

**EXTRA-TERRITORIAL ZONING AUTHORITY  
MEETING**

**June 16, 2010**

**THESE ARE NOT VERBATIM MINUTES, THESE ARE SUMMARY MINUTES**

**MEMBERS PRESENT:**

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

**OTHERS PRESENT:**

Chuck McMahon, DAC Planning Director  
Steve Meadows, DAC Planner  
Dave Medeiros, DAC Attorney  
Jennifer Robertson, CLC Planning  
Veronica Gonzalez, Recording Secretary

**MEMBERS ABSENT:**

Commissioner Scott Krahling, Member  
Commissioner Oscar Vasquez-Butler, Member

1. **CALL TO ORDER:** Chairwoman Pérez called the Regular Meeting of the Extra-Territorial Zoning Authority to order at 5:36 p.m., Wednesday, June 16, 2010 in the County Commission Chambers of the Doña Ana County Government Center, 845 N Motel Blvd., Las Cruces, NM.

2. **ROLL CALL:**

|                        |                 |
|------------------------|-----------------|
| Commissioner Benavidez | Here            |
| Councilor Small        | Here            |
| Councilor Silva        | Arrived at 5:40 |
| Chairwoman Pérez       | Here            |

3. **ANNOUNCEMENTS:** None  
**Chairwoman Pérez**

4. **APPROVAL OF MINUTES:** May 19, 2010  
**Councilor Small** moved to approve the minutes of May 19, 2010.  
**Commissioner Benavidez** seconded the motion.

**Roll call:**

|                        |                                  |
|------------------------|----------------------------------|
| Commissioner Benavidez | Yes                              |
| Councilor Small        | Yes                              |
| Councilor Silva        | Not present at the time of vote. |
| Chairwoman Pérez       | Yes                              |

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

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

6. **PUBLIC INPUT:** None

**OLD BUSINESS  
REVIEW/DISCUSSION/ACTION**

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

**Jennifer Robertson for the CLC**, explained that there was a two lot split minor subdivision.

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

**Jennifer Robertson for the CLC**, had no update. She mentioned work was in progress and any further updates would be posted on the website.

**NEW BUSINESS  
REVIEW/DISCUSSION/ACTION**

9. **CASE # V10-002/WRIGHT:** The applicant, Phyllis Wright, is requesting a Variance of ten feet (10') to the front 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 fifteen foot (15') front yard setback, to construct a 204 sq. ft. bathroom addition to the residence. The 1.0-acre subject parcel is located west of the City of Las Cruces and north of Picacho Avenue, within Section 20, Township 23 South, Range 1 East, and is addressed as 972 Weinreich Rd. The subject property is described as the South ½ of the Northeast ¼ of the Northwest ¼ of the Northeast ¼ of Section 20, Township 23 South, Range 1 East, N.M.P.M of the U.S.G.L.O. Surveys as recorded in the office of the Doña Ana County Clerk August 3, 1977, in Book 121, Pages 877-880, and can be further identified by Map Code # 4-002-136-342-058.

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

**RECOMMENDATION**

Based on the applicants' failure to meet all three requirements of the Variance Decisional Criteria, Section 2.3.C, staff recommends DENIAL of Variance Request Case # V10-002.

**PROPOSED FINDINGS**

**If the Extra-territorial Zoning Authority wishes to approve Case V10-002 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') front yard setback.

5. 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. *It will not constitute a grant of special privilege inconsistent of the limitations on other properties within 350 feet and also in the same land use district.*
  - 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. *It will not be detrimental to the public health, safety, and welfare or be materially injurious to properties or improvements in the vicinity, because strict compliance to codes and permits shall be followed.*
  - 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. *Yes, it will result in unnecessary physical hardship inconsistent with the purpose of this code. The request is totally unobtrusive and quite contained. This bathroom/closet expansion is necessary in accommodating the age and physical condition of the applicant.*

**Commissioner Concerns:**

- Asked for pictures of the front of the home;
- The overall size of the home;
- Asked if it would be ADA compliant;
- If the current bathroom could be used instead of having to add another one; and
- If both the bathroom and closet would be ADA compliant.

**Steve Meadows responded to the following:**

- The size of both additions are 11x18; and
- The addition was going to be a closet and bathroom;

**Applicant Ned Turner, was sworn in.** He explained and answered the following:

- The setbacks on the property;
- Gave reasons on why he was unable to build in the front of the home;
- He responded that the owner had a medical condition that required her to have this accommodation; and
- It would be ADA accessible.

**Chairwoman Perez** commented on the following:

- The home was built in 1955;
- It was a hardship;
- It was for the safety and welfare of the owner;
- There was support from one of her neighbors; and
- The bathroom would be at an appropriate distance.

**Councilor Small** moved to **APPROVE** Case # **V10-002/WRIGHT** with a condition that it would be ADA compliant.

**Commissioner Benavidez** seconded the motion.

**Roll call:**

|                        |     |
|------------------------|-----|
| Commissioner Benavidez | Yes |
| Councilor Small        | Yes |
| Councilor Silva        | Yes |
| Chairwoman Pérez       | Yes |

The variance was **APPROVED** by a vote of 4-0-0.

- 10. CASE # Z10-001/GRG STUCCO:** The applicant, GRG Stucco, Gerardo Rivera, Agent, is requesting a zone change on a 0.89-acre parcel from ER 4M (Residential, 1/2-acre minimum new lot size, single-family site-built and mobile homes) to EI1 (Light Industrial, 5000 sq. ft. minimum lot size) for the purpose of operating a business, GRG Stucco Company, Inc. The subject parcel is located east of the City of Las Cruces, south of US Hwy. 70, on the Bataan Memorial East access road, within Section 8, Township 22 South, Range 3 East. It is described as a certain parcel of land situate within the SE ¼ of the SW ¼ of Section 8, Township 22 South, Range 3 East, N.M.P.M. of the U.S.G.L.O. Surveys as recorded May 2, 2001, in Book 267, Pages 65-66, and also in Book 163, Page 1746, on January 19, 1999 in the Office of the Doña Ana County Clerk. The subject property can be further identified by Map Code # 4-014-128-181-491. The Extra-Territorial Zoning Commission at its regularly scheduled meeting on May

**STAFF RECOMMENDATION**

Based on the applicants' proposal meeting the appropriate goals and policies of the Comprehensive Plan, the ETZ Ordinance and the Evaluation Criteria of Section 2.1.D, staff recommends **APPROVAL** of Zone Change Request Case # Z10-001 with the following conditions:

1. Applicant shall submit a Grading and Drainage Plan to the DAC Flood Commission for approval.
2. Applicant shall obtain a Driveway Permit from the NMDOT District Office.
3. Property shall be enclosed by a solid wall or fence six foot high.

**If the Extra-territorial Zoning Commission wishes to approve Case # Z10-001 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 ER4M District (Residential, 1/2-acre minimum new lot size, single-family site-built and mobile homes).
4. An EI1 Light Industrial District allows construction yards/contractors yards per Section 3.1.M.3.b of the ETZ Ordinance.

5. The applicant has overcome the presumption that the existing zoning district is the most appropriate because of the change in the US Hwy 70 corridor with the proliferation of new commercial and industrial zones surrounding the area.
6. The proposed Zone Change Request meets several Goals, Policies, and Objectives of the ETZ Comprehensive Plan 2000-2020 as indicated on Page 3 of the analysis.
7. The Zone Change Request does meet the Section 2.1.D Evaluation Criteria:
  - The water, septic, and road infrastructure is adequate for the proposed use.
  - Average traffic flows will be approximately 5 employee vehicles per day.
  - Existing structures will be utilized and no new ones are anticipated.
  - Adequate fencing and landscaping are in place and any small discrepancies will be addressed by applicant.
  - There are no environmentally sensitive areas, areas of historical significance or areas which contain endangered or rare species of animal or plant life.

**Commissioner Concerns:**

- If this was the only remaining residential property in the surrounding areas;
- If NMDOT will require a permit;
- If the current wood and rock wall fence was going to be kept;
- If it was in conformance with the plan; and
- If the wall was to protect the public interest.

**Steve Meadows responded to the following:**

- Yes, this was the only remaining residential property; and
- The applicant has been working on the following permits that are being required: driveway, grading, etc .

**Dave Medeiros, DAC attorney** was sworn in. He explained the following:

- The difference between spot zoning and read all the requirements; and
- Would like to incorporate spot zoning into this as well

**Applicant Armando Lozoya, was sworn in.** He explained and answered the following:

- Has a grading and drainage plan submitted for review;
- DOT sent the application to them;
- Used an engineer for the traffic analysis; and
- Is in the process of getting a fence.

**Chairwoman Perez** commented on the following:

- The zoning district was in conformance with ETZ Comprehensive Plan;
- Was in the proper location being a commercial area;
- This was the last of properties to fall in the line with the current trend of uses and zones;
- Working with NMDOT for proper permits;
- All the analysis was taken by the owner; and
- There were no impacts that supported the original conditions.

**Councilor Small** moved to **APPROVE** Case # # **Z10-001/GRG STUCCO** with the three conditions that were mentioned.

**Commissioner Benavidez** seconded the motion.

**Roll call:**

|                        |     |
|------------------------|-----|
| Commissioner Benavidez | Yes |
| Councilor Small        | Yes |
| Councilor Silva        | Yes |
| Chairwoman Pérez       | Yes |

The zone change was **APPROVED** by a vote of 4-0-0.

**11. STAFF INPUT:** None

**12. AUTHORITY INPUT:** None

**13. ADJOURMENT:**

**Councilor Small** motioned to adjourn.

**Commissioner Benavidez** seconded the motion.

**Chairwoman Pérez** adjourned the meeting at 6:36 p.m.

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Officer: Extra-Territorial Zoning Authority

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Submitted by: Veronica Gonzalez, Recording Secretary