Las Cruces Extra-territorial Zoning Authority
Las Cruces Extra-territorial Zoning Commission

CITY OFFICES
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Las Cruces, NM 88004
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COUNTY OFFICES
County Planning Department
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845 North Motel Blvd.
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TO: Extra-Territorial Zoning Authority
FROM: Extra-Territorial Zoning Commission
PREPARED BY: Sara Gonzales, Planner
DATE: July 28, 2016
SUBJECT: Replat of Lot 21, Subdivision “C” EBL&T Waiver Request – Appeal

64783A: Replat of Lot 21, Subdivision “C” EBL&T Waiver Request Appeal
An appeal of the decision of the Extra-Territorial Zoning Commission for case 64783W made on July 7, 2016, denying a waiver request for road improvements associated with a proposed subdivision known as Replat of Lot 21, Subdivision “C” EBL&T. The applicant is seeking to waive the required roadway improvements to the 50-foot-wide road and utility easement created by the subdivision, which provides access to the subdivision, that is adjacent to the nearest paved road known as Webb Road. The subject property encompasses 4.92 ± acres, is zoned ER5 and is located on the east side of White Thorn Road, 619 ± feet south of its intersection with Westmoreland Avenue; Parcel ID# 03-30038. Submitted by Moy Surveying Inc., on behalf of Tommy and Sandra Brown, property owners.

BACKGROUND

Staff researched the surrounding area and did not find any additional properties requesting waivers to road improvements.

Replat of Lot 21, Subdivision “C” EBL&T proposes four (4) lots on 4.92 ± acres. The subject property will have access from Webb Road which is comprised of a 60-foot-wide section of right-of-way with a 30-foot-wide paved road along the proposed subdivision line. ETZC made the decision to approve the waiver for the additional road improvements required on Webb Road including sidewalk, curb and gutter.

The ETZ Subdivision Ordinance, Section 4.2A, states right-of-way improvements shall be required of all subdivisions within the ETZ, except those which may qualify under Section
4.2L (Large Land Area Subdivisions). The ETZ Subdivision Ordinance, Section 4.2C states that all subdivisions shall provide one hundred percent of the required road improvements to interior rights-of-way. The subdivider is requesting a waiver to the required roadway improvements to the road and utility easement.

The waiver request for no interior road improvements was not supported by the EDRC (Extra-Territorial Zoning Review Committee) or the Dona Ana County Engineering Department on May 5, 2016. Furthermore, on July 7, 2016, the ETZ Commission considered the waiver request for the subject property for road improvements to the interior right-of-way. The ETZ Commission denied the applicant's waiver request during the July 7, 2016 due to the discussion of the current status of the roadway. The denial is consistent based upon the following findings:

1. The applicant is requesting to waive roadway improvements to the 50-foot-wide road and utility easement.
2. Section 4.2C states that all subdivisions shall provide one hundred percent of the required road improvements to interior rights-of-way.
3. As specified by Section 6.1 of the ETZ Subdivision Ordinance, the applicant did not demonstrate a substantial hardship due to exceptional topographic, soil or other sub-surface conditions that would otherwise inhibit the objectives of the ETZ regulations.

RECOMMENDATION

The ETZ Commission convened on July 7, 2016 to consider the proposed waiver request. The waiver request was denied by a 3-3 (one Commissioners absent) vote. Additionally, the EDRC convened on Thursday May 5, 2016 and unanimously recommended denial for the waiver request to the ETZ Commission.

OPTIONS

1. Approve the appeal. This action reverses the ETZ Commission decision of denial. The applicant will not be responsible for roadway improvements for the interior right-of-way.
2. Deny the appeal. This action affirms the ETZ Commission decision of denial. The appellant will be responsible for roadway improvements for the interior right-of-way.

ATTACHMENTS

1. Appeal Letter from Applicant
2. ETZ Commission Meeting Agenda and Minutes
3. ETZ Commission Staff Report and Attachments for Case 64783W, Replat of Lot 21, Subdivision “C” EBL&T Waiver Request
4. Vicinity Map
July 12, 2016

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

Re: Appeal on the Extra-Territorial Zoning Commission decision to deny the waiver for road improvements for Case 64783W: Replat of Lot 21 Subdivision “C”
EBL&T

Department Sirs;

On behalf of our client we are submitting this letter to formally accept this notice to appeal the decision of the Extra-Territorial Zoning Commission decision of July 7, 2016, to deny the waiver for road improvements for Case 64783W: Replat of Lot 21 Subdivision “C” EBL&T to the City of Las Cruces Municipal Code, Chapter 32 - Design Standards, Article II, Sec. 32-36 - City Streets.

Thank you.

Henry Magallanes LS# 18028
Moy Surveying, Inc.
Las Cruces Extra-territorial Zoning Authority
Las Cruces Extra-territorial Zoning Commission

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EXTRA- TERRITORIAL ZONING COMMISSION
AGENDA

The Las Cruces Extra-Territorial Zoning Commission agenda for a public hearing to be held on Thursday, July 7, 2016 at 6:00 p.m. in the County Commission Chambers at 845 N. Motel Boulevard, Las Cruces, New Mexico.

The City of Las Cruces does not discriminate on the basis of race, religion, sex, sexual orientation, gender identity, color, ancestry, serious medical condition, national origin, age, or disability in the provision of services. The City of Las Cruces will make reasonable accommodation for a qualified individual who wishes to attend this meeting. Please notify the City Community Development Department at least 48 hours before the meeting by calling 528-3043 (voice) or 1-800-659-8331 (TTY) if accommodation is necessary. This document can be made available in alternative formats by calling the same numbers listed above.

I. CALL TO ORDER

II. ANNOUNCEMENTS

III. APPROVAL OF MINUTES – June 2, 2016

IV. POSTPONEMENTS – NONE

V. OLD BUSINESS

1. Case 64783W: Replat of Lot 21, Subdivision “C” EBL&T Waiver Request
A request for approval of a waiver to the required roadway improvements associated with a replat known as Replat of Lot 21, Subdivision “C” EBL&T. The applicant is seeking to waive the required roadway improvements to Webb Road as well as the required access roadway improvements within the proposed subdivision. The subject property encompasses 4.92 ± acres, is zoned ER5 and is located on the east side of White Thorn Road, 619 ± feet south of its intersection with Westmoreland Avenue; a.k.a. 2595 Webb Road Parcel ID# 03-30038. Submitted by Moy Surveying Inc., on behalf of
Tommy and Sandra Brown, property owners.

2. **Case 65413W: Margarita’s Subdivision Replat No. 1 Waiver Request**
   A request for approval of a waiver to the required roadway improvements associated with a replat known as Margarita's Subdivision Replat No. 1. The applicant is seeking to waive the required roadway improvements to Calle de Las Margaritas as well as the required roadway improvements within the proposed subdivision. The subject property encompasses 5.181 ± acres, is zoned ER4M and is located on the west side of Calle de Las Margaritas, 809 ± feet south of its intersection with Watson Lane; a.k.a. 3876 Calle de Margaritas; Parcel ID# 03-29734. Submitted by Moy Surveying Inc., on behalf of Manuel & Yolanda Avalos, Olivia Romero, and Lorenzo Villalobos, property owners.

VI. **NEW BUSINESS – NONE**

VII. **STAFF INPUT**

   1. Monthly Subdivision Report

VIII. **COMMISSION INPUT**

IX. **PUBLIC INPUT**

X. **ADJOURNMENT**
Acosta: Commissioner Hearn.

Hearn: Aye.

Acosta: Commissioner Best.

Best: Aye.

Acosta: Commissioner Townsend.

Townsend: Aye.

Acosta: Commissioner Acosta votes aye. And Chairman.

Villegas: Aye.

IV. POSTPONEMENTS - NONE

Villegas: Item four, Postponements. There is none from, sorry, are there any from the Commission? None. Are there any from staff?

Gonzales: No Commissioner.

V. OLD BUSINESS

1. Case 64783W: Replat of Lot 21, Subdivision "C" EBL&T Waiver. A request for approval of a waiver to the required roadway improvements associated with a replat known as Replat of Lot 21, Subdivision "C" EBL&T. The applicant is seeking to waive the required roadway improvements to Webb Road as well as the required access roadway improvements within the proposed subdivision. The subject property encompasses 4.92 +/- acres, as zoned ER5 and is located on the east side of White Thorn Road, 619 +/- feet south of its intersection with Westmoreland Avenue; a.k.a. 2595 Webb Road, Parcel ID # 03-30038. Submitted by Moy Surveying Inc., on behalf of Tommy and Sandra Brown, property owners.

Villegas: Then we'll go straight into item five, Old Business. Item number one is Case number 64783W, Replat of Lot 21, Subdivision "C" EBL&T Waiver request. Ms. Gonzales.

Gonzales: Mr. Commissioner and Commissioners there is at least in this case and the second case, I want to bring this up in the beginning only due to our last conversation with our waivers, if they are requesting more than one request on a waiver form, you can separate them out. So you will be able to vote and make a motion to separate them or vote on the case as an entirety.
In this instance, you can vote for the road improvements as I've explained. I'll go through them and then I can also give you your options if you choose to actually separate them out.

Vilcas: I'm sorry Ms. Gonzales, so are you saying that both our cases are related, one and two?

Gonzales: No Mr. Commissioner. Each case is requesting two types of waivers.

Vilcas: I see.

Gonzales: They are both identified as road improvements, however they are located in separate, separate places within the proposed subdivision. So you can vote to actually separate them out if the Commission chooses to, or you can vote on them as a whole.

Vilcas: I open it up to the Commission, what is the Commissions' pleasure?

Hearn: Mr. Chairman.

Vilcas: Mr. Hearn.

Hearn: I think we have to wait until we've gone through the whole thing and, and then make up our minds at the time.

Vilcas: Okay, you want to listen to the presentation first.

Hearn: I think so.

Vilcas: Okay, let's go with that Ms. Gonzales.

Gonzales: Okay, so this is Case 64783W for a Replat of Lot 21 Subdivision "C" EBL&T Waiver Request for Webb Road. The property is located on the east side of White Thorn Road. It is approximately 619 feet south of Westmoreland Avenue. It does encompass 4.92 acres. And the applicant is proposing four lots. This is the subject property's aerial. As you can see there are some properties developed, however to the east of the property they are actually undeveloped. Currently the road for Webb is almost to the edge of the applicant's proposal for the property line. So where the yellow line actually meets at the end and intersects with the other yellow line, the road is almost paved up into that area. As for the other line that goes up through the subject property, that is the proposed road and utility easement that would be provided for the four lots.

This is the proposed subdivision. So as you can see Webb Road is on the very bottom. That is paved, however it does not meet City standards. There are certain zones within the ETZ code that does
reference that you would meet City standards if they are proposed within these zones. This zone is an ER5 so it does propose to be within the zones that meet the City of Las Cruces Design Standards. The access easement is to the east of the property and it goes down that line, so you'll see the 950 feet. That is where the proposal is for the properties to each access.

Per each, per the ETZ code for Section 4.2, all subdivisions have to provide road improvements of pavement to access that subdivision. In this case, Webb Road is paved almost to the properties', I guess the subject properties' subdivision line, however it does not meet the cross section that is provided by the City of Las Cruces Design Standards. The requirements would be that it would be a 30-foot paved roadway with curb, curb, gutter, and sidewalk provided. Since the property (road) is already paved, the applicant would only have to do curb, gutter, and sidewalk in front of the subject property subdivision. So it would not continue down Webb Road, it would just be entirely at that subdivision. The second waiver that is being proposed is to not do any improvements except for gravel for the access and road utility easement that is proposed to the east. Any time a subdivision is subdivided and access road utility easement is provided, it is to be improved with a 24-foot, or yeah 24-foot width with a coarse base of pavement. It would not have to meet the highest standards for a paved road. This would be what a street section would look like, so this is what Webb Road would have to look like, but only in front of the actual subdivision that is proposed. You would see curb, gutter, and then sidewalk.

The applicant is requesting a waiver from both. They are asking for a waiver from the City of Las Cruces Design Standards for Webb Road, improving it with the additional pavement, curb, gutter, and sidewalk. They are, they are also asking for a second waiver for the road and utility easements provided for each of the four lots for access.

This is the current conditions of the roadways out there. As you can see in front of the property there is pavement however after it, it does become unpaved. It is basically just dirt. So almost up to their property line that they are proposing it is actually paved at this point in time. This was the notification map for those who did receive the letters within the 300-foot requirement.

For ETZ waivers and recommendation we did meet on the 5th of 2016 (May) and we did deny the waiver request due to there are no exceptional topographic soil, or subsurface conditions that may modify or be required to waive the improvements for that area. This would be the case. You do have the option to vote "yes" to approve the waiver case for 64783W; you can vote "yes" to approve the waiver with conditions; you can vote "no" to deny the waiver; or you can postpone. I'm here with any questions. The applicant is here as well as its representative.

Villescas: Does the Commission have any question for Ms. Gonzales at this time?
Best: Mr. Chairman.

Villegas: Yes, please.

Best: Was that ER5, the, the, the zoning for the, as it stands now?

Gonzales: Correct Mr. Commissioner. That is right.

Best: Okay. What is ER4M like it talks about in table four?

Gonzales: Oh, I'm sorry, then I misquoted.

Best: I just want to make sure I'm not confused.

Gonzales: No, you're okay. Yes. Are you looking at the correct staff report?


Villegas: That was quick.

Best: That's why I couldn't find the ...

Villegas: Commissioner Hearn am I premature at this point or do you want to take up the discussion of separating these two, do you wanna wait until we hear from the applicant?

Hearn: It sounded like we might wait until we've gone through the whole discussion and we're down to the point of considering ...

Villegas: Okay.

Hearn: How we want to do it. It's new to me.

Villegas: Just want, just wanted to ask.

Hearn: Okay.

Villegas: Are there any other questions for Ms. Gonzales at this time?

Hearn: Mr. Chairman.

Villegas: Yes sir.
Hearn: It, the, the paving on the, on Webb Road up to the point that it stops being paved, what, what is that? What condition, what type? It, it's not up to code right?

Gonzales: Commissioner, Commissioner. No I tis not up to code. It is basically a, I believe it is a 20-foot wide paved road. In the City Design Standards do require that it be a 30-foot paved, road cross section with the curb, gutter, and sidewalk.

Hearn: Right.

Gonzales: So at this point, not it is not up to code, however we could not bring the entire Webb Road up to code, it would just be in the proposed subdivision area.

Hearn: Just as a, as a side note, I have been seeing these combined for years and they're always perplexing because in a sense we've got a code but in another sense if we require that that piece of road be built we're putting a massive piece of concrete right out in the middle of nowhere. And you don't know how you get on to it, how you get off of it, how you handle water running, how, how all those things work out and what in the world is going to be the condition of it in five years, ten years, just sitting there. That, that's just a perplexing thing that I have. Thank you Mr. Chairman.

Best: Mr. Chairman.

Villicas: Please go ahead.

Best: In previous cases we've seen where the applicants have had to improve a road all the way to a specific point. What is different than this, why does, why do they not have to improve Webb Road from Westmoreland all the way like we did in previous cases?

Villicas: I can ... we'll go ahead Ms. Gonzales.

Gonzales: Mr. Commissioner. Based on the actual area map that you're seeing here ...

Best: Yes.

Gonzales: Westmoreland is above the property. It does not provide its access.

Best: Oh, I'm sorry.

Gonzales: The access is ...
Best: White Thorn.

Gonzales: Well because the actual access is from Webb Road, the, the code reads to the nearest paved road.

Best: Oh.

Gonzales: At this point in time the road is actually paved, it's just not up to Design Standards.

Best: Okay.

Gonzales: So it's normally to the nearest paved road of access if it was there. So if Webb Road was a complete dirt road all the way up to White Thorn, then the applicant would have to actually improve that entire section.

Best: Thank you.

Villegas: Yeah. The code reads "paved road," it doesn't, it doesn't read to City standards, it reads to "paved road." It's a good question though. However, on the, on the side there is absolutely no paving there, it's just that gravel road you showed us, correct?

Gonzales: Mr. Commissioner. That is correct. There is only I would say, unfortunately there's no property pins out there in order for me to identify where the property began or stopped. All I had would be the aerial based model to actually accumulate possibly with our measuring tool, but there's maybe about 20 feet or so that is not paved within the subject property that is being subdivided. If there were property pins I could have measured to decide where that property line ended, or maybe the applicant can at least give more detail to see if it is paved all the way to that end.

Villegas: Okay. At, at least to your sight when you were out there on the interior is there anything at all or is it just like paths?

Gonzales: The interior, this was the only picture that I could provide for interior. Basically there's a gate that's there and that's if I'm proposing it as the correct property. As I had stated there's no property pins. When you drive out there it is very exclusive. I had to find the house that was to the north of it to maybe get a dimension of where the property was located. You can't really identify on the street where the property begins or stops.

Villegas: Now the interior roads to the subdivision are also the full City standard as identical to the exterior roads?
Gonzales: Mr. Commissioner and Chair. Yes, that is correct. However, in this case City standards and ETZ standards are the same, so even for Dona Ana County standards for an access road, it is still the 24-foot wide double penetrated surface.

Villegas: Okay, with ...

Gonzales: So ...

Villegas: Sidewalk and gutter.

Gonzales: No sir.

Villegas: No.

Gonzales: No sir.

Villegas: No sidewalk and gutter on those.

Gonzales: It is, it is just the penetrated surface. They basically just want a 20-foot wide road that fire or any emergency vehicles would have access to if there was an emergency within that property provided.

Villegas: Any other questions for Ms. Gonzales?

Hearn: I, I, I guess another curiosity that, the, the road, the interior road I guess, the one that's going down the side, when you mentioned fire access, we've seen in the past that the Fire Department wants to be able to get in, turn around, and get out. And, and is there a provision required or offered to do something like a turnaround or a hammerhead or something at the end of that road?

Gonzales: Here's the proposed subdivision. As you can see at the very end of the property there is that corner. They have, based on the waiver that was submitted they will meet the required improve, or required roadway easements which are a 50-foot wide, so this will actually be increased cause that was the comments based on Dona Ana County Engineering. So at the edge of that property it should be enough for fire to turn around.

Hearn: This is the 950-foot road.

Gonzales: That is correct Commissioner.

Hearn: Okay.
Gonzales:  Okay. The applicant has just informed me that there's one towards the middle which will be the turnaround of the two lots, and then the one at the very end. So fire will have access to their property.

Hearn:  Okay.

Villegas:  Any other questions for Ms. Gonzales before we bring the applicant up? If not, thank you Ms. Gonzales. I'm sure we'll be calling you back up. Would the applicant care to step forward? If you could state your name and address for the record, Ms. Acosta will swear you in.

Magallanez:  Good, good evening. My name is Henry Magallanez. I'm with Moy Survey, Surveying. I'm in Las Cruces, New Mexico 414 North Downtown Mall.

Acosta:  Sir if you could raise your right hand. Do you swear and affirm the testimony you are about to give is the truth and, and nothing but the truth under penalty of law?

Magallanez:  I will.

Acosta:  Thank you.

Villegas:  Please go ahead.

Magallanez:  Thank you. I am the representative doing the subdivision work for this replat. It's a four-lot split by Ms. Sandra Brown and her husband. And what it basically is, is a family lot split right now. We have provided a 50-foot road easement and turnarounds for the fire on the east side of the property and that easement there actually was provided there before the lot split to the property on lot 17, the south half of lot 17 there's a home there and this is the home of Ms. Brown, but it's a different lot and block. And that easement was in place. It's already been there, been utilized for several years and now with the subdivision of what they're proposing, they are expanding that easement and using the, part of the existing one to hit that lot plus the four lots that are being proposed there. The two lots on Webb Road which is I think three and four, the access would be through basically Webb Road. And the other two, in the middle lots are through the 25-foot, I mean 50-foot road easement. They had, our clients have already have been improving, because they live on the lot 17, they've been improving the roadway and they have spent considerable funds in providing a better gravel type roadway and stuff like this here but we are requesting that the asphalt be waived for that portion of the road.

Webb Road, and I believe, I thought it was all the way to the end of the property in terms of it being paved and, but we are requesting on that one is that any sidewalks and/or curbs be waived on that portion of road.
At this point I'd like to turn it over to our client, Ms. Sandra Brown and that way you know she can leave, she has some pictures of the actual improvements to the roadway of the 50-foot roadway that she has in that if you'd like to see and stuff like that but at this point I'd like to turn it over to her if you have any questions of the applicant.

Villegas: If you could state your name and address for the record please, Ms. Acosta will wear you in.

Brown: Yes, my name is Sandra Brown. I live at 2595 Webb Road.

Acosta: Ms. Brown, if you can move your microphone to your mouth. Thank you, closer. Thank you. And then raise your right hand for me. Thank you ma'am. Do you swear and affirm the testimony you are about to give is the truth and nothing but the truth under penalty of law?

Brown: Yes.

Acosta: Thank you.

Villegas: Please go ahead.

Brown: Hello and I would like to just say I'm a retired police detective from Santa Fe. I retired in 2005, former Judge, Municipal Judge. And we moved to Las Cruces, my husband and I to start our, our new life. And when we bought this property it was in hopes that we could grow and split it for our children including for my older brother who actually helped my grandmother raise me. So anyway now it, it's time for me to help him out as well as you know in his older years, but we're, our real, going back to the subject, we'd like to see if we could, we've already done improvements on the road, we did put the base course, the gravel, and, and we'd like to see if we could get a variance for, on it. You know that's pretty much, it's what I have to say. You know the road is like they said, she said earlier, it is, Webb Road is paved. There's no gutters or anything to the side of it, it's just a paved road and it ends just on the other side of our, where our property starts at that, on that, what that, where we're talking about that east side road. It's about, the what we're asking a variance on is about 600, about 600 feet where the lots would be split and like Mr. Henry said, he, the two front properties would come off of Webb Road and the two middle ones would come off the private road. Thank you.

Villegas: Thank you.

Brown: Yes, I do have some pictures. If I can show you, I'll come up. May I come up?
Villescas: Sure.

Brown: AT THE DAIS AND SPEAKING TO MR. HEARN BUT NOT ON MICROPHONE.

Best: Yeah this is the, is this a road. Isn't there a difference between road and easement?

Brown: It ends and then it's just gravel and then dirt all the way.

Hearn: It, it ends right at the, as your property begins. So these pictures that we have here are correct?

Brown: Yes, it is at the east side of our property.

Townsend: Out of the easement. For ...

Brown: This is the, where it is, on the other side of our property

Townsend: Well and I'm inclined to agree with her, think all in all this all (inaudible)

Hearn: I'm not, I'm not sure I understood does it, does the paving of Web Road goes all the way across the front of your property to the east side.

Brown: It, it's right there at that, yes. It goes, it around, but we come off the pavement it's more ...

Townsend: (inaudible).

Hearn: So as it stands right now all the way across the front of your property it's paved just the way it is all the way back. It's, it's all continuous. Webb Road.

Brown: It just, not it just doesn't, it just stops right there and it ...

Baum: She's not on the microphones so we're not getting this recorded.

Hearn: Oh sorry.

Brown: Okay, sorry I'll go ...

Hearn: Yeah.

Brown: Show the pictures just real quick and then just ...

Townsend: Just, just this right here, (inaudible) 20 feet.
Best: Yeah.

Villegas: We need to have you on record with any comments.

Brown: Yes I'll, I'll go back make the comments. There's a, these ...

Villegas: Okay. Thank you.

Brown: So what I was saying is yes, like she said the road is paved, Wave Road, Webb Road is paved and just past our property and then we have our private road that we improved with the gravel road that I, the picture that I just showed you all.

Hearn: Mr. Chairman.

Villegas: Yes sir.

Hearn: Can I continue for just a second? If, if I were to go out there driving and, and I came driving sort of east on Webb Road, I'd be driving on a paved road, right?

Brown: Yes.

Hearn: And, and, and if I drove all the way to the end of the pavement I would also be at the end of your property on the east side?

Brown: Yes.

Hearn: So that ...

Brown: Pretty much.

Hearn: The, the, the whole front of your property, the road is paved.

Brown: Yes.

Hearn: Okay.

Brown: Yes sir.

Hearn: Good. Thank you.

Brown: Thank you.

Best: Mr. Chairman.
Villegas: Yes sir.

Best: Ms. Brown you mentioned private road. You’re not, on this road you’re not expecting the City to take over care of, of this property?

Brown: No.

Best: Or the, of the road?

Brown: No, it's just a private road for access to, to our house and to the two pieces of property ...

Best: Okay.

Brown: That are there for, for our family.

Best: Thank you.

Villegas: Any other questions? Thank you.

Brown: Thank you.

Villegas: Ms. Gonzales can, would you come back up to the mic, we ask, I can ask you a question. This map, let’s see if that's north, it'd be west, on the east side of the subject property that road with no name on it, is that a public or a private road?

Gonzales: Mr. Chair, Commissioners. That is an access easement. So it's a road and access utility easement which is still maintained by the property owners. It is their private access. Because there is no roadway connecting through there, it is not required to dedicate any of that land.

Villegas: Okay. And is the statement that Webb Road is fully paved up to that, let's see that'd be the southeast corner, is that accurate?

Gonzales: Based on my comment earlier, unfortunately I wasn't able to do property pins, I would say that it is at least close to that property line. From what I could only see based on our aerial maps, there’s no pins for me to say that the property started or ended, so unfortunately I couldn’t verify that that would be true, however the applicant and the surveyor were out there to survey the property so they would have more of that information. So I would be, I would say that their justification could be correct.

Villegas: Okay. Any other questions for Ms. Gonzales while she's here?
Hearn: Mr. Chairman.

Villessacs: Please go ahead.

Hearn: Does, does the fact that that 950-foot private road or access road or, or whatever, is, is in fact private, change anything about the requirements for what it needs to, to have done to it or the condition that it's brought up to?

Gonzales: Mr. Chair, Commissioners. It is a lesser requirement for the access easement but it is more for any emergency vehicles, for any of the transportation that has to go out there to help anyone. The road requirements do state that gravel is not an accepted roadway, that it should be 24-foot based double penetrated surface. So if fire were to go out there for an emergency call they would, they would want to have a paved road rather than just a graveled roadway. Since it is only an access, road access easement, that's why it does not require ...

Hearn: Got it.

Gonzales: The 50-foot wide cross section with curb, gutter, and sidewalk.

Villessacs: Simply paved. So paved but no gutter, sidewalk, etc. etc.

Gonzales: Mr. Chair, Commissioner. That is correct.

Villessacs: Okay. Any other questions before we let Ms. Gonzales back down again? Okay, thank you Ms. Gonzales. So at this point we'd like to open it up to the public. Are there any members of the, from the public that would like to come up and make a comment on this case? Please come on up ma'am. Okay, could you come on up to the microphone, state your name and address for the record and Ms. Acosta will wear you in.

Murkowski: My name is Kathleen Murkowski. I live at 2620 Westmoreland.

Acosta: Do you swear and affirm that the testimony you are about to give is the truth and nothing but the truth under penalty of law?

Murkowski: Yes, I do.

Acosta: Thank you ma'am.

Villessacs: Please go ahead.

Murkowski: I live off of Westmoreland so actually I live behind the properties that we're looking at there, okay. My comment is simply that if you have rules and regulations for developers and these people are acting as developers and
contractors, then I really think the rules should be upheld for everybody, for all contractors, for all subdivisions. Okay my comment is I know the gravel that's on that road, on that easement or driveway or whatever you want to call it. And a lot of that property is fairly hilly and if we really get a good rain and stuff we're gonna have a lot of wash there to start off with. But I would just like to know why we would waive the rules and regulations for these contractors, these subdividers where you don't do it for other ones? Sooner or later Dona Ana County is gonna have to come up to the level of other, other counties and other states and stuff. Right now I think we're pretty far down. So I really think you need to start somewhere and enforce the laws that you have on the books. And that's basically all I have to say. Okay. I don't care if they subdivide that and build houses there, but I would like to see it done right. Thank you for your time.

Villegas: Thank you ma'am. Is there anyone ... please sir, come on up. Again if you could step up to the mic, state your name and address for the record, Ms. Acosta will swear you in.

Phillips: My name is Jeremy Phillips. I live at 2600 Westmoreland.

Acosta: Mr. Phillips do you swear and affirm that the testimony you are about to give is the truth and nothing but the truth under penalty of law?

Phillips: Yes ma'am.

Acosta: Thank you.

Phillips: My property borders that lot 17, what would be on the west side, the entire.

Villegas: Number 10.

Phillips: Yeah, yeah, so, yeah you can see my property just like cattycorner ...

Villegas: Cattycorner. Yeah.

Phillips: To the point.

Villegas: Yeah, just to the northwest.

Phillips: Yeah north, to the northwest side. And so I'm a mortgage lender in Las Cruces. No, no association with the subdivide, or you know with the Browns. But I wanted to vote, or express my opinion of going forward with this subdivision. It'll be good for our neighborhood. New buildings, you know new construction especially with the regulations or, or the covenants in place on this area for the size of homes, it'll really help our property
values and so I'm, I'm all for it. The, the variance for the road easement I, I am fully supportive of it. On Westmoreland that entire length of Westmoreland that you can see there and even continuing further down towards Del Rey is all public, or privately maintained, you know red street signs, so that's not paved, it's not County maintained. It, what they're requesting truly does fit what, you know the rest of the you know the, the surrounding area. So having them put curb and gutter in would truly be ridiculous because there's nowhere for that water to go. So I think the double, you know the base course it, it's sufficient and it's typical for the area, so it's not gonna be an eyesore, it's not gonna be a degradation to my property value or anybody else's property value in the neighborhood. That's all I have to say.

Villessas: Thank you very much.

Phillips: You're welcome.

Villessas: Appreciate it. Is there any one else from the public that would like to come up and make a comment on this case? If not, then we'll close it off ...

Best: There's one left, there's one over there, gentleman.

Villessas: Please sir come on up.

Best: Sorry.

Villessas: No, no. Good. Thank you. Number one pulls it off from the public. Please sir if you could state your name and address for the record, Ms. Acosta will swear you in.

Fetherlin: Sure. My name is Greg Fetherlin. My address is 5090 Vista Chico Loop which is just south of their property.

Acosta: Do you swear and affirm the testimony you are about to ... can you raise your right hand for me? Do you swear and affirm the testimony you are about to give is the truth and nothing but the truth under penalty of law?

Fetherlin: Yes ma'am.

Acosta: Thank you.

Villessas: Please go ahead Mr. Sandoval.

Fetherlin: I'm just here to basically say the same thing. I'm, I'm for it. You know this is coming up and growing neighborhood anyway. We do already have the covenants in place for size, square footage, and all that. Looks like they're
abiding by that. The roadways that you all are talking about is just like
previous stated, there's a mixture of con, of paved and dirt road through
there. There's not too many curbs and gutters in that area to begin with,
so it will not affect market value. And I can say that cause I'm a real
estate appraiser in this, in this town, so just, here just to give approval on
my side as a neighbor.

Best: Where's your property sir? I'm sorry Mr. Chairman.

Fetherlin: My properties 5090 Vista Chico Loop. If you look on the, the map up
there, if you look to the south I am the third, I'm sorry, the second property
down to your left on that loop.

Best: Okay.

Villescas: South of what road?

Fetherlin: I'm off Webb Road, Webb Road, yes, right where that yellow line is.

Villescas: Yeah.

Fetherlin: If you quick down that ...

Villescas: Straight down.

Fetherlin: Straight down, second house to your left.

Villescas: Great. Thank you.

Fetherlin: Thank you.

Villescas: Oh yeah, I see it. Any questions? Thank you Mr. Sandoval.

Fetherlin: Thank you.

Villescas: Appreciate it. Before I prematurely cut it off to the public, is there anyone
else that would like to come up and make a statement on this case? If
not, then I'll cut it off from the public and open it up to the Commission. Is
there any discussion on part of the Commission?

Hearn: Mr. Chairman.

Villescas: Mr. Hearn.
I always seem to get my time. These, these two situations are different to me to be sure. The situation with Webb, Webb Road, could we bring the other picture back up just for a second, the one that was there?

This one? No.

No. I think ...

This one.

The, the one that showed the ... that one, there you go.

Okay.

If, if, if we just think we someday we'd like Webb Road to be a, a nice well paved road up to spec, with curbs and gutters and side, and, and streetlights and sidewalks and all that, that's, that's gonna be a long piece of road that needs to be paved that's that way that's no there. If we require that the piece of Webb Road right across the front of this property be paved that way, we're simply creating a worse situation than is there now. It's a monstrosity that will fail and it won't even even be around to become part of the paving of the entire road someday, so that, that seems to me that the variance request there is very reasonable.

On the access road, the County right now is full of private roads which are unimproved, they're basically dirt roads. One of the biggest problems with those dirt roads is access by emergency vehicles, especially in bad weather and it's a real serious problem. I can't support not having appropriate paving particularly of the, the sort that's required on this road just to help ensure that there will be adequate access for fire and, and ambulances, and even a way for people to get out in, in times of, of heavy rain. Thank you Mr. Chairman.

Thank you Mr. Hearn.

And I, and I guess I sort of am thinking in terms of splitting this into considering the two requests separately.

I would, you know, as you know I, I cannot make a, a motion as such but I would appreciate it if you would.

Okay. I, I, I ...

Hint. Hint.
Hearn: I move that the two separate pieces of this variance be separated, I'm sorry, I don't have the thing to read and, and we vote on each one separately.

Vilascas: I think that suffices. Do we have a second?

Best: Second.

Vilascas: Is there any discussion?

Acosta: Mr. Chair, who second the motion please? Mr., or Commissioner Best.

Vilascas: Do we have any discussion? The motion is and the second to separate the two waiver requests. If there's no discussion, Ms Acosta would you poll the Commission.

Acosta: Commissioner Allin.

Allin: Aye.

Acosta: Commissioner Hearn.

Hearn: Aye.

Acosta: Commissioner Best.

Best: Aye.

Acosta: Commissioner Townsend.

Townsend: Aye.

Acosta: Commissioner Acosta votes aye. And Mr. Chairman.

Vilascas: I vote aye. Since there's no rule on which goes first I guess I'll set it. Let's take the side road first which is the waiver request, and they're not numbered in any way are they Sara, I mean Ms. Gonzales?

Gonzales: Mr. Chair, Commissioner. No, they are not.

Vilascas: Okay.

Gonzales: As long as they are separated.

Vilascas: So I am gonna place first the waiver request on the, do I call it an easement road?
Gonzales: Road and utility easement.

Vilesca: Road and utility easement road, the one that runs on the eastern side of the property. So we'll discuss that one first and call it waiver request "A." How's that?

Gonzales: Mr. Chair, Commissioner. That would work.

Vilesca: Okay. So waiver request A will be the easement road that runs on the eastern border of the property. Is there any discussion? Well wait a minute we don't have, we have to make a motion on that first, don't we?

Hearn: Mr. Chairman.

Vilesca: Mr. Hearn.

Hearn: I move to approve the request for variance A as, as justified for the access road in Case 64783W.

Townsend: Second the motion.

Acosta: Mr. Townsend if you go on the microphone please.

Townsend: I'll second the motion.

Vilesca: So we have a motion. All, for the information for the public all motions have to be done in the affirmative so we have a motion to grant the waiver request in Case number 64783W and we're calling it A which is the easement road property ...

Gonzales: Road and utility easement.

Vilesca: Road and utility easement road on the eastern border of the property and we have a second. Do we have any discussion?

Townsend: Mr. Chairman.

Vilesca: Mr. Townsend.

Townsend: Ms. Gonzales if this is done, if the improvements to this road are made by, then does the City or the County take it over and maintain it or?

Gonzales: Mr. Chair, Commissioner. No the City does, the County will not maintain the road since it is just an access easement that is provided. Since it is a road and access easement it is still part of their property. They are not
dedicating it in order for the County to actually have access to maintain that roadway.

Townsend: Thank you.

Villegas: Regardless, to echo you know I can't make a motion, I can express an opinion, to echo Commissioner Hearn's statement earlier, I think it is important because the County is full of these roads that can posses, can present a danger to fire equipment, police, and other first responders and for future, you don't know what's gonna happen out there, what's gonna develop out there. I think it is a good start to have that roadway improvement in place. I think we should see more of this happen throughout the County.

Townsend: That mean we're gonna start enforcing that out behind A Mountain?

Villegas: I sure would like to see it. I don't see why they're exempt. Are there any other comments?

Acosta: So Mr. Chairman if I may, so we're approving, if we say yes we're approving to, to grant the waiver correct?

Villegas: If we say yes we're granting the waiver. If we say no we're enforcing the City code which is improving the roadway, paving without curb and gutter, simply paving to what width Ms. Gonzales?

Gonzales: Mr. Chair, Commissioner. It would be 24-foot wide double penetrated surface.

Villegas: Right, it's not the full-blown road it's just ...

Acosta: Right. Thank you sir.

Villegas: An easement.

Townsend: What is a double penetrated surface mean?

Gonzales: Mr. Chair, Commissioner. It's basically just to where it will hold the weight of an emergency vehicle or something that is heavier. So they will have to, the improvements are basically done by engineering. I'm going based only my knowledge and the sense of it is just a surface that will hold the weight of what our emergency vehicles have.

Townsend: Would that be asphalt or concrete or?

Gonzales: It is paving so it is asphalt.
Acosta: So this would run, Mr. Chairman if I may, I'm sorry.

Villegas: Please go ahead Ms. Acosta.

Acosta: So this will run, and, and I shouldn't get into this but I'm going to make the comment any way, so it's gonna run the applicant maybe $75,000 plus to do something like this give or take, cause that's pretty expensive?

Gonzales: Mr. Chair, Commissioner. I do not have a cost estimate. The applicants, normally if they were to provide the road improvements or if we have someone who wants us to do road improvements within the City limits we will do in lieu of, but they will have to hire an engineer to give us that cost estimate.

Acosta: Okay. Thank you.

Villegas: You know, the double pen is for heavy equipment like a fire truck.

Acosta: It's pretty, yeah.

Villegas: It, it's single and then double for the fire truck. Are there any other questions or comments from the Commission? If not then, Ms. Acosta would you poll the Commission.

Acosta: Commissioner Allin.

Allin: Aye.

Acosta: Commissioner Hearn.

Hearn: No.

Acosta: Commissioner Best.

Best: No.

Acosta: Commissioner Townsend.

Townsend: Aye.

Acosta: Commissioner Acosta votes aye. And Chairman.

Villegas: No.

Acosta: Three to two. It does not pass.
Villegas: What was the, what was the count?

Acosta: Three no's and two yes, excuse me. I apologize. It's three to three.

Villegas: Three to three, so that one fails. So that waiver request on the eastern part of the property, that one fails. So now we'll go to the one on the Webb Road itself and we'll call that one 64783W B. And that one we need a motion on as well.

Townsend: Mr. Chairman.

Villegas: Commissioner Townsend. Move up to the mic please.

Townsend: I would move that the request for the waiver on Webb Road be approved.

Villegas: 64783W.

Townsend: Yeah on Case, what is it? 64783W yes.

Villegas: We have a second?

Hearn: Second.

Villegas: Is there any discussion? If there's no further discussion Ms. Acosta would you poll the Commission?

Acosta: Commissioner Allin.

Allin: Aye.

Acosta: Commissioner Hearn.

Hearn: Aye.

Acosta: Commissioner Best.

Best: Yes.

Acosta: Commissioner Townsend:

Townsend: Aye.

Acosta: Commissioner Acosta votes aye. And Chairman.

Villegas: No.
ETZ Commission Staff Report

Meeting Date: June 2, 2016
Drafted by: Sara Gonzales, Planner

CASE # 64783W

PROJECT NAME: Replat of Lot 21, Subdivision “C”
EBL&T Waiver Request

APPLICANT/ REPRESENTATIVE: Moy Surveying Inc.
PROPERTY OWNER: Tommy and Sandra Brown

LOCATION: Located on the east side of White Thorn Road, 619 ± feet south of its intersection with Westmoreland Avenue
SIZE: 4.92 ± acres

EXISTING ZONING: ER5

REQUEST/ APPLICATION TYPE: Waiver request from roadway improvements

EXISTING USE(S): Vacant/undeveloped
PROPOSED USE(S): Four (4) Single-family residential lots

STAFF RECOMMENDATION: Denial based on findings

TABLE 1: CASE CHRONOLOGY

<table>
<thead>
<tr>
<th>Date</th>
<th>Action</th>
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<tbody>
<tr>
<td>April 19, 2016</td>
<td>Application submitted to Development Services</td>
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<tr>
<td>April 19, 2016</td>
<td>Case sent out for review to all reviewing departments</td>
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<tr>
<td>April 27, 2016</td>
<td>All comments returned by all reviewing departments</td>
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<tr>
<td>May 5, 2016</td>
<td>EDRC reviews and recommends denial of the waiver request</td>
</tr>
<tr>
<td>May 15, 2016</td>
<td>Newspaper advertisement</td>
</tr>
<tr>
<td>May 18, 2016</td>
<td>Public notice letter mailed to neighboring property owners</td>
</tr>
<tr>
<td>May 18, 2016</td>
<td>Sign posted on property</td>
</tr>
<tr>
<td>June 02, 2016</td>
<td>ETZ Commission public hearing</td>
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</tbody>
</table>
SECTION 1: SYNOPSIS OF PROPOSAL
The applicant is requesting a waiver from the required roadway improvements from the Extra-Territorial Zone (ETZ) Subdivision Ordinance for a subdivision proposal known as Replat of Lot 21, Subdivision "C" EBL&T. The subdivision proposes to split one (1) existing 4.92 ± acre tract into four (4) new single-family lots, which is considered a minor replat and will be processed administratively. The applicant requests that the adjacent roadway and interior road and utility easement improvements for the subdivision access to be waived.

TABLE 2: DEVELOPMENT STANDARDS & SITE CHARACTERISTICS

<table>
<thead>
<tr>
<th>Standard</th>
<th>Existing</th>
<th>Proposed</th>
<th>ER5 Code Requirement</th>
</tr>
</thead>
</table>
| Min. Lot Area          | 4.92 ± acres | Lot 1: 1.103 ± acre  
Lot 2: 1.103 ± acre  
Lot 3: 1.120 ± acre  
Lot 4: 1.120 ± acre | 1/3 acre minimum |
| Min. Lot Width         | 330 ± feet | Lot 1: 177 ± feet  
Lot 2: 152 ± feet  
Lot 3: 330 ± acre  
Lot 4: 330 ± acre | 80 feet minimum |
| Min. Lot Depth         | 950 ± feet | Lot 1: 315 ± feet  
Lot 2: 315 ± feet  
Lot 3: 162 ± acre  
Lot 4: 162 ± acre | 80 feet minimum |
| Min. Building Height   | N/A        | Lot 1: N/A  
Lot 2: N/A  
Lot 3: N/A  
Lot 4: N/A | 35 feet maximum |
| Road Improvements      | Webb Road  
• 60-foot-wide graveled roadway  
Road and Utility easement  
• 50-foot-wide proposed graveled roadway | No improvements proposed | Sec. 4.2 requires adherence to City of Las Cruces Design Standards |

TABLE 3: SPECIAL CHARACTERISTICS

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<thead>
<tr>
<th>Characteristic</th>
<th>Yes or No</th>
<th>Description</th>
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<tr>
<td>EBID Facilities</td>
<td>N/A</td>
<td></td>
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<tr>
<td>Other</td>
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TABLE 4: ADJACENT ZONING AND LAND USE INFORMATION

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<thead>
<tr>
<th>Location</th>
<th>Existing Use</th>
<th>Zoning Designation</th>
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<tbody>
<tr>
<td>Subject Property</td>
<td>Vacant/undeveloped</td>
<td>ER5</td>
</tr>
<tr>
<td>North</td>
<td>Vacant/undeveloped</td>
<td>ER5</td>
</tr>
<tr>
<td>South</td>
<td>Single-family dwelling</td>
<td>ER5</td>
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<tr>
<td>East</td>
<td>Vacant/undeveloped</td>
<td>ER5</td>
</tr>
<tr>
<td>West</td>
<td>Vacant/undeveloped</td>
<td>ER5</td>
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TABLE 5: PARCEL HISTORY

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<tr>
<th>Type</th>
<th>Purpose</th>
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SECTION 2: REVIEWING DEPARTMENT/AGENCY RECOMMENDATIONS

For specific comments and/or conditions, see attached

<table>
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<tr>
<th>Department Name</th>
<th>Approval (Yes/ No)</th>
<th>Conditions (Yes/No)</th>
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<tbody>
<tr>
<td>CLC Development Services</td>
<td>No</td>
<td>No</td>
</tr>
<tr>
<td>Metropolitan Planning Organization (MPO)</td>
<td>No</td>
<td>No</td>
</tr>
<tr>
<td>CLC CD Engineering Services</td>
<td>No</td>
<td>No</td>
</tr>
<tr>
<td>CLC Utilities</td>
<td>Yes</td>
<td>No</td>
</tr>
<tr>
<td>DAC Community Development (Planning)</td>
<td>Yes</td>
<td>Yes: If waiver is approved a road maintenance agreement between property owners be in order.</td>
</tr>
<tr>
<td>DAC Engineering</td>
<td>No</td>
<td>No</td>
</tr>
<tr>
<td>DAC Fire</td>
<td>Declined comments</td>
<td>No</td>
</tr>
<tr>
<td>DAC Flood Commission</td>
<td>Yes</td>
<td>No</td>
</tr>
</tbody>
</table>

SECTION 3: STAFF ANALYSIS AND CONCLUSIONS

The applicants are proposing a waiver from road improvements that are associated with the subdivision of one (1) existing 4.92 ± acre single-family residential tract zoned ER5 into four (4) new single-family residential lots that meet all development standards of the ER5 zoning district. The Extra-Terrestrial Zone Subdivision Ordinance and Design Standards require all subdividerls to provide the necessary amount of road improvements to all streets adjacent and interior access to the proposed subdivision. Those requirements are outlined below:

Webb Road
The proposed replat is adjacent to and has direct access to Webb Road, a Local roadway as classified by the Mesilla Valley Metropolitan Planning Organization (MPO), which is the only adjacent roadway. Webb Road is currently comprised of a 60-foot-wide section of right-of-way with a 60-foot-wide sand road along the proposed subdivision line. The applicant is required to provide a 50-foot street section including curb, gutter, and sidewalk to the nearest paved road following the Las Cruces Design Standards.

Pursuant to Section 4.2A and 4.2B of the ETZ Subdivision Ordinance, all ETZ subdivisions shall be required to provide right-of-way improvements. Roadways designated by the Mesilla Valley Metropolitan Planning Organization (MPO) Major Thoroughfare Plan shall comply with City of Las Cruces Design Standards for right-of-way improvements. This requires the applicant to provide right-of-way improvements to the 50-foot-wide right-of-way section including sidewalk, curb and gutter for the 380 ± liner feet adjacent to the subdivision line to the nearest paved road. The applicant is proposing to provide no right-of-way improvements with this proposed waiver.

50-foot Road and Utility Easement
The proposed replat is creating a 50-foot-wide road and utility easement to provide access for each lot from Webb Road. Pursuant to Section 4.2C, all subdivisions shall provide one hundred percent (100%) of the required road improvements to interior rights-of-way. The applicant is proposing to provide no right-of-way improvements with this proposed waiver.
Pursuant to Section 6.1 of the ETZ Subdivision Ordinance the Extra-Territorial Zoning Commission (ETZC) has the ability to vary, modify or waive requirements of the ETZ Subdivision Ordinance when strict compliance with the requirements would result in a substantial hardship to the subdivider because of exceptional topographic, soil or other surface or sub-surface conditions, or that these conditions would result in inhibiting the achievement of the objectives of the ETZ Subdivision Ordinance. The applicant has not demonstrated the waiver is warranted due to any of the provisions specified by Section 6.1 of the ETZ Subdivision Ordinance.

EDRC RECOMMENDATION
On May 5, 2016, the Extra-Territorial Development Review Committee (EDRC) reviewed the proposed waiver request. Discussion was limited, but it focused on the required roadway improvements required of the applicant and a brief history as to how the roads ended up the way they are now by the Dona Ana County Engineering Department. Furthermore, as areas throughout the County 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 Citizens of Las Cruces for the future improvement to these roadways to rectify their inadequacies. After the discussion, the EDRC voted to recommended denial of the waiver request.

STAFF RECOMMENDATION
Based on the ETZ Subdivision Ordinance, and an unfavorable recommendation from the EDRC, staff recommends DENIAL of the waiver based on the following findings:

FINDINGS FOR DENIAL
1. The access roads to the proposed subdivision, Webb Road and the road and utility easement, do not meet the minimum standards required by the ETZ Subdivision Ordinance.
2. Section 4.2 of the ETZ Subdivision Ordinance requires right-of-way improvements for all subdivisions unless otherwise exempted by Section 4.2 M.
3. The applicant is not proposing alternatives to the requirements of the ETZ Subdivision Ordinance.
4. There is no evidence of exceptional topographic, soil or other surface or sub-surface conditions to substantiate a waiver, nor would the requirements result in inhibiting the achievement of the objectives of the ETZ Subdivision Ordinance.

DECISION
The ETZC has the option to approve the waiver request; approve the waiver request with condition(s); deny the waiver request, as recommended by the EDRC; or table/postpone the waiver request.

If it is the will of the ETZC to approve or deny portions of the waiver request, the following alternative have been provided to assist the ETZC in making separate motions for the waiver request. It should be noted that motions should be made in the affirmative, but can be denied with a vote of "No":

1. Approve a 100% waiver from constructing the required road improvements as specified by City of Las Cruces Design Standards for the adjacent access roads known as Webb Road.
2. Request for a waiver from constructing a 24-foot wide double-penetration asphalt surfaced road for the required access to the subdivision, Road and Utility Easement.

ATTACHMENTS
1. Vicinity Map
2. Aerial Map
3. Notification Map and List
4. Waiver Request Letter/ Applicant’s Narrative
5. Proposed Replat of Lot 21, Subdivision “C” EBL&T
6. EDRC Minutes from the May 5, 2016 Meeting
This map was created by Community Development to assist in the administration of local zoning regulations. Neither the City of Las Cruces nor 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.
NOTIFICATION MAP

ZONING: ER5
OWNER: TOMMY AND SANDRA BROWN

PARCEL: 03-30038
DATE: 5/3/16

Subject Property

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 nor 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) 528-3643.
April 7, 2016

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

Re: Replat of Lot 21, Subdivision “C” EBL&T
Waiver to street improvements

Department Directors;

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

The City of Las Cruces is requesting right of ways improvements to be applied to both proposed Webb Road and the interior road of the Subdivision. Our client is willing to comply to the road dedications, and is requesting a complete waiver to road improvements to Webb Road and the interior road of the Subdivision. Webb is already a paved road and the interior road has been improve base course and gravel roadway The interior road is servicing three lots which are presently all family members. Any improvements would make an costly endeavor to our clients.

For the above mentioned conditions, we strongly feel that no further improvements to Webb and the interior road of the Subdivision is warranted and will not have any negative impact on the immediate neighborhood or community.

Thank you.

Henry Magallanez LS# 18078
Moy Surveying, Inc.
ETZ DEVELOPMENT REVIEW COMMITTEE (EDRC)

The following are the minutes of the Extra-Territorial Zone Development Review Committee meeting held Wednesday, May 5, 2016 at 2:00 p.m. at City Hall, Room 1158, 700 North Main Street, Las Cruces, New Mexico.

DRC PRESENT: Katherine Harrison-Rogers, Community Development
Andrew Wray, MPO
Rocio Dominguez, CLC Engineering
Robert Duran, DAC Engineering

STAFF PRESENT: Sara Gonzalez, Community Development
Becky Baum, RC Creations, LLC, Recording Secretary,

OTHER PRESENT: Steve Peale, Borderland Engineers and Surveyors, LLC

I. CALL TO ORDER (2:03 p.m.)

H-Rogers: All right. This is the EDRC. It is approximately 2:03. We'll go ahead and bring this meeting to order.

II. APPROVAL OF MINUTES - October 8, 2015

H-Rogers: Approval of Minutes, October 8th, 2015. Were there any modifications? None noted. With that I'll go ahead and um take a, a vote on those minutes.

Dominguez: I move to approve the minutes as written.

H-Rogers: Is there a second?

Duran: Second.

H-Rogers: All those in favor.

MOTION PASSES UNANIMOUSLY.

H-Rogers: Any opposed? None. So they pass.

III. NEW BUSINESS

1. Case 65519: Soledad Vista Subdivision Replat No. 13 Waiver Request
   a. A waiver request from right-of-way improvements associated with a proposed replat known as Soledad Vista Subdivision Replat No. 13.
The subject property is currently vacant/undeveloped, encompasses 10.045 acres, is zoned ER2, and is located on the northeast corner of Alma Road and Wind Dancer Trail; a.k.a. 9505 Wind Dancer Trail.

The proposed replat requires the applicant to provide road improvements to Wind Dancer Trail and Alma Road.

The applicant is requesting a 100% waiver to the required road improvements and is not offering alternatives to the full improvements.

Submitted by Borderland Engineers and Surveyors, LLC on behalf of Richard and Linda Jacobs, property owners.

H-Rogers: We'll go ahead to item number three, which is New Business. Case number 65519, Soledad Vista Subdivision Replat No. 13, Waiver Request. I'll go ahead and turn it over to staff to give us a brief synopsis.

Gonzales: This is a waiver request to the right-of-way improvements that are associated with the replat known as Soledad Vista Subdivision Replat No. 13. The subject property is currently vacant and undeveloped and it does encompass 10.45 plus or minus acres. The property is zoned ER2 and is located on the northeast corner of Alma and Wind Dancer Trail. The proposed replat for the applicant does require road improvements to Wind Dancer Trail as well as Alma Road. The applicant is requesting 100% waiver to those required road improvements and has offered no alternatives to those improvements. And was submitted by Borderland Engineers and Surveyors.

H-Rogers: All right. I will go ahead and see if staff has any other comments. We will go to Engineering Services first, well I guess that would be Building and Development Services. Go ahead Rocio, are there any comments on this?

Dominguez: Engineering cannot support this waiver because the ordinance calls for the two streets to be developed and I don't remember if it is per County standards or per City standards.

H-Rogers: This one is per County standards.

Dominguez: Per County standards. Yeah. They need to, there's no "out of it" on the ordinance so I cannot support the waiver.

H-Rogers: Very good. And I will look to County Engineering, Robert.

Duran: We deny the waiver. I think it's also part of a previously filed subdivision, so that's one.

H-Rogers: Okay. MPO.
Wray: We do not support the waiver.

H-Rogers: All righty. Uh, would the applicants' representative like to add anything?

Peale: No. That, we're, we'll just.

H-Rogers: Okay.

Peale: That's it.

H-Rogers: Very good. With that I'll go ahead and take a motion.

Dominguez: I move to approve the waiver.

H-Rogers: Is there a second on that?

Gonzales: I second it.

H-Rogers: All righty, with that all those in favor. All those opposed.

MOTION DOES NOT PASS, UNANIMOUSLY.

H-Rogers: And the Chair votes nay. So that fails. And unfortunately we don't have applicants for the other two waivers. I will pose a question to the Committee, do we want to hear those without the applicant present or should we go ahead and delay it until next week?

Gonzales: I did contact the applicant last week as well as yesterday morning to let them know and remind them that we were here for this meeting at two o'clock.

Dominguez: I would say let's move forward. I don't feel that my vote will change just because they're present, so I will say let's move forward with the agenda.

H-Rogers: Okay.

2. Case 64783W: Replat of Lot 21, Subdivision "C" EBL&T Waiver Request
   - A waiver request from right-of-way improvements associated with a proposed replat known as EBL&T Replat lot 21.
   - The
   - The subject property is currently vacant/undeveloped, encompasses 4.848 acres, is zoned ER5, and is located north of Webb Road, 974 +/- feet east of White Thorn road; a.k.a. 2595 Webb Road.
   - The proposed replat requires the applicant to provide road improvements to Webb Road to bring it up to City standards and the road and utility easement within the proposed subdivision.
The applicant is requesting a 100% waiver to the required road improvements and is not offering alternatives to the full improvements.

Submitted by Moy Surveying, Inc. on behalf of Tommy and Sandra Brown, property owners.

H-Rogers: I'll go ahead and move forward with it then. Sara can you introduce Case 64783W, this is a replat, this is waiver for the replat of Lot 20, 21 Subdivision "C" EBL&T Waiver Request.

Gonzales: This is a waiver request for road improvements associated with the replat known as EBL&T Replat for Lot 21. The subject property is in a subdivision now so it is currently already subdivided and would like to be reduced as well. The subject property is vacant/undeveloped land. It is encompassing 4.8 acres and is zoned ER5. It is located off of Webb Road about 974 feet east of White Thorn Road, locate, and the address is 2595 Webb Road. The proposed replat does require road improvements to Webb Road and it would need to be brought up to City standards due to the zoning being ER5. There's also requirements for the easement that is proposed for access within those four lot subdivisions.

H-Rogers: All righty. Did you have anything else to add to that Sara at all, aside from your synopsis? Otherwise I'll move onto Engineering. All right. City Engineering, Rocio.

Dominguez: I can, Engineering cannot support the waiver, same reasons as the previous case.

H-Rogers: All righty. We'll go ahead and move on to County Engineering, Robert.

Duran: Deny.

H-Rogers: And Andrew.

Wray: MPO does not support the waiver.

H-Rogers: All righty. Do I have a motion for this?

Dominguez: I move to approve the waiver.

H-Rogers: Is there a second?

Duran: Second.

H-Rogers: With that, all those in favor. All those against.

MOTION DOES NOT PASS, UNANIMOUSLY.
3. **Case 65413W: Margaritas Subdivision Replat No. 1 Waiver Request**
   - A waiver request from right-of-way improvements associated with a proposed replat known as Margaritas Subdivision Replat No. 1.
   - The subject property is currently vacant/undeveloped, encompasses 5.181 acres, is zoned ER4M, and is located on the west side of Calle de Margaritas, 809 +/- feet south of Watson Lane; a.k.a. 3876 Calle de Margaritas.
   - The proposed replat requires the applicant to provide road improvements to Calle de Margaritas to bring it up to City standards and the road and utility easement within the proposed subdivision.
   - The applicant is requesting a 100% waiver to the required road improvements and is not offering alternatives to the full improvements.
   - Submitted by Moy Surveying, Inc. on behalf of Tommy and Sandra Brown, property owners.

H-Rogers: Now we move onto case number three, Case 65413W, Margaritas Subdivision Replat Number 1 Waiver Request. Sara.

Gonzales: Once again we have another waiver request for right-of-way improvements associated with Margaritas Subdivision Replat Number 1 which is a previously filed subdivision known as Margaritas Subdivision. The subject property is also vacant and encompasses 5.1 acres. It is zoned ER4M and is located on the west side of Calle de Margaritas and south of Watson Lane. The proposed replat is for a four-lot subdivision. Within that four-lot subdivision road improvements are required for Calle de Margaritas as well as the access road within that subdivision. And the applicant is not proposing any road improvements.

H-Rogers: Not even internally?

Gonzales: No. They are asking for 100% waiver for all road improvements from Calle de Margaritas as well as the access easement provided.

H-Rogers: All right, with that I will go ahead and see if any of the other reviewing parties have comments. City Engineering, Rocio.

Dominguez: Same thing as the previous two cases, Engineering cannot support this waiver.

H-Rogers: All right. County Engineering.

Duran: Deny.
H-Rogers: MPO.

Wray: We do not support the waiver.

H-Rogers: And the Chair would like to point out that without any improvements to any of the lots ultimately each of those individual lots will be creating their own driveway which doesn't really make a lot of sense. So with that, is there a motion?

Dominguez: I move to approve the waiver.

Duran: Second.

H-Rogers: All righty. Ohh we did mix it up. All right. With that let's have a vote. All those in favor. All those opposed.

MOTION DOES NOT PASS, UNANIMOUSLY.

H-Rogers: Chair votes nay. This also fails.

IV. OLD BUSINESS - NONE

H-Rogers: There is no old business.

V. ADJOURNMENT (2:10 p.m.)

H-Rogers: And do I have a motion to adjourn.

Wray: So moved.

Dominguez: I second it.

Duran: Second.

H-Rogers: So we are adjourned at 10 after two.

Chairperson