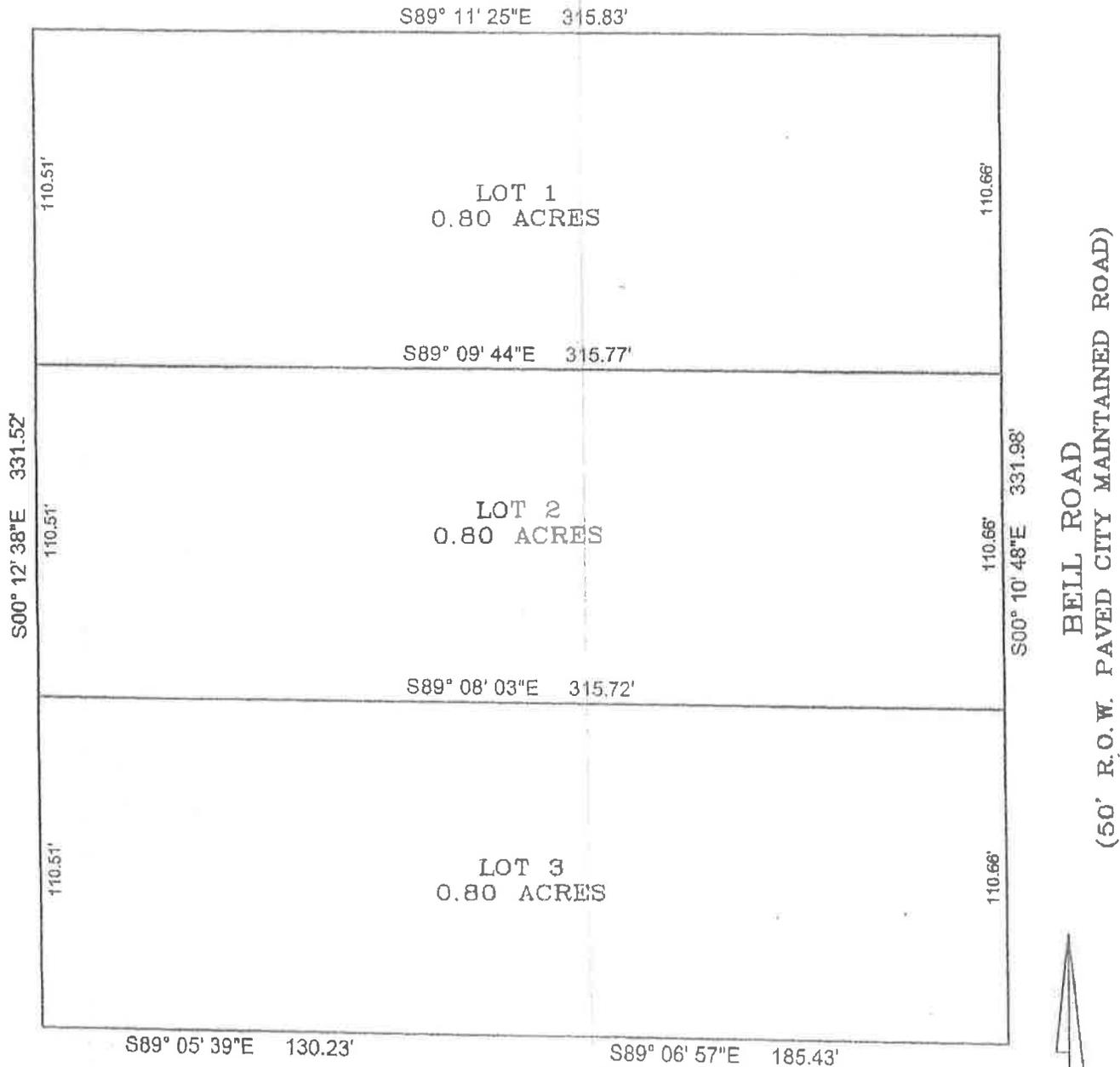
Councillor Pedroza: _____

Councillor Eakman: _____

Councillor Sorg: _____

Councillor Levatino: _____

PRELIMINARY PLAT OF SURVEY OF 3 TRACTS OF LAND SITUATE IN THE CITY OF LAS CRUCES, DONA ANA COUNTY, NEW MEXICO, IN SECTION 7, TOWNSHIP 22 SOUTH, RANGE 3 EAST, OF THE U.S.G.L.O. SURVEYS



BELL ROAD
(50' R.O.W. PAVED CITY MAINTAINED ROAD)



SCALE
1" = 50'



DONOHUE LAND SURVEYS
100 WYATT DRIVE
SUITE A
LAS CRUCES, NM 88005
1-575-523-1114

To the City of Las Cruces
Planning and Zoning Commission
in care of Sara Gonzales, City Planner,

Dear Sara,

On behalf of our client Sylvia Cardon, we are requesting a waiver to the paving improvements that would be required for a 3 lot subdivision in the City of Las Cruces. The subject property is 5301 Bell Road, Tax Parcel ID: 02-19810 (See Exhibit 1). As you can see from the exhibit the property lies in that area annexed by the City north of Highway 70. In fact the west boundary of the property is on the city limit line. The parcel is a 2.40 acre tract with 2 existing mobile homes owned by the children of our client Sylvia Cardon. She is a recently widowed elderly lady who wishes to move her mobile home onto the property to be closer to her family (See Exhibit 2). The east boundary of the property fronts on Bell Road a paved city street. After meeting with City Staff the consensus was that a three lot subdivision with a variance to road improvements best fit this situation (See Exhibit 3). We are therefore asking the commission to consider a variance to road improvements prior to the submission of the subdivision plat. We are doing this to spare our client the cost doing a subdivision if in fact the variance is not forthcoming. Sylvia Cardon is on a fixed income and has no intention of marketing her property at this time.

Thank you for your consideration on behalf of our client Sylvia Cardon,



Gerald Donohue

DONOHUE LAND SURVEYS
100 WYATT DRIVE
SUITE A
LAS CRUCES, NM 88005
575-523-1114



City of Las Cruces®

PEOPLE HELPING PEOPLE

Planning & Zoning Commission Staff Report

Meeting Date: May 24, 2016

Drafted by: Sara Gonzales, Planner

CASE #	65729W	PROJECT NAME:	Cardon Estates Subdivision Waiver Request
APPLICANT/ REPRESENTATIVE:	Donohue Land Surveys	PROPERTY OWNER:	Sylvia Cardon
LOCATION:	West side of Bell Road, 336 ± feet south of Stanley Road	COUNCIL DISTRICT:	5 (Councillor Sorg)
SIZE:	2.40 ± acres	EXISTING ZONING/ OVERLAY:	REM (Single-Family Residential Estate Mobile)
REQUEST/ APPLICATION TYPE:	Request for approval for a waiver from the corresponding road improvements for a proposed subdivision known as Cardon Estates		
EXISTING USE:	Non-conforming multi-dwelling residential (two (2) mobile homes on one (1) lot		
PROPOSED USE:	Three (3) single-family residential lots; each lot with one mobile home		
DRC RECOMMENDATION:	Denial of the waiver based on findings for Case 65729W		

TABLE 1: CASE CHRONOLOGY

Date	Action
April 15, 2016	Application submitted to Development Services
April 15, 2016	Initial review sent out for review to all reviewing departments
April 22, 2016	Final comments returned by all reviewing departments
May 4, 2016	Public notice letter mailed to neighboring property owners
May 5, 2016	DRC reviews and recommends denial for the proposed waiver request
May 8, 2016	Newspaper Advertisement
May 9, 2016	Sign posted on property
May 24, 2016	Planning and Zoning Commission public hearing

SECTION 1: SYNOPSIS OF PROPOSAL

The applicant is proposing a waiver to road improvements associated with a proposed preliminary plat known as Cardon Estates Subdivision that will split one (1) existing 2.40 ± acre tract into three (3) new single-family lots. The City of Las Cruces Subdivision Code and Design Standards require the applicant to provide all road improvements to the affected roadways. The applicant is requesting to waive 100% of the required road improvements. No alternative, including a fee-in-lieu of improvements, is proposed. Adequate right of way (ROW) exists along Bell Road, therefore, no ROW dedication is required as part of this subdivision.

TABLE 2: DEVELOPMENT STANDARDS & SITE CHARACTERISTICS

Standard	Existing	Proposed	Zoning Code Req.
ROW Improvements	Bell Road: 24 ± foot wide graveled road	No improvements proposed	Bell Road: 50-foot wide street segment paved w/ sidewalk, curb and gutter along the subdivision
ROW Dedication	Bell Road: 50 feet	Bell Road: No additional required	Bell Road: 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	REM (Single-Family Residential Estate Mobile)
North	Single-family residence	N/A	REM (Single-Family Residential Estate Mobile)
South	Vacant/ undeveloped	N/A	R-1b (Single-Family High Density)
East	Single-family residence	N/A	REM (Single-Family Residential Estate Mobile)
West	Single-family residence	N/A	ETZ

TABLE 5: PARCEL HISTORY

Number	Status
Permit	N/A
Ordinance # 664	Subject property was annexed in to the City limits on March 17, 1986
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 2.40 ± acre single-family residential tract zoned REM (Single-Family Residential Estate Mobile) into three (3) new single-family residential lots that meet all development standards of the REM zoning district. The City of Las Cruces Subdivision Code and Design Standards require all subdividers provide the necessary amount of road improvements to all streets adjacent to the proposed subdivision. Those requirements are outlined below:

Bell Road

The proposed subdivision is located on the west side of Bell Road, a proposed minor local roadway as classified by the Mesilla Valley Metropolitan Planning Organization (MPO). Bell Road is currently made up of 50 feet of right-of-way and a 20 ± foot wide paved road. Bell Road does not currently comply with City standards. The applicant is responsible for providing road improvements which entails constructing the 50-foot wide street segment for Bell Road including sidewalk, curb and gutter from the proposed subdivision to the nearest paved roadway. Since the roadway is paved to the subject property the applicant would be required to bring the cross section located within the proposed subdivision up to City Standards. The roadway length is approximately 331 ± feet which encompasses the proposed subdivision. The applicant is requesting to waive 100% of the required road improvements.

The applicant has stated that the proposed subdivision is being created in order to move an additional mobile home on to the subject property. The applicant would like to be closer to her family. The applicant's proposal will also bring the current conditions of the non-conforming two mobile homes in to code compliance by having a single mobile home located on an individual lot. 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 that the required roadway improvements are not warranted for simply subdividing a large single-family residential tract into only three (3) new single-family residential lots and that the subdivision and the additional traffic of one additional single-family dwelling will not negatively affect the traffic of the surrounding area.

Conclusion:

The hardships expressed by the applicant (please see Attachment #4 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 May 4, 2016 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 #5 for more details about the discussions that took place at the DRC meeting.

STAFF RECOMMENDATION

Staff recommends **DENIAL** for the proposed waiver to road improvements 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. A subdivider is responsible for providing road improvements for the full street section of an adjacent minor local roadway including sidewalk, curb and gutter. (Design Standards Article 2, Section 32-36)
3. 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. Proposed Subdivision
4. Waiver Request
5. DRC Minutes dated May 5, 2016

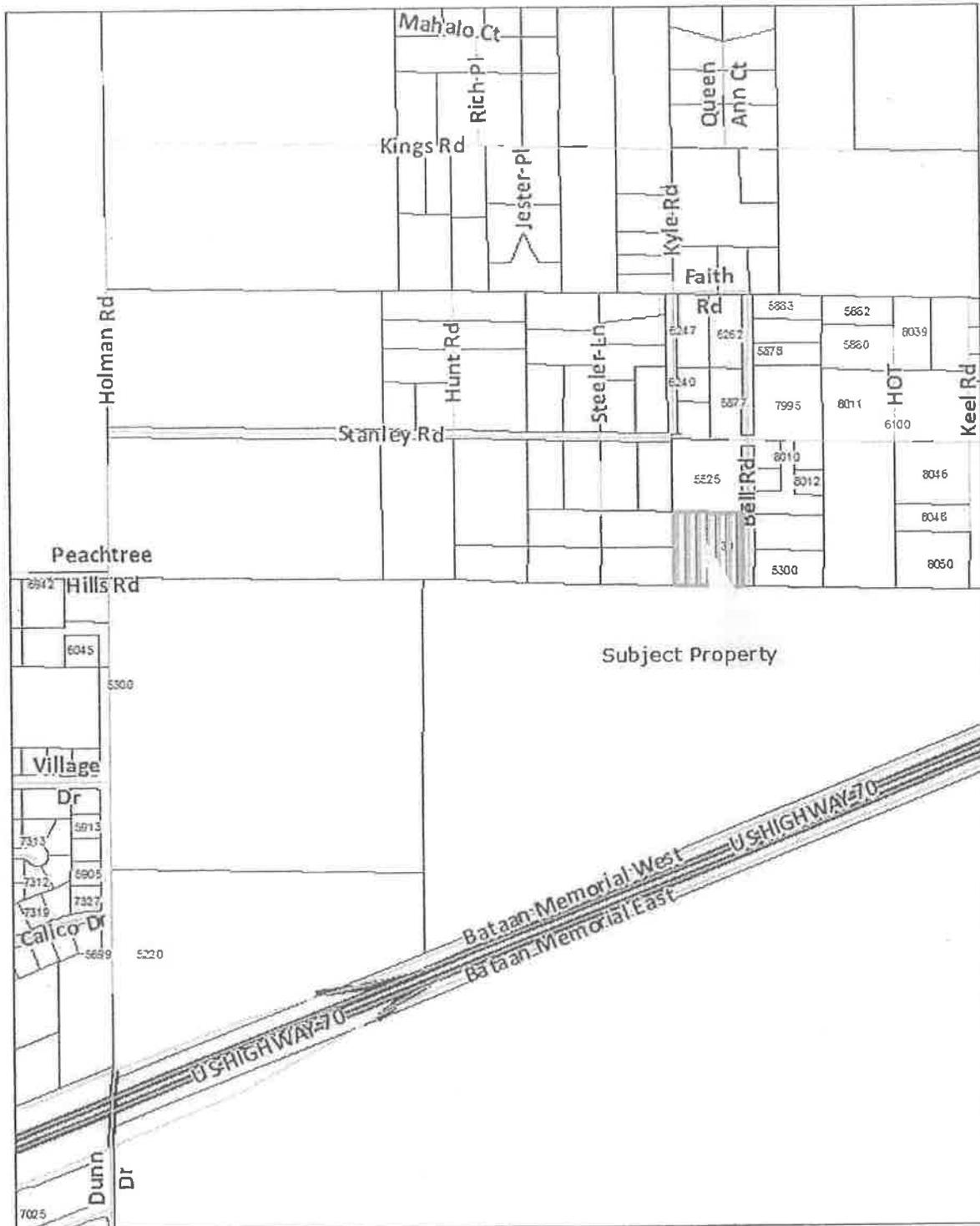
VICINITY MAP

ZONING: RE-M

OWNER: SYLVIA CARDON

PARCEL: 02-19810

DATE: 5/12/16



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) 326-3043.

AERIAL MAP

ZONING: RE-M

PARCEL: 02-19810

OWNER: SYLVIA CARDON

DATE: 5/12/16



Subject Property



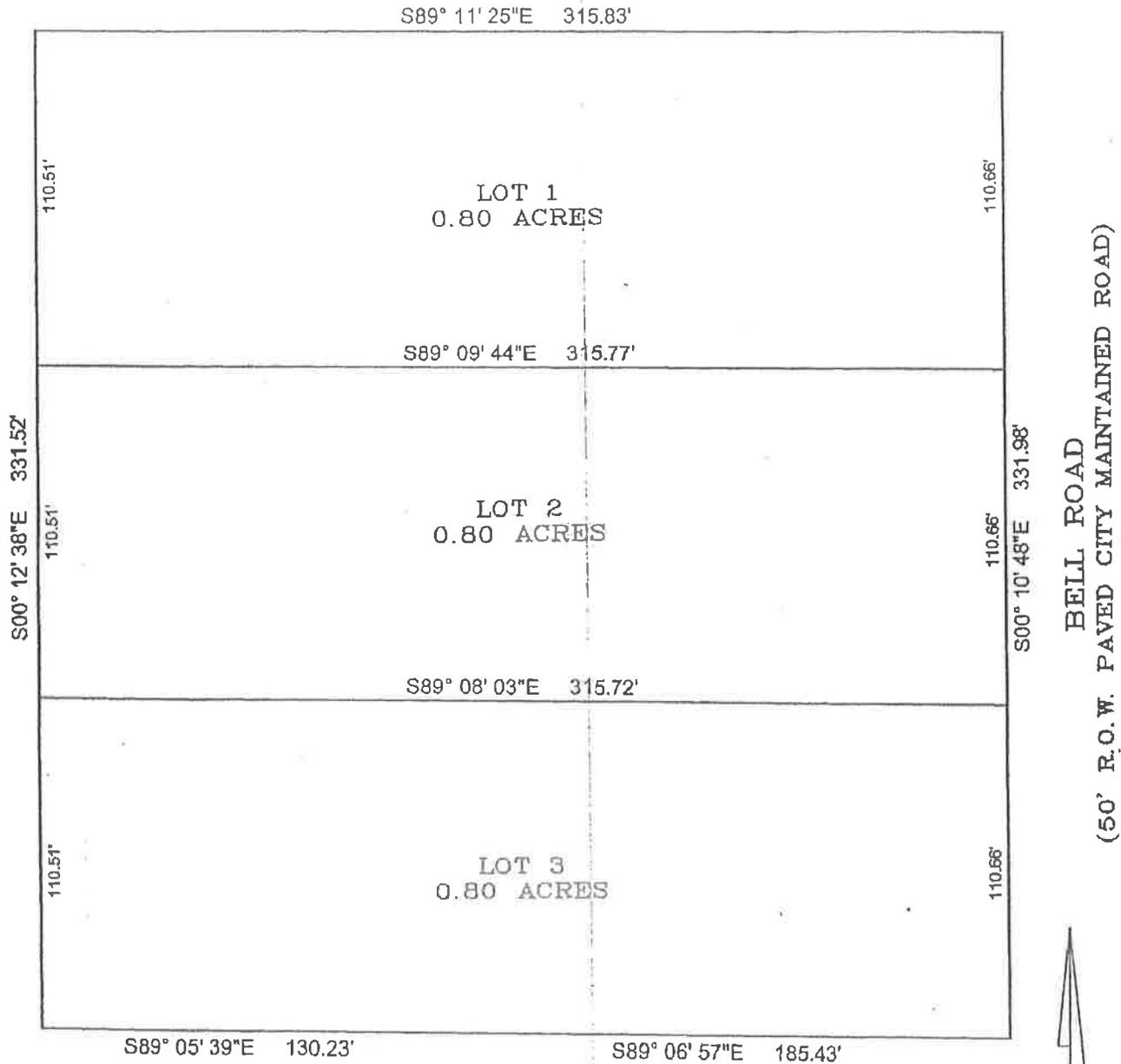
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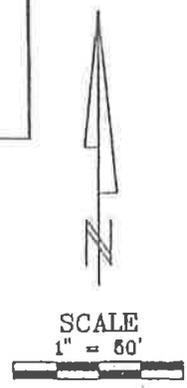
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Exhibit 3



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Planning and Zoning Commission
in care of Sara Gonzales, City Planner

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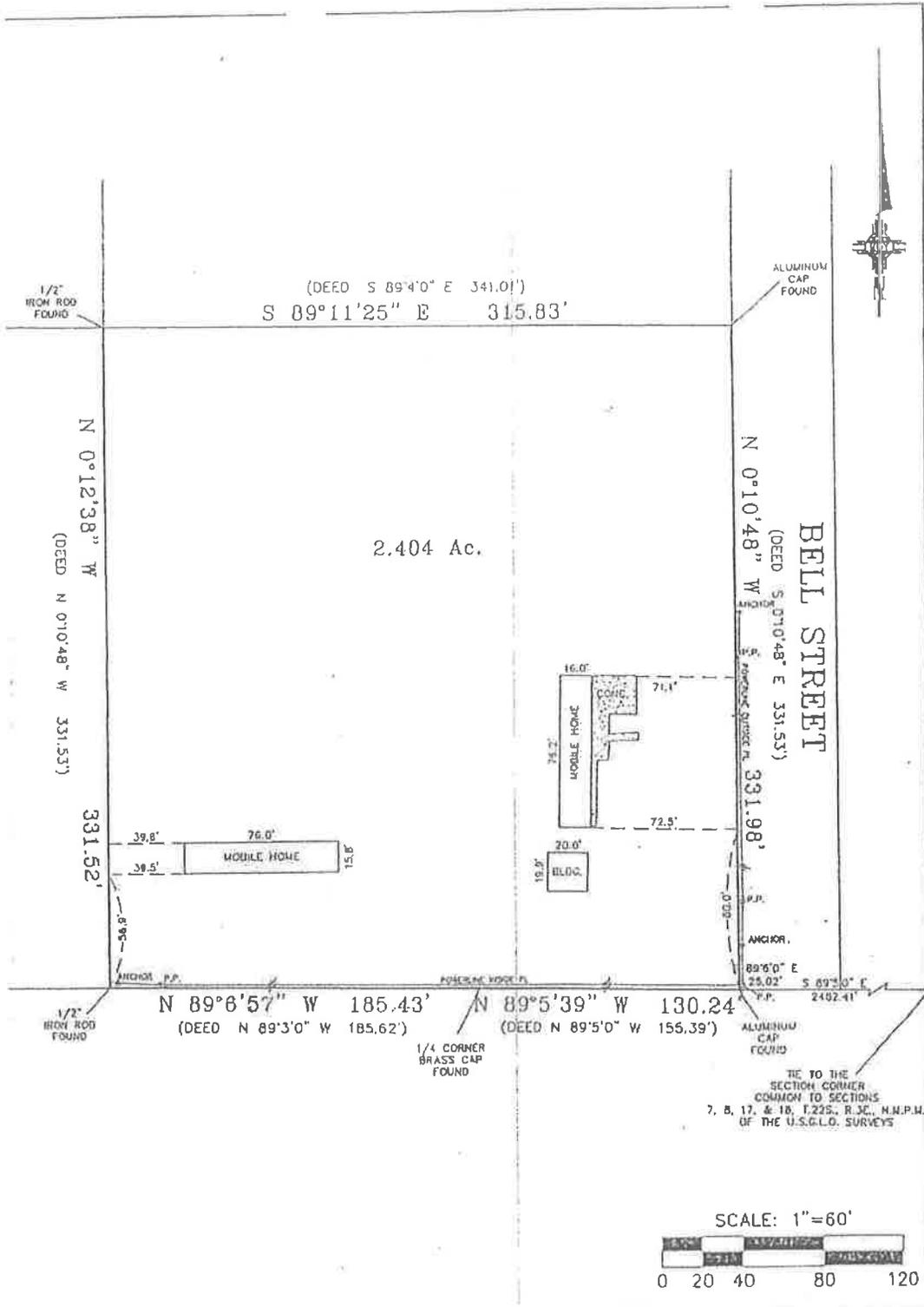


Gerald Donohue

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100 WYATT DRIVE
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575-523-1114

Exhibit #1 = see Aerial

EXHIBIT 2



I, JORGE MOY, A NEW MEXICO PROFESSIONAL SURVEYOR CERTIFY THAT I CONDUCTED THIS SURVEY, THAT THIS SURVEY IS TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE AND BELIEF, AND THAT THIS SURVEY AND PLAT MEET THE MINIMUM STANDARDS FOR SURVEYING IN NEW MEXICO

JORGE MOY H.M.P.S. 3939

MOY SURVEYING INC.
 414 N. DOWNTOWN WALL
 LAS CRUCES, NEW MEXICO
 88001

PHONE: (505) 525-9883
 FAX: (505) 524-3238

JOB NO. 08-1243
 DRAWN BY JUAN GARCIA
 FIELD BY KENNY/VICTOR
 DATE 8/17/08 SCALE: 1"=60'

1 **IV. NEW BUSINESS**

2
3 **1. Case 65729W: Cardon Estates Waiver**

- 4 • A request for approval of a waiver to the required road improvements
5 for a proposed preliminary plat known as Cardon Estates Subdivision.
6 • The subject property encompasses 2.41 +/- acres, is zoned RE-M
7 (Residential Estate Mobile) and is located on the west side of Bell
8 Road, 336 +/- feet south of its intersection with Stanley Road; a.k.a.
9 5301 Bell Road.
10 • The proposed preliminary plat requires the applicant to provide the
11 required road improvements to Bell Road to bring it up to City
12 standards.
13 • The applicant is proposing a 100% waiver to the required road
14 improvements and is not offering alternatives to the full improvements.
15 • The subject property is non-confirming and currently consists of two
16 mobile homes.
17 • Submitted by Moy Surveying Inc. on behalf of Josie G. Gutierrez, the
18 property owner.

19
20 Ochoa: We just have one item on for New Business. It's Case 65729W, a waiver
21 request for a proposed subdivision known as Cardon Estates. Staff will
22 you please give us an overview on this please.

23
24 Gonzales: Okay this is for Case 65729W. The applicant is requesting a waiver to the
25 required road improvements for the preliminary plat known as Cardon
26 Estates Subdivision. The property does encompass 2.41 acres and is
27 zoned RE-M. It's about 336 feet south of Stanley Road and it is on the
28 west side of Bell Road. The preliminary plat does require road
29 improvements to Bell Road and it will have to meet the City Standards.
30 The road is currently paved however it is not with curb, gutter, or sidewalk.
31 The subject property is non-confirming and currently has two mobile
32 homes on the property and they are trying to subdivide it into three pieces
33 for three different mobile homes. That's the waiver request.

34
35 Ochoa: Okay. Guess we'll go, go around the room to the different departments.
36 Engineering.

37
38 Dominguez: We cannot support the waiver. That's all I have.

39
40 Ochoa: To meet standards I guess.

41
42 Dominguez: Yes, they need to meet ...

43
44 Ochoa: Access standards.

45
46 Dominguez: Yes.

1
2 Ochoa: Okay. Fire.
3
4 Mount: They must also meet City Design Standards.
5
6 Ochoa: Okay. City Utilities.
7
8 Montoya: The Utilities Department does not have issues with this waiver, however
9 we will support other City Departments recommendation.
10
11 Ochoa: And MPO.
12
13 Murphy: We do not support the request.
14
15 Ochoa: Okay. Having heard from all the departments does the applicant's
16 representative have anything else to add or anything to clarify for the
17 minutes?
18
19 Donohue: I'm, I'm think each of you had been given a copy of the letter that we
20 submitted on behalf of the owner. She's an elderly, widowed lady that
21 wants to live with her children and it seems undoable if she has to do the
22 road improvements, so it's ... what I'm, what I'm hoping is that P&Z will
23 vote on the variance without us having to prepare the subdivision and
24 incur the experience that, that she wouldn't want to, to do if she wouldn't
25 get the variance.
26
27 Ochoa: Okay. So to clarify, the waiver's coming before the actual subdivision will
28 come.
29
30 Donohue: That's correct.
31
32 Ochoa: Okay. And so as you stated so the applicant is essentially subdividing for
33 family purposes, to have her children ...
34
35 Donohue: Yes. She wants to live on one lot and her two children to live on the other
36 two.
37
38 Ochoa: Okay. And also just wanted to note there are two mobile homes on the
39 property currently, so the property since it's just one lot it is currently non-
40 conforming already, having two homes on a single-family lot. So, I mean
41 technically this would kind of bring this into compliance with current code.
42 Just, just stating that for the minutes for people that review. Okay. Other
43 than that ...
44
45 Dominguez: I just have a question. How come there's two mobile homes there? Was
46 it be, when it was in the County or?

- 1
2 Ochoa: *(inaudible)*
3
4 Donohue: They weren't really sure when the annexation took place, but the two
5 homes have been there for years.
6
7 Dominguez: Okay. Thank you.
8
9 Ochoa: Staff's knowledge of the area, I believe this was annexed into the City as
10 is if you will, just like a number of lots out there are existing with multiple
11 homes on them, so basically was annexed into the City as it, as it exists
12 now.
13
14 Dominguez: Thank you.
15
16 Ochoa: No problem. Thank you. Anything else, anything else to add? Findings?
17
18 Gonzales: No, this will just, this recommendation would be for a denial to the P&Z
19 and then from P&Z they can recommend theirs to City Council.
20
21 Ochoa: We still need a vote on it so we'll see what DRC recommends. Other than
22 that do I have a motion on this case?
23
24 Dominguez: I move to approve the waiver.
25
26 Murphy: Second.
27
28 Ochoa: Second then. All in favor say "aye." All opposed "nay."
29
30 MOTION DOES NOT PASS, UNANIMOUSLY.
31
32 Ochoa: So the waiver request will move forward to P&Z with recommendation for
33 denial from the DRC. Other than that we have no other business.
34
35 **V. ADJOURNMENT**
36
37 Ochoa: Can I have a motion to adjourn please?
38
39 Murphy: Motion to adjourn.
40
41 Dominguez: Second
42
43 Montoya: Second.
44
45 Ochoa: We are adjourned at 9:07.
46

1 Donohue: Thank you.

2

3

4

5

6 _____
Chairperson

7

DRAFT

- 1 Gordon: All right. Thank you. Anyone else? All right in that case I'd like to
2 entertain a motion for Case number 65154. Ms. Ferrary.
3
- 4 Ferrary: I move that we approve the Special Use Permit um and uh the staff
5 recommendations and approve the request as recommended for Case
6 65154.
7
- 8 Gordon: Is there a second?
9
- 10 Hedrick: I'd like to second the motion along with the variance.
11
- 12 Gordon: All right, in that case we can take a vote. Let me start on my right. Mr.
13 Hedrick.
14
- 15 Hedrick: Yes.
16
- 17 Gordon: Ms. Ferrary.
18
- 19 Ferrary: I vote yes according to discussion, um site visit, and uh findings.
20
- 21 Gordon: Mr. Alvarado.
22
- 23 Alvarado: I vote yes based on discussion, findings, and site visit.
24
- 25 Gordon: And I vote yes based on staff recommendations, findings, discussions,
26 and site visit. And I wish to say thank you for all the work that you do,
27 that's very nice.
28
- 29 **3. Case 65729W:** Application of Donohue Land Surveys, on behalf of Sylvia
30 Cardon to waive 100% of the road improvement requirements for Bell Road.
31 The proposed waiver is associated with improvements required for a
32 proposed preliminary plat known as Cardon Estates on a 2.40 +/- acre tract
33 located on the west side of Bell Road, 336 +/- feet south of its intersection
34 with Stanley Road; a.k.a. 5301 Bell Road; Parcel ID# 02-19810. Proposed
35 Use: Three (3) new single-family residential lots. Council District 5
36 (Councilor Sorg.)
37
- 38 Gordon: In that case we can move onto Case number 65729W. Adam.
39
- 40 Ochoa: One more time, yes sir. Last case tonight ladies and gentlemen is Case
41 65729W. It is a request for approval of a waiver request to the required
42 road improvements for a proposed uh subdivision known as Cardon
43 Estates Subdivision for a property located at 5301 Bell Road, Bell Road.
44 As you can see the subject property here in the blue color, as you can it is
45 in the very far east outskirts of town, um north of Highway 70, um south of

1 Stanley Road here. To get to there you go east on Holman Road to the
2 east.

3 Subject property is on the west side of Bell Road actually about 336
4 feet south of its intersection with Stanley Road. Subject property actually
5 currently encompasses 2.4 acres, so it is real, relatively large property.
6 Currently it is a non-conforming property, uh with multiple residences on it.
7 There are two mobile homes on one lot now. That property was annexed
8 into the City that way so it is an existing non-conforming property.
9 Considering the property is zoned REM which is single-family residential
10 mobile estate where you're only allowed to have one home, but as I stated
11 before this was annexed into the City like that, it is allowed to continue as
12 is.

13 Subject property does front Bell Road. Bell Road is a, about a 20-
14 foot wide paved roadway currently. There are currently 50-feet of right-of-
15 way which is what's required for a minor local roadway which is what this
16 is, um as required by our Design Standards. The property has never been
17 previously subdivided. It is a, an original USRS tract. Subject property
18 shown here, uh as you can see there are those two mobile homes there.
19 Bell Road going from north to south, as you can see it actually dead ends
20 right where the property ends as well, Stanley Road to the north. As you
21 can see multiple type of units around this area, a lot of mobile homes,
22 some single, site built single-family homes as well. As you can see there
23 are other properties out here with multiple mobile homes on the properties
24 as well. Here are some um pictures of the existing roadway. Um looks
25 can be deceiving, it looks like it's graveled and dirt but that's just a lot of
26 washout, it actually is a paved. Staff did go out there and kick around and
27 sweep around the road and made sure there was pavement there. So it is
28 a paved 20-foot wide section. The applicant is proposing essentially to
29 subdivide the exiting tract into three new single-family lots, each lot
30 encompassing approximately 0.8 acres with a, one of the exiting homes
31 on lots one and two and then a new home to be put on lot three. This is,
32 the property owner is essentially an elder mother who would like to move
33 on to that property with her children who actually live there now with the
34 two mobile homes. Uh this subdivision would allow them to have one
35 home on each lot, essentially bringing the property into compliance if you
36 will with one home per property uh and the 0.8 acres do meet the
37 minimum lot size requirement of the existing REM zoning designation out
38 there.

39 Um design standards of section 32-36 does require for any
40 subdivider in the City of Las Cruces to provide all necessary dedication
41 and improvements to all adjacent roadways. As I stated before the
42 property is already a full 50-feet of right-of-way so that already meets the
43 responsibilities for a dedication, but it is required to be, the property, I'm
44 sorry, the, the road is required to be essentially built out to full cross
45 section, 50-feet, 50-foot road adjacent to the proposed subdivision on Bell
46 Road, so it's just that section in front of the property. Uh the applicant is

1 proposing to provide no roadway improvements, as I stated before uh the
2 applicant is a, a widow, an elderly woman who uh basically stated that the
3 required roadway improvements would create a substantial hardship for
4 herself and her family and the applicant has stated that she is wanting to
5 subdivide like I said in order to live next to her family. Uh the required
6 road improvements as she states are not, or I'm sorry, by her
7 representative, improvements are not warranted for simply subdividing a
8 large single-family residential tract into three new large still single-family
9 residential lots.

10 Here is kind of a, a look at what those three lots will look fronting
11 Bell Road, as you can see here each one over 0.8 acres in size, Bell Road
12 to the east here with the 50-foot wide right-of-way with a 20-foot paved
13 roadway. So essentially by following City Design Standards the applicant
14 is required to essentially build out the, all 50-foot wide cross section or the
15 whole 50-foot wide roadway adjacent to this subdivision here. Shown
16 here on the aerial again, that section that would have to be built, roughly
17 about 330 feet in length adjacent to the subject property. Here is a, right
18 out of our design standards, what that roadway might look like if you will a
19 cross section of what it would have to look like um with uh 32-foot wide of
20 pavement with a curb/gutter sidewalk and uh possibly a parkway and uh
21 streetlights as well if warranted.

22 Um the hardships expressed by the applicant unfortunately do not
23 demonstrate a substantial hardship as outlined in, in our codes essentially
24 under Article 6, section 37-332. The way it reads is that the hardship
25 actually must be due to exceptional physical issues, uh exceptional
26 topographic, soil, or other surface or subsurface conditions, that would
27 basically make it essentially impossible for them to build the road, that has
28 not been shown for this proposed waiver request.

29 Staff did sent out our standard mail outs, advertisements and so on
30 and so forth like that and staff has received no public input on the
31 proposed waiver request. Staff just received one phone call from a
32 neighbor on Bell Road as well just being curious but had no opinion on it.
33 The case went before our, the Development Review Committee on May
34 5th, 2016, the DRC is a, does review subdivisions from an infrastructure,
35 utility, and improvement standpoint. Um during the meeting there was
36 discussion on the applicant's justification for the waiver request uh and
37 what, after some other minor discussion the DRC did recommend denial
38 for the proposed waiver request to the Planning and Zoning Commission.

39 So with that, based on the City of Las Cruces Subdivision
40 Ordinance, the Design Standards, and the unfavorable recommendation
41 by the DRC, staff recommends denial of the waiver request based on the
42 findings found in your staff report. The Planning and Zoning Commission
43 is the recommending body to City Council for waivers. Essentially City
44 Council will have final action on this waiver request. Here are those
45 findings that staff put in your staff report for denial, as I stated before. And
46 with that tonight ladies and gentlemen you're options are: 1) to vote "yes"

1 and recommend approval for the waiver request to the City Council; 2) to
2 vote "yes" and recommend approval of the waiver request with a
3 conditions deemed appropriate by the P&Z; 2) to vote "no" and
4 recommend denial for the waiver request as recommended by staff; or 4)
5 to table and postpone and direct staff and the applicant accordingly. That
6 is the conclusion of my presentation. The applicant's representative is
7 here if you have any questions for them and I stand for questions as well.
8

9 Gordon: Commission.

10
11 Ferrary: Um Adam with the way that this is being subdivided um from Bell um do
12 we need to, if we do approve this, um also need to have a condition of
13 access being provided, right-of-way through the first property or somehow
14 through there to be able to get to all three or the other two.
15

16 Ochoa: Mr. Chairman, Commissioner Ferrary. Pardon me, um Mr. Chairman,
17 Commissioner Ferrary all three lots actually do front Bell Road, so that is
18 actually a subdivision requirement uh, a requirement from our Subdivision
19 Code that all residential lots are required to have direct access to right-of-
20 way and all three lots do have direct access to right-of-way which is Bell
21 Road.
22

23 Ferrary: Can you go to the aerial? Do we have an aerial of this um and explain
24 how then that would be divided without having to move the, one of the two
25 uh mobile homes?
26

27 Ochoa: Mr. Chairman, Commissioner Ferrary. One of the mobile homes would
28 have to be moved into one of the new lots that are being created. The lots
29 will essentially run east to west so if you follow my cursor here to be one
30 lot here, two lots, and then three lots in the bottom. So both mobile homes
31 may have to move in order to meet setback requirements as well but one
32 would definitely have to be moved to one of the new lots and make sure
33 that it meets setback requirements as well. So as they exist now they'd
34 have to move essentially in order to meet, in order to be in their new lots if
35 you will.
36

37 Ferrary: Do we have to provide that as a condition or is that automatic and they,
38 and what is the compliance, you know who would make sure that that was
39 done?
40

41 Ochoa: Mr. Chairman, Commissioner Ferrary. That would be a requirement.
42 There is no waiver request to that. They would have to move the mobile
43 homes, each one to, to a new lot. And staff before we actually would
44 release the final, uh, uh subdivision if this does get approved, they go
45 through the preliminary plat process which would have to come before you
46 as well cause they're creating three lots and then the final plat process

- 1 which is taken care administratively, staff would make sure that the mobile
2 homes are moved to meet all of our requirements before we finalize and
3 allow for that subdivision to be filed and made legal if you will.
4
- 5 Ferrary: And you stated that there were no um, a reports of opposition to this?
6
- 7 Ochoa: Mr. Chairman, Commissioner Ferrary. That is correct. Like I said, there
8 was only one phone call uh, I believe from uh somebody near the corner
9 of Stanley and Bell Road, just asking what was going on and uh them
10 potentially coming forward in the future for their own subdivision as well.
11
- 12 Ferrary: Thank you.
13
- 14 Gordon: Mr. Alvarado.
15
- 16 Alvarado: I have a couple of questions or maybe a question and a comment. This
17 has nothing to do with a, with a current request, but will they each have to
18 have their own septic tank?
19
- 20 Ochoa: Mr. Chairman, uh Commissioner Alvarado. Essentially, essentially yes.
21 Each mobile home if there's not sewer out there for them to tap into they
22 would have to provide their own septic system for each lot, each home
23 and that process would have to go through the New Mexico Environmental
24 Department for approval.
25
- 26 Alvarado: I don't think there's any sewer out there. I mean I didn't see any, any
27 evidence of it in the roads.
28
- 29 Ochoa: Mr.
30
- 31 Albuquerque The roads are all unpaved.
32
- 33 Ochoa: Mr. Chairman, Commissioner Alvarado. That is correct. They, they are
34 paved, a little, paved a while ago it looks like but they are paved. Um our
35 utilizes department did mention that there were um, um some, there's
36 sewer uh not really close by but within the vicinity but uh they did state in
37 their comments that in the future um they are looking at extending sewer
38 uh out to this area that they would have the option to tap into City sewer
39 as long as they um pay all costs and uh impact fees and so forth like that.
40
- 41 Alvarado: Who paved that wide road that's out there, was that the County or the
42 City?
43
- 44 Las Cruces Mr. Chairman, um Commissioner Alvarado. I believe that was paved
45 before it was into the City so yeah it was probably somebody in the
46 County or the developer of that area, that is correct sir.

- 1
2 Alvarado: And then my, my other question is, is I, I don't know that you or anybody
3 else knows what was the logic of the City to annexing all these areas
4 when they knew that there was no road, no, no sewers, no water, no
5 streets, nothing that somebody and it was, it should've been apparent
6 back then but since there were no developers like there are now in the
7 Red Hawk area, that the City was, the City or somebody was going to
8 eventually have to put all that infrastructure in. Who, who did they think
9 was going to do it? I, I don't know if you can tell me or you know if
10 anybody can tell me.
11
- 12 Ochoa: Sure. Um Mr. Chairman, Commissioner Alvarado. Um I believe the City, I
13 don't know exactly what the actual justification was for annexing those
14 areas into the City uh but what I do know is that it is a little easier for the
15 City to obtain grants and federal grants and funding for paving of roads
16 and so forth like that than the County would uh so that might be one logic
17 for putting these properties into the City. Additionally if you look at a lot of
18 these lots out there including this one are far larger than the minimum lots
19 as requirement of their zoning districts. And as the code states a
20 subdivider is responsible for providing road improvements to their, to their
21 subdivision so that might be taken care by itself as well, just like some
22 vacant property that was also annexed into the City which, in the nearby
23 area they're all smaller lots, the subdivider actually paved those lots and
24 paved the road to access those lots in that subdivision, of course that's a,
25 you know couple hundred lots as compared to you know three lots that for
26 a family that they're trying to do now, but unfortunately the Subdivision
27 Code and our, our Zoning Code, I'm sorry, Subdivision Code and Design
28 Standards don't differentiate between somebody splitting up a lot between
29 them and their children and somebody creating a Metro Verde if you will
30 uh, uh in the City of Las Cruces everybody's seen as a subdivider so a
31 subdivider is responsible for building those roads there.
32
- 33 Alvarado: Some of those areas have been annexed for over 30 years, over 30 years
34 and the City hasn't put one footprint over there. Not only no water, nothing
35 at all, no fire hydrants, nothing. So I don't know, I don't know how long it's
36 gonna take.
37
- 38 Ochoa: It's a slow process sir.
39
- 40 Alvarado: Another 30 maybe. Sorry and thank you.
41
- 42 Ochoa: Thank you.
43
- 44 Gordon: Adam.
45
- 46 Ochoa: Yes sir.

- 1
2 Gordon: But the issue at hand now is just to either a, approve or deny the waiver
3 for the road improvements, the cost of the road improvements, we're not
4 talking about subdivisions or anything like that, we're just talking about
5 waiving the cost of road improvements, correct?
6
- 7 Ochoa: Mr. Chairman. To a point, yes that is correct. It is a request or to approve
8 or deny, recommend approval or denial, pardon me, for a waiver request
9 to road improvements associated with a future subdivision that'll be
10 coming in if ...
11
- 12 Gordon: Right.
- 13
14 Ochoa: This gets approved.
- 15
16 Gordon: It would be their patient proportional share.
- 17
18 Ochoa: Yes sir, that is correct, for the proportionate share of road improvements
19 which essentially be the portion of Bell Road fronting their lot.
20
- 21 Gordon: Okay. Well I have to tell you this is like déjà vu all over again, all over
22 again, all over again. Since I've been on the Commission we've had this
23 item now three or four times. I, I've spoken to someone on City Council,
24 they were supposed to have addressed this issue about people who have
25 bought this land many years ago when it belonged to the County, when
26 they had every intent to do what they want to do today without having the
27 headaches of which they are met with at the current time, they wouldn't
28 have had, if this land still was in the County and I don't know why it keeps
29 coming to us because as far as I'm concerned I'm always gonna grant the
30 waiver. I, I just can't believe that these people just get trapped. I mean
31 you just don't have any choice. You, you never intended, especially some
32 of these people who have been there like Mr. Alvarado said, maybe more
33 than 30 years ago, I don't know how long. I haven't been here that long,
34 but I've been out there and can see what's there and first of all this is a
35 dead end. This road isn't even going anywhere, it terminates at this
36 property. So I don't know, I'm hoping that some day and I was promised
37 by someone on City Council, I don't think it's necessary to mention his or
38 her name that this matter was going to be taken up by City Council to
39 rectify these types of situations so that this matter wouldn't be kept coming
40 to the Planning and Zoning for the same things over and over and over
41 again.. Uh that's my only comment.
42
- 43 Ferrary: I ...
- 44
45 Alvarado: Sorry, go ahead.
46

- 1 Gordon: I'm sorry, Ms. Ferrary.
2
- 3 Ferrary: I agree and I think we've gone to as great an extent as we can of putting it
4 into the record that we'd like the City Council to address this problem of
5 you know making it so that if we would like to have people um contribute
6 to the development of the road when it's appropriate, um that they either
7 are assessed a small amount over the next 20 years which probably is
8 what it's gonna take before this area really needs to have, have the roads
9 um developed, um and if they haven't taken action yet and maybe will
10 soon, um that we could go ahead in good conscious and um support the
11 waivers and I feel bad that on the waivers that we did not grant, possibly
12 those people could come back and we could do something that would
13 appease their um development of their property for circumstances such as
14 this. So I'm, I'm in favor of approving this.
15
- 16 Gordon: Mr. Alvarado.
17
- 18 Alvarado: I, I just for the record, record, I own some property over on the other side,
19 Melody Lane and Jordan Road and I have been asking City Councilors
20 back since uh what was, what was the guys name, uh Holton, Councilor
21 Holtum and Councilor Holtum told me "I can't do anything about it because
22 I wasn't on the Council when it got annexed so I'm really sorry." So that's,
23 and I've asked every Councilor since then. I've asked representatives, I've
24 asked Senators that represent that area and nothing's ever been done.
25 Nothing.
26
- 27 Gordon: Mr. Hedrick.
28
- 29 Hedrick: I uh will not be supporting the uh, uh proposal. While I have empathy for
30 those who uh are involved and are, are making the, request, in my view
31 approval of this will continue and perpetuate the problem, not solve the
32 problem. And the code is very clear, specifically the hardship must be due
33 to exceptional topographic, soil, or other surface or subsurface conditions
34 where such conditions that were to result inhibiting the objectives of the
35 code. No evidence has been forthcoming uh to meet that criteria.
36
- 37 Gordon: If there are no other comments uh does the petitioner have anything they'd
38 like to say? Would you, would you please state your name and your
39 address and, so that I can swear you in please?
40
- 41 Donohue: Gerry Donohue, 100 Wyatt Drive, Las Cruces.
42
- 43 Gordon: All right. Do you swear or affirm that the testimony you are about to give
44 is the truth and nothing but the truth under penalty of law?
45
- 46 Donohue: So help me God.

- 1
2 Gordon: Thank you.
3
- 4 Donohue: Um I appreciate the, the comment that I got from Commissioner Hedrick.
5 It does not meet the exact definition of what constitutes a viable waiver,
6 however the intention of the subdivision act is to promote the harmonious
7 development of the community and this road dead ends into BLM property
8 which is not subject to development. Um and as such it would be um, it
9 would be a dead end development. The, the need for that road doesn't
10 exist. Uh, I don't know if, if I can put that into terms that, that meet the
11 code but, but what, what was intended there was to provide a road that
12 would facilitate growth, not harmonious growth, and, and this doesn't meet
13 that condition. Um so we, we wanted to come before you with the waiver
14 request prior to doing the subdivision. The subdivision will be done as it's
15 shown on that preliminary plat that, that you have in your packet where all
16 three lots front on Bell Road, we'll adhere to that and each lot will have to
17 uh, each home will have to be located on a lot, they'll have to be relocated
18 as part of the process. Um, the, I don't know if you're aware of the cost of
19 uh developing 350-feet of 50-foot wide, but it's a, it's a significant amount
20 um. City Engineering said that they really thought we should improve it
21 out to Stanley Road, um but, but I would appreciate your consideration in
22 this case. I know that you have to handle them individually and um, yeah,
23 so if there's any questions I can answer I'll be glad to.
24
- 25 Gordon: Does the Commission have any questions? None. Thank you.
26
- 27 Donohue: Thank you.
28
- 29 Gordon: Adam. I, I guess Adam it's time for you to give us your options again so
30 we know exactly what we're gonna vote.
31
- 32 Ochoa: No problem. Yes sir. Uh your options tonight are again: 1) to vote "yes"
33 and recommend approval for the waiver request; 2), and since, just keep
34 in mind since staff is recommending denial for this the findings in your staff
35 report are supporting a vote for denial. So if you do vote to recommend
36 approval for this, to vote yes, you would have to state uh new findings
37 essentially uh supporting your vote if you will. 2) is to vote "yes" and
38 recommend approval of the waiver request with conditions deemed
39 appropriate by the P&Z; 3) to vote "no" and recommend denial of the
40 waiver request as recommended by staff; and 4) to table/postpone and
41 direct staff and the applicant accordingly.
42
- 43 Gordon: All right, thank you. Do we have a motion on Case number 65729W?
44
- 45 Alvarado: I make a motion to approve the waiver under Case 65729W, Cardon
46 Estates.

- 1
2 Gordon: Do we have a second?
3
4 Ferrary: I'll second.
5
6 Gordon: Ms. Ferrary seconds. All right, in that case we can take a vote starting on
7 my far right, Mr. Hedrick.
8
9 Hedrick: I vote no. I concur with staff's findings for denial.
10
11 Gordon: Ms. Ferrary.
12
13 Ferrary: I vote yes um because of uh findings that this needs to be um approved
14 even though we don't have the findings from staff.
15
16 Gordon: Mr. Alvarado.
17
18 Alvarado: I vote yes on site visit and under the condition, conditions and the
19 conditions under which this waiver was requested.
20
21 Gordon: And I vote yes based on the site visit, uh discussions this evening, and I
22 feel that the need for uh the waiver should be granted due to fact of
23 situation which has gone on for too many years. I think that the City
24 should uh have resolved this issue a long time ago to avoid this problem
25 and I hope that we don't have it again.
26

27 IX. OTHER BUSINESS

- 28
29 Gordon: All right, is there any other business? Adam.
30
31 Ochoa: No sir, no other business tonight.
32

33 X. PUBLIC PARTICIPATION

- 34
35 Gordon: Is there any further public participation?
36
37 Ochoa: There's nobody left sir.
38
39 Gordon: Okay.
40

41 XI. STAFF ANNOUNCEMENTS

- 42
43 Gordon: Are there any ...
44
45 Alvarado: Adjournment.
46

1 Gordon: Wait a minute, are there any Staff Announcements?
2

3 Ochoa: Yes sir, just one announcement. As you've all probably received the e-
4 mail uh Commissioner Beard is no longer on the Planning and Zoning
5 Commission. He served us a long, great long time as our, as our, a
6 Commissioner for District 2. Uh he has been replaced by a new
7 Commissioner who was sorry she couldn't be here, um, yes she. But she
8 had some prior engagement before being appointed to the Planning and
9 Zoning Commission. Her name is Ms. LaVonne Muniz and she will be at
10 our next meeting in June. Uh but uh at that meeting hopefully we'll have
11 our Chairman there hopefully won't be stuck in traffic that time and uh we
12 get a couple more Commissioners here because Commissioner Beard
13 was our Secretary, uh since he is gone we would have to vote for a new,
14 to appoint a new Secretary for the Planning and Zoning Commission.
15

16 Gordon: All right. Thank you Adam.
17

18 **XII. ADJOURNMENT (8:05)**
19

20 Gordon: If there are no further staff announcements and no other comments from
21 the Commission, I'd like to take a, get a motion to adjourn.
22

23 Alvarado: Move, move for adjournment.
24

25 Gordon: Mr. Alvarado. Second. I'll second. Can I second?
26

27 Ochoa: Yes you can.
28

29 Gordon: I second. And we are adjourned at 8:05. Thank you.
30
31
32
33
34
35

36 Chairperson
37
38

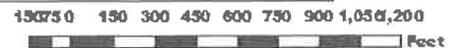
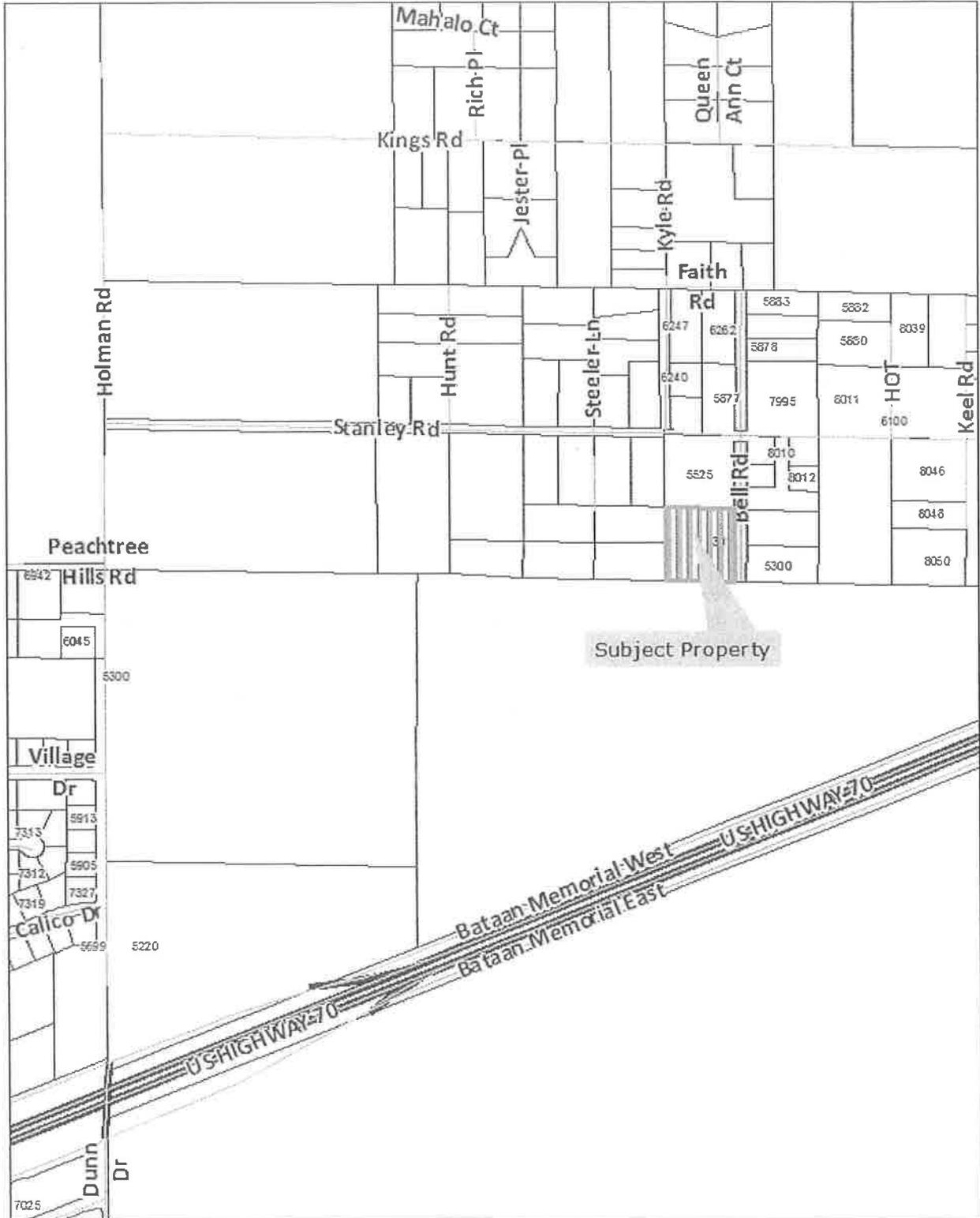
VICINITY MAP

ZONING: RE-M

OWNER: SYLVIA CARDON

PARCEL: 02-19810

DATE: 5/12/16



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