

**EXTRA-TERRITORIAL ZONING AUTHORITY
MEETING**

May 19, 2010

THESE ARE NOT VERBATIM MINUTES, THEY ARE SUMMARY MINUTES

MEMBERS PRESENT:

Commissioner Scott Krahling, Member
Commissioner Leticia Benavidez, Alternate
Councilor Nathan Small, Member
Councilor Miguel Silva, Member
Chairwoman Karen Pérez, Member

OTHERS PRESENT:

Chuck McMahon, DAC Planning Director
Jonathan Kesler, ETZ Planner
Steve Meadows, ETZ Planner
Dave Medeiros, DAC Attorney
Cheryl Rodriguez, CLC Planning
Isabel De La Rosa, Recording Secretary
Veronica Gonzalez, Recording Secretary

MEMBER ABSENT: Oscar Vasquez-Butler

1. **CALL TO ORDER:** Chairwoman Pérez called the Regular Meeting of the Extra-Territorial Zoning Authority to order at 5:40 p.m., Wednesday, May 19, 2010 in the County Commission Chambers of the Doña Ana County Government Center, 845 N Motel Blvd., Las Cruces, NM.

2. **ROLL CALL:**

Commissioner Krahling	Here
Commissioner Benavidez	Here
Councilor Small	Here
Councilor Silva	Here
Chairwoman Pérez	Here

3. **ANNOUNCEMENTS:** None

4. **APPROVAL OF MINUTES:** March 17, 2010
Councilor Small moved to approve the minutes of March 17, 2010.
Commissioner Krahling seconded the motion.

Roll call:

Commissioner Krahling	Yes
Commissioner Benavidez	Abstain
Councilor Small	Yes
Councilor Silva	Abstain
Chairwoman Pérez	Yes

Minutes **approved** by a vote of 3-2-0.

5. **CHANGES TO THE AGENDA:** None

6. **PUBLIC INPUT:** None

**EXTRA-TERRITORIAL ZONING AUTHORITY
MEETING**

May 19, 2010

THESE ARE NOT VERBATIM MINUTES, THEY ARE SUMMARY MINUTES

MEMBERS PRESENT:

Commissioner Scott Krahlung, Member
Commissioner Leticia Benavidez, Alternate
Councilor Nathan Small, Member
Councilor Miguel Silva, Member
Chairwoman Karen Pérez, Member

OTHERS PRESENT:

Chuck McMahon, DAC Planning Director
Jonathan Kesler, ETZ Planner
Steve Meadows, ETZ Planner
Dave Medeiros, DAC Attorney
Cheryl Rodriguez, CLC Planning
Isabel De La Rosa, Recording Secretary
Veronica Gonzalez, Recording Secretary

MEMBER ABSENT: Oscar Vasquez-Butler

1. **CALL TO ORDER:** Chairwoman Pérez called the Regular Meeting of the Extra-Territorial Zoning Authority to order at 5:40 p.m., Wednesday, May 19, 2010 in the County Commission Chambers of the Doña Ana County Government Center, 845 N Motel Blvd., Las Cruces, NM.

2. **ROLL CALL:**

Commissioner Krahlung	Here
Commissioner Benavidez	Here
Councilor Small	Here
Councilor Silva	Here
Chairwoman Pérez	Here

3. **ANNOUNCEMENTS:** None

4. **APPROVAL OF MINUTES:** March 17, 2010
Councilor Small moved to approve the minutes of March 17, 2010.
Commissioner Krahlung seconded the motion.

Roll call:

Commissioner Krahlung	Yes
Commissioner Benavidez	Abstain
Councilor Small	Yes
Councilor Silva	Abstain
Chairwoman Pérez	Yes

Minutes **approved** by a vote of 3-2-0.

5. **CHANGES TO THE AGENDA:** None

6. **PUBLIC INPUT:** None

**OLD BUSINESS
REVIEW/DISCUSSION/ACTION**

7. MINOR SUBDIVISIONS AND LARGE LAND AREA SUBDIVISIONS REPORT UPDATE FROM THE CITY OF LAS CRUCES COMMUNITY DEVELOPMENT DEPARTMENT:

Cheryl Rodriguez for the CLC, presented case ETZS-10-002 Picacho-Chavez Subdivision, and explained that this was a minor subdivision to create a utility tract for the Picacho M.D.W.C.A.

8. ETZ SUBDIVISION CODE OVERVIEW AND AMENDMENT PROCESS UPDATE AND AMENDMENT PRIORITIZATION FROM THE CITY OF LAS CRUCES COMMUNITY DEVELOPMENT DEPARTMENT:

Cheryl Rodriguez from CLC, gave an update. They are working on the feedback to put together a draft for the work session this summer.

**NEW BUSINESS
REVIEW/DISCUSSION/ACTION**

- 9. Case # V10-001/Pierce:** The applicant, Brian Pierce, is requesting a Variance of fifteen feet (15') to the rear yard setback requirement of twenty-five feet (25') within the ER 4 Zoning District (Residential, 1/2-acre minimum new lot size, single-family site built homes) resulting in a ten foot (10') rear yard setback, to construct a 3,670 sq. ft. single family site-built home. The 1.2-acre subject parcel is located west of the City of Las Cruces, north of Picacho Avenue, within Section 7, Township 23 South, Range 1 East, and is addressed as 8020 Murano Ct. The subject property is described as Lot 3 of the Murano Estates Subdivision as recorded in the office of the Doña Ana County Clerk June 6, 2002, in Book 20, Pages 76-77, and can be further identified by Map Code # 4-001-135-361-189.

Steve Meadows; ETZ Planner, sworn in. Mr. Meadows gave a brief presentation.

PROPOSED FINDINGS

If the Extra-territorial Zoning Authority wishes to approve Case V10-001 staff recommends the following proposed findings:

1. The request of this application is consistent with the requirements of the Las Cruces Extra-territorial Zoning Ordinance Article II, Section 2.1.C/Application Procedures and Section 2.1.G/Public Hearing and Notice Requirements.
2. The subject property is located outside the corporate limits of the City of Las Cruces, but within the five-mile Extra-territorial Zone (ETZ) as set forth by 3-19-5(1), NMSA 1978 and the Joint Powers Agreement between Doña Ana County and the City of Las Cruces. Therefore, the Las Cruces ETZ Commission (ETZC) has jurisdiction to review this case.
3. The property is located within the ER4 District (Residential, 1/2-acre minimum new lot size, single-family site-built homes).
4. The Extra-territorial Zoning Ordinance Article III, Section 3.1.E.1.b requires a twenty-five foot (25') rear yard setback.
5. Article II, Section 2.3.B states, "*A Variance may be granted by the Extra-territorial Authority if it concludes that strict enforcement of the Ordinance would result in practical difficulties or unnecessary physical hardships for the applicant resulting from*

the size, shape or existing structures thereon, or from topographic or physical conditions on the site or in the immediate vicinity, and that by granting the Variance, the spirit of this Code will be observed, public safety and welfare secured and substantial justice done. Cost and inconvenience to the applicant of strict or literal compliance with the regulation may be given consideration, but shall not be the sole reason for granting a Variance.

6. The Variance request is not warranted under the Extra-territorial Zoning Ordinance Article II, Section 2.3.C/Required Findings, because the applicant has not shown that: ***(Applicant's responses in italicized bold letters):***

- a. Granting the Variances will not constitute a grant of special privilege inconsistent with the limitations on other properties within three hundred fifty (350) feet and also within the same land use district. ***This is not a special privilege, others in this subdivision and surrounding subdivisions have been granted variances. Not a special privilege due to the fact that this will be a benefit to my neighbors by helping preserve their home views. Would be beneficial in the storm drainage of this lot and others in subdivision.***
- b. Granting of the Variance will not be detrimental to the public health, safety, welfare, or be materially injurious to properties or improvements in the vicinity. ***All Building Codes will be followed, so no safety hazards. Again, will help others in subdivision for storm drainage purposes which could be a safety issue. Would be the ideal location for my home to help neighbors in our subdivision, and would not affect any others in outlying subdivisions.***
- c. Strict or literal interpretation and enforcement of the specified performance standard or regulation would result in unnecessary physical hardship inconsistent with the purposes of this code. ***Variance would not affect the views or drainage of the adjoining subdivision. Would not be fair to move current pad site. Current pad site is already over setback. Variances in other subdivisions have been issued or granted. Neighbor to the west is very much in favor of this variance. It will help him tremendously as far as views go. If this Variance is not issued there may be an issue with storm drainage. Would aid in the proper drainage of the subdivision***

Commissioner Concerns:

- The setbacks on the property.
- The culverts that runs under the driveway.
- The pad encroaching on setbacks.
- How the work is done with the developer.
- Lack of a platted drainage easement.
- The community ponding, Tract A.
- If there was anything in subdivision plat prohibiting moving the culvert?
- What ability there is to increase the drainage problems in Picacho Hills?
- The physical restriction and the protection of drainage.
- If this was a real hardship or not?
- What is the setback on Parcels 17-19, west of the parcel?
- If the rock rip-rap would erode?
- Could the variance be modified?
- When was the subdivision developed?

Laura and Brian Pierce, applicants, were sworn in. They responded the following:

- They explained that they had purchased a lot four years ago
- They just recently started building their house and working with the builder.
- Covenants do not allow the movement of culverts.
- If they were closer to the culvert it would damage the structure.
- The drainage does work.
- The wall will not be an impact.
- The pad needs leveling off and to be resurfaced.
- The builder did mention that the dirt would be moved at least 10 ft back.

Steve Meadows responded to the following:

- ER4/ER7 most restrictive zone will be in effect.
- All requirements in the Ordinance were met.
- It is not a special privilege, two others variances to setbacks were granted.
- The North portion of the structure is too close to the neighbor's property.
- The plat was recorded in 2002.
- Based on the survey the property, the pad is 15-16 ft away from the property line.
- There were no records of the specifics of the variances granted.

Chuck McMahon responded to the following:

- In the 2006 storm there was no evidence of flooding on the property.
- Often times when a pad is built there is no fatal flaw.
- In the older subdivision specs, sometimes the easements would not stay in the water course. They migrate naturally.
- Today the placement of easements ensures the water remains in place.
- In the drainage analysis it was unclear whether or not the easement is included.
- Suggested to move the house South or build it smaller.
- To work on slope stabilization .
- There are other ways to address the layout of the house.

10. REVIEW OF THE REVISED ETZ BY-LAWS:

Jonathan Kesler noted that there was further tweaking had been done on both the ETZ By-Laws and the ETZ Reasonable Notice of Meetings included in their packets as items #9 and #10. They are ready to be approved.

Councilor Krahling moved to approve the By-Laws
Commissioner Small seconded the motion.

Roll call:

Commissioner Krahling	Yes
Commissioner Benavidez	Yes
Councilor Small	Yes
Councilor Silva	Yes
Chairwoman Pérez	Yes

By-Laws were **approved** by a vote of 4-0-0.

11. REVIEW OF THE REVISED ETZ REASONABLE NOTICE OF MEETING REQUIREMENTS AND THE 2010 CALENDAR YEAR SCHEDULE OF MEETINGS.

Commissioner Krahling moved to approve the Revised ETZ Reasonable Notice of Meeting Requirements and the 2010 Calendar Year Schedule of Meeting.

Councilor Small seconded the motion.

Roll call:

Commissioner Krahling	Yes
Commissioner Benavidez	Yes
Councilor Small	Yes
Councilor Silva	Yes
Chairwoman Pérez	Yes

Were **approved** by a vote of 5-0-0.

12. VISION 2040 UPDATE

Jonathan Kesler gave an update. No additional developments since the April 15th meeting update.

13. STAFF INPUT: None

14. AUTHORITY INPUT: None

15. ADJOURMENT:

Commissioner Krahling motioned to adjourn.

Commissioner Benavidez seconded the motion.

Chair Pérez adjourned the meeting at 7:00 p.m.

Officer: Extra-Territorial Zoning Authority

Submitted by: Veronica Gonzalez, Recording Secretary