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**REGULAR MEETING OF THE
EXTRA-TERRITORIAL ZONING COMMISSION
FOR THE CITY OF LAS CRUCES
DONA ANA COUNTY GOVERNMENT OFFICES
SEPTEMBER 4, 2014
6:00 p.m.**

BOARD MEMBERS PRESENT:

John Villescas, Chairman
Robert Hearn, Member
Tim Sanders, Member
Douglas Hoffman, Member
Kenneth Allin, Vice Chairman
Janet Acosta, Secretary

BOARD MEMBERS ABSENT:

John S. Townsend, Member

STAFF PRESENT:

Adam Ochoa, Planner, CLC
Ezekiel Guza, Associate Planner, CLC
Robert Cabello, CLC Legal Staff
Rene Molina, DAC Engineering
Becky Baum, RC Creations, LLC, Recording Secretary

I. CALL TO ORDER (6:25 P.M.)

Villescas: I'm going to call tonight's ETZ meeting to order. Today is September 4, 2014. Time is 6:10, 6:25, I guess the clock's inoperable too. Took a delay due to slight difficulties with the audio and visual, but we'll go ahead and get started.

The ETZ Commission members shall not privately discuss with any interested persons the merit of any case which is pending before this Commission. If there has been any such discussion, it should be disclosed at this time. Because this Commission acts in a quasi-judicial capacity, this hearing tonight follows under the procedures mandated by the New Mexico Court of Appeals. Anyone wishing to give testimony on a case must be recognized by the Chair, go to the podium, state his or her name, address, and be sworn in. An applicant's presentation may be limited to four minutes. Neighborhood representatives or representatives of other groups may be limited to three minutes each. A neighborhood spokesperson may be limited to ten minutes. You may speak more than once on a case but the Chair reserves the right to further limit the time allocated to speak. This meeting will be conducted by a modified form of Robert's Rules of Order. It takes four affirmative votes for passage of a case. Please note that a Commissioner may vote "yes" on the

1 amendment to a main motion, yet vote “no” on the main motion. Any
2 affected party may appeal the decision made by the Commission to the
3 ETA. Ms. Acosta, would you call roll please?
4

5 Acosta: Commissioner Townsend, not present. Commissioner Allin.
6

7 Allin: Here.
8

9 Acosta: Commissioner Hearn.
10

11 Hearn: Here.
12

13 Acosta: Commissioner Sanders.
14

15 Sanders: Here.
16

17 Acosta: Commissioner Hoffman.
18

19 Hoffman: Here.
20

21 Acosta: Commissioner Acosta’s present, and Chairman Villescas.
22

23 Villescas: I’m present. By the way, for the record all indications are that Mr.
24 Townsend will be returning to the ETZC for October, which is great news.
25 And Mr. Allin, I said last time and I’ll say it again, it’s a pleasure to have
26 you back.
27

28 **II. ANNOUNCEMENTS**
29

30 Villescas: Announcements. Are there any announcements from the Commission?
31 Are there any announcements from staff?
32

33 Ochoa: No sir, none tonight.
34

35 **III. APPROVAL OF MINUTES - July 17, 2014**
36

37 Villescas: Okay, approval of minutes for July 17, 2014. Do I have a motion?
38

39 Allin: So moved.
40

41 Villescas: Any ... do I have a second?
42

43 Hearn: Second.
44

45 Villescas: Do we have any discussion? If not, Ms. Acosta, would you take roll
46 please?

1
2 Acosta: Yes, Mr. Chair who ... who made the first motion please?
3
4 Villescas: Who made the first motion? Mr. Allin?
5
6 Acosta: Mr. Allin. Thank you. Commissioner Allin.
7
8 Allin: Aye.
9
10 Acosta: Commissioner Hearn.
11
12 Hearn: Aye.
13
14 Acosta: Commissioner Sanders.
15
16 Sanders: Aye.
17
18 Acosta: Commissioner Hoffman.
19
20 Hoffman: Aye.
21
22 Acosta: Commissioner Acosta is aye, and Chairman Villescas.
23
24 Villescas: Aye.

25
26 **IV. OLD BUSINESS**
27

- 28 1. **Case ETZS-13-035W: Johnson Estate Subdivision No. 2 Replat "B"**
29 **Waiver Request.** Request for waiver from the surface material and road
30 width requirements of the ETZ Subdivision Ordinance Access Standards.
31 The waiver is associated with a proposed two-lot split of a 16.824-acre
32 parcel located at 4064 W. Picacho Avenue, zoned EC2: Parcel ID 03-29343.
33 Submitted by Steve Peale of Borderland Engineers and Surveyors LLC, on
34 behalf of Samantha Johnson and Dedra Ann Poor, property owners.
35

36 Villescas: Okay, first thing I have on my list is old business. Case ... the first item is
37 Case ETZS-13-035W, Johnson Estate Subdivision Number 2, Replat "B"
38 Waiver Request. Request for waiver from the surface material and road
39 width requirements of the ETZ Subdivision Ordinance and Access
40 Standards. The waiver is associated with a proposed two-lot split of a
41 16.824-acre parcel located at 4064 W. Picacho Avenue, zoned EC2:
42 Parcel ID 03-29343. Submitted by Steve Peale of Borderland Engineers
43 and Surveyors LLC on behalf of Samantha Johnson and Dedra Ann Poor,
44 property owners. Am I reading the right thing? You're looking at your
45 notes like I'm on the wrong meeting. Okay, alright because we have

1 several of them that we've kept from previous ones where we didn't have
2 a quorum where we chose to postpone. Okay, are we ready? Go head.
3
4 Guza: Yes, Chairman.
5
6 Villescas: Oh, I'm sorry. We have to still check ... swear them in, don't we?
7
8 Acosta: If you can raise your right hand for me and state your name and address
9 for the record please.
10
11 Guza: Ezekiel Guza, 700 North Main Street.
12
13 Acosta: Do you swear and affirm the testimony you are about to give is the truth
14 and nothing but the truth under penalty of law?
15
16 Guza: I do.
17
18 Acosta: Thank you.
19
20 Villescas: Please go ahead.
21
22 Guza: Yes, the first case this evening is ETZS-13-035W. It is a waiver request
23 from Access Standards for commercially zoned subdivisions with regards
24 to surface material and roadway. The subject property is located off of
25 Picacho Avenue west of Shalem Colony Trail. It is highlighted on the
26 vicinity map. Here's an aerial map of the property with an outline in the
27 black there. It does currently contain one single-family dwelling unit and
28 also agricultural use. The proposed subdivision proposes a two-lot split
29 with a two-acre second parcel located toward the rear of the subject
30 property, as you can see on the proposed subdivision. The remaining
31 tract would be 14.824 acres.
32 The zoning of EC2 triggers the subdivision to meet the City of Las
33 Cruces Design Standards for access as stated in Section 4.2B of the ETZ
34 Subdivision Ordinance, and it also means that a 50-foot permanent private
35 road or access easement is required with the subdivision and that paved
36 surfacing is part of that requirement. The applicant in their waiver is
37 proposing alternately a 25-foot permanent access easement and gravel
38 surfacing. I prepared this slide to kind of show you how the access is
39 proposed with the ... by the applicant with the subdivision from the front of
40 the property accessing off Picacho to the newly created second parcel.
41 As public notification process dictates, we did notify 15 surrounding
42 properties of the waiver request and we did receive one response in
43 support of the waiver stating that they had no issues and they felt that this
44 should be able to go forward.
45 On March 27th, 2014, quite a while ago now, the EDRC or the
46 Extraterritorial Development Review Committee reviewed the proposed

1 waiver request. That discussion focused on the required improvements
2 and that the nature of that hardship stated in the waiver did not meet
3 Section 6.1 of the ETZ Subdivision Ordinance and they voted four to zero
4 to recommend denial of the waiver request. And more on Section 6.1, it
5 states that strict compliance of the ... that a waiver can be granted if strict
6 compliance of the ETZ Subdivision Ordinance would result in substantial
7 hardship because of exceptional topographic, soil, surface, or other sub-
8 surface conditions, then the ETZ can modify or waive the requirements.
9 Staff found that those conditions do not exist in this case and thus
10 recommend denial of the waiver.

11 The options for the Commission this evening are to; vote yes to
12 approve the waiver request; to vote yes to approve the waiver request with
13 conditions as stated by the Commission; to vote no to deny the waiver
14 request as recommended by staff; or to table and postpone the waiver
15 request to get further information or have further discussion on the waiver
16 request at a future meeting. And again the vicinity map to show you
17 where the subject property is located. I can stand for any questions.

18
19 Villegas: I have quite a few but I'd like to allow the rest of the Commission to go
20 first. Mr. Hearn, you're ... always have an opinion.

21
22 Hearn: I'll be glad to yield to anyone else that would like to start.

23
24 Villegas: The first 45 minutes.

25
26 Hearn: My first quick question is if ... if this zoning were say ER1 or ER2 or
27 something, would this not be a problem?

28
29 Guza: If it were not zoned commercially, the standard would be a 24-foot wide
30 double penetration surfaced road similar to the requirements of two of the
31 other cases here before you tonight; however, because it is commercially
32 zoned.

33
34 Hearn: Right.

35
36 Guza: It does trigger the necessity to follow the City of Las Cruces Design
37 Standards which then required the 50-foot.

38
39 Hearn: Understand.

40
41 Guza: Yes.

42
43 Hearn: Got it and the fact that it is commercially zoned means that even though
44 it's being used for a residence now, at some point in the future there could
45 be a business established on this ... either of the lots.

46

1 Guza: Yes sir. Technically tomorrow because it's zoned commercially they could
2 come in and propose anything allowed under the allowed uses of zoning
3 with the ET ... with the EC2 zoning which could be a wide variety of
4 commercial uses.
5
6 Hearn: Sure. Thank you. And this may be a question for the applicant, but do
7 you know if they've considered requesting a change in zoning?
8
9 Guza: I'm not sure if they've considered that. I do know they stated that they do
10 not have intentions of developing anything commercial on the property at
11 this time. They just would like to have a second residence on that second
12 newly created parcel. As to their options that they've waived, that'd be a
13 better question for them.
14
15 Hearn: Thank you. That finishes my questions Mr. Chairman.
16
17 Villescas: Anyone else on the ... actually let me interject and then I'll pass on. They
18 ... the purpose of the split is to add another residence on that split parcel,
19 is that what I understand?
20
21 Guza: That's what I have been led to believe by the applicant.
22
23 Villescas: Can they legally do so?
24
25 Guza: If they split it.
26
27 Villescas: On a commercial property?
28
29 Guza: I would have to look up the zoning for the ETZ.
30
31 Villescas: Cause its EC2.
32
33 Guza: Yes, typically the County handles any zoning issues, so I'm not super
34 familiar with the allowed uses of EC2, so I would have to do a bit more
35 research on that.
36
37 Villescas: Okay. Just off the top of my head, Mr. Hearn you may be able to help me
38 here, on EC2 you cannot put a residence unless for instance you had a
39 laundromat and then you had an apartment above the laundromat in
40 which you resided. Am I incorrect to the best of your knowledge Mr.
41 Hearn, or Mr. Allin would even know?
42
43 Hearn: I yield to Mr. Allin.
44
45 Villescas: Mr. Allin. I mean can you put a residence on an EC2?
46

1 Guza: Chairman.
2
3 Hoffman: If I may add something.
4
5 Villescascas: Please do.
6
7 Hoffman: Section 3.1.K.2, residences in the EC2 District shall comply with the
8 development requirements for the ER5 district, so clearly yes.
9
10 Villescascas: Okay.
11
12 Guza: Yes, to add to that I did look at the comments briefly from Jonathan
13 Kessler from County Planning.
14
15 Villescascas: Okay.
16
17 Guza: And he did say that it did meet the zoning requirements of ER2 in terms of
18 the subdivision, so ...
19
20 Villescascas: Okay.
21
22 Guza I ... yes to answer that.
23
24 Villescascas: Can you explain what ER5 requirements would be for a residence?
25
26 Guza: We're looking that up right now sir.
27
28 Villescascas: Okay.
29
30 Guza: I ... if there's anything further while we're investigating that.
31
32 Villescascas: Yeah, well, I'll yield if anybody else has questions. Okay, if nobody else
33 has questions I'll keep going. The ... the site of the proposed roadway
34 seems awkward at best to me because it cuts through the property in such
35 a way that you're left with a cross road to get to the remainder of the
36 primary property leaving you with a small chunk there. Why not put the
37 roadway against the roadway, the existing road? In that manner it does
38 two things; 1) you don't have a road through the middle of the property
39 and 2) if you put it up against the side of the property, and please correct
40 me if I'm wrong, anyone up here or of staff, you would only be required to
41 do half of the road that goes into the main arterial, is that not correct?
42
43 Guza: Commissioner, Chairman, I'm not sure. Are you talking about actually
44 subdividing the parcel?
45
46 Villescascas: The picture that you have up right now.

1
2 Guza: Yes.
3
4 Villescascas: If you would take that roadway, right, and see that little chunk you have
5 left over to the right.
6
7 Guza: Yes.
8
9 Villescascas: Okay. Take that chunk out, move the roadway all the way to the right of
10 the property line. Isn't there a road right there?
11
12 Guza: No.
13
14 Villescascas: There is no road there?
15
16 Guza: No. Actually I believe and I would defer to the applicant for why they put
17 the proposed easement where they did, is that the actual existing path ...
18 there's an existing non-platted dirt road that kind of follows where they're
19 proposing.
20
21 Villescascas: Okay.
22
23 Guza: That exists for use of access to the agricultural area of the parcel. And so
24 that's why they're proposing it where ... where they're proposing it. I
25 would also remind the Commission that this is merely for the waiver of the
26 road improvements that we're discussing.
27
28 Villescascas: Right.
29
30 Guza: The subdivision administration ...
31
32 Villescascas: Right. You're right.
33
34 Guza: Is administrative, so.
35
36 Villescascas: Yeah, you're correct. Thank you for bringing that up. I also don't
37 understand on that drawing ... I understand the roadway coming out of
38 Tract 2, and by the way thank you for the explanation it ... it sounds like it
39 ... and (*inaudible*) leased with an ongoing agricultural endeavor that's
40 going on there now, but I understand the roadway as it is coming out of
41 Tract 2A-2 as you have it marked on the map there. As you get close to
42 Picacho, US Highway 70, you have for lack of a better term three popsicle
43 sticks; it goes from two all the way down and then about a little more than
44 half way you've got three and is that just the existing dirt pathway you
45 were talking about?
46

1 Guza: The easement slightly to the, I guess you would say east of the proposed
2 easement is an existing utility easement.
3
4 Villescascas: I see.
5
6 Guza: Not for access.
7
8 Villescascas: Okay.
9
10 Guza: So there ... that's why they're proposing the easement for access where
11 they are.
12
13 Villescascas: Okay. It looks like that easement only goes a small way into the property
14 as well.
15
16 Ochoa: Mr. Chairman if I may interject please?
17
18 Villescascas: Yeah, please.
19
20 Ochoa: Adam Ochoa, Development Services with the City of Las Cruces. Just to
21 answer your question ...
22
23 Villescascas: Hang on. Hang on one second, let Janet swear you ... finish swearing
24 you in; you've got half of it done.
25
26 Acosta: Do you swear and affirm the testimony you are about to give is the truth
27 and nothing but the truth under penalty of law?
28
29 Ochoa: I do.
30
31 Acosta: And Adam state an address for me just for the record please.
32
33 Ochoa: Seven-hundred North Main Street.
34
35 Acosta: Thank you.
36
37 Ochoa: For the record, Mr. Chairman, you did ask as to the standards that the lot
38 would be held to being the ER5 requirements, it's a minimum of a third of
39 an acre in size, 80-feet wide, 80-feet long ... 80-feet in depth, 80-feet in
40 length, excuse me, for the lot. So the proposed lot does more than meet
41 the minimum standards of the ER5 Development Standards. There are
42 setback requirements as well, but of course since no home has been
43 placed on there yet; whenever they do they'll have to follow those setback
44 requirements as well.
45
46 Villescascas: Would it be site built?

1
2 Ochoa: Mr. Chairman, it depends on what exactly they're proposing to put on the
3 property sir. It's up to the ... site built could be done; it doesn't really refer
4 to as to what type of home could be placed on there. A mobile home
5 would not be permitted sir.
6
7 Villescascas: Okay, that was basically the question. Thank you. Does anyone else on
8 the Commission? Please go ahead.
9
10 Sanders On the aerial photo could you show us where the ... can you go to the
11 aerial photo?
12
13 Guza: Yes sir.
14
15 Sanders: Could you show us where the two-acre tract is?
16
17 Guza: Yes.
18
19 Villescascas: There's a ... it's hard to see it, there's a black line there.
20
21 Guza: Yeah, there's a black line that's kind of around the actual parcel. The two-
22 acre tract would be if you can see my cursor here, sort of in the rear in this
23 sort of a shape, so the ...
24
25 Sanders: Well doesn't the easement go through that existing house that they're
26 proposing or does it go around it?
27
28 Guza: I think the proposed easement runs here sort of if you're following the
29 cursor on the existing path and then that road is approximately a 13-foot
30 wide dirt road completely unmarked, so they would kind of use that as a
31 guideline and expand that to be 25-feet in their proposal.
32
33 Sanders: All right. Thank you.
34
35 Villescascas: Okay. And that's another reason they chose that road. That answers my
36 question as why they didn't put it towards the property edge is that they're
37 using that existing road and widening it and ... to get to the Tract 2A. And
38 actually, yeah, and actually if they kept it the way it is, it would finish
39 running through Tract 2A until it reaches the property line, if they left it
40 alone the way it is. Is that correct?
41
42 Guza: Yes. Yes, Commissioner however they did want to ... as far as I can tell,
43 that they were willing to make a 25-foot wide easement and a 24-foot
44 gravel surfacing as to improve the surface somewhat to at least have
45 some improvement on it. So that's why they proposed what they did.
46

1 Villescas: Okay. And you may or may not know this but is there intent to keep it an
2 agricultural production?
3

4 Guza: As far as I have heard from the applicant and they would be better to
5 speak to this. Essentially the change to the parcel would only be on the
6 newly created second tract and a single-family home would be built there;
7 the rest of the agricultural use to the west part of ... the western portion of
8 the subdivision would still be used for agriculture as well as some portion
9 of the newly created tract to ... because we have not seen a building
10 permit or anything for the proposed second home, I'm not sure how much
11 of the agricultural use on that second tract would be kept or would be not.
12

13 Villescas: That's one beautiful looking piece of land. Okay. Thank you. Anyone
14 else on the Commission have any questions?
15

16 Hoffman: Mr. Chair. Not a question ...
17

18 Villescas: I'm sorry, were you done?
19

20 Sanders: I'm done. Thank you.
21

22 Villescas: Okay.
23

24 Hoffman: Not a question, just ER5 does not permit mobile homes. It requires site
25 built homes.
26

27 Villescas: Okay. Thank you.
28

29 Guza: There ... I'm not sure exactly that it requires site built homes,
30 manufactured homes by state law can be permitted on any site that would
31 allow a site built home, however, the distinctions between a manufactured
32 home and a site built home are; a manufactured home is at least what
33 they would call a double wide ...
34

35 Hoffman: Best not to get me started on the inadequacies of the current Extra-
36 Territorial Zoning Ordinance; however, I will quote Section 3.1.F.2.A
37 Purpose; the purpose of the ER5 district is to provide for single-family site
38 built homes in moderately low densities and then 3.1.F.2.C Permitted
39 Uses; The permitted uses are the same as the ER5M except that mobile
40 homes are not allowed in the ER5 district. We may certainly have a
41 conflict with state law. I only know what I read.
42

43 Ochoa: Mr. Chairman, if I may interject please?
44

45 Villescas: Sure. What Ezekiel has stated is City regulations requirements sir as to
46 what the exact requirements are, what would be required for a permit for a

1 home in the County in ETZ, that's a separate issue and we cannot speak
2 on behalf of that.

3
4 Guza: I'm sorry sir. I do apologize for my misstatement.

5
6 Villescascas: Okay. And also let's all keep in mind and I'm guiltiest of all of us so far,
7 that what we're talking about here is a waiver on the roadway itself. Any
8 other questions from the Commission? If not, would the applicant care to
9 come forward or his representative? If you could please raise your right
10 hand and state your name and address, Ms. Acosta will swear you in.

11
12 Scanlon: Ted Scanlon, 2540 North Telshor Boulevard, Las Cruces.

13
14 Acosta: Mr. Scanlon do you swear and affirm the testimony you are about to give
15 is the truth and nothing but the truth under penalty of law?

16
17 Scanlon: I do.

18
19 Acosta: Thank you.

20
21 Scanlon: Thank you Mr. Chair, Members of the Commission. It's my pleasure to be
22 here this evening. I think the code requirement for a full-blown City street
23 within a commercial zoned property presupposes commercial activity; big
24 trucks and traffic and things like that. This is not the case here. This is a
25 single point access driveway to a proposed residence and that's all. It's
26 not a commercial road. It may say commercial subdivisions, but because
27 this is commercially zoned property does not make this a commercial
28 subdivision. It's strictly a residential subdivision for a single residence.
29 And this is strictly a driveway. It was located in the area that overlies that
30 existing road for a couple of reasons; because it provides access,
31 because that's the driveway that provides access to that existing house.
32 That way we can get a driveway back to the new house without having
33 another access point on Picacho. And so that it wouldn't interfere with the
34 farming and the irrigation of the farming area in there. It is proposed to
35 keep that in agriculture except for the area where the new house will go.

36 The other issue that I find with building a full-blown roadway back
37 there is a matter of security. A County road or City road looking street
38 would invite traffic back there that wouldn't be ... wouldn't be wanted or
39 needed. It needs to look like a residential driveway cause that's what it is,
40 is just strictly a residential driveway. So, therefore we ask respectfully that
41 you approve the waiver request so that we can keep the character of the
42 area the way it is and so that we can keep it secure the way it is and so
43 that the people aren't burdened with having to build a full blown City street
44 or County road that will only be used by them as a driveway. So, if you
45 have any questions I'd be happy to answer them.

46

1 Villescas: Mr. Scanlon, water and sewage will be ... I mean the tract is large enough
2 would be self-contained?
3
4 Scanlon: Yes. And it will be a site built house by the way.
5
6 Villescas: Again I'm putting the carrot in front the horse, but just curious. Anyone
7 else?
8
9 Hoffman: Mr. Chair.
10
11 Villescas: Go ahead.
12
13 Hoffman: Mr. Scanlon?
14
15 Scanlon: Yes.
16
17 Hoffman: Would your clients accept a condition to this variance that this waiver, this
18 road would only be used as the access to a single-family home?
19
20 Scanlon: Of course.
21
22 Hoffman: Thank you.
23
24 Villescas: Anyone else?
25
26 Hearn: Question Mr. Chairman.
27
28 Villescas: Mr. Hearn.
29
30 Hearn: Mr. Scanlon would your ... would your client go with a change of zoning to
31 a residential zoning?
32
33 Scanlon: You know I don't know how this property ended up getting zoned EC2 in
34 the first place, it may have been when the ... when the zoning was first
35 created in the ETZ because it was right along Picacho Avenue they
36 thought someday it would be commercial, but I can tell you there never
37 has been any use on the property except residential and agricultural and
38 there are no plans for any other uses except residential and agricultural.
39
40 Hearn: Well my ... the basis of my question is the fact that it is zoned commercial
41 means that present plans don't matter. It can be commercial and it's ...
42 it's less inappropriate perhaps only that to treat it as commercial because
43 that's what it is.
44
45 Scanlon: Well the ... I think that if someone came in with a proposal for commercial
46 activity on this property, I think whoever did that would be compelled by

1 the codes to bring any deficiencies up to the commercial standards and if
2 that included making that road a higher grade road then that would be a
3 part of that, but I don't believe that anybody's going to do any commercial
4 activity on that property within our lifetimes.
5
6 Hearn: Then ... then why not request and change the zoning to residential?
7
8 Scanlon: It's just an unnecessary expense. I think it's pretty expensive to go
9 through a zone change process.
10
11 Villescascas: Any other questions from the Commission? Thank you Mr. Scanlon. We
12 may be calling you up.
13
14 Scanlon: Thank you.
15
16 Villescascas: Are there any members of the public that would like to come up and make
17 a comment about this case? Please come on up sir. If you could raise
18 your right hand and state your name and address for the record and Ms.
19 Acosta will swear you in.
20
21 Gamboa: Yeah, my name is Robert Gamboa, 6745 Villa Emma in the County,
22 Picacho Hills.
23
24 Acosta: Sir, do you swear and affirm the testimony you are about to give is the
25 truth and nothing but the truth under penalty of law?
26
27 Gamboa: I do.
28
29 Acosta: Thank you.
30
31 Villescascas: Mr. Gamboa may I ask you, were you in the notification zone, did you get
32 notified by the County?
33
34 Gamboa: Yes. I have property, commercial and residential. Excuse my voice.
35
36 Villescascas: That's okay.
37
38 Gamboa: Directly across the street.
39
40 Villescascas: Okay. Thank you.
41
42 Gamboa: But that's really not my point. That's not why I'm here. For quite some
43 time the property, if we had that ... the property from Shalem Colony all
44 the way to Picacho Hills has had signs on it for sale. Sometimes the signs
45 are big and sometimes they're small, but that's only because the real
46 estate agencies have changed signs or they changed real estate

1 agencies. That property is the only property left between Picacho Hills ...
2 the signal light at Shalem Colony and Picacho Hills Drive. That's the only
3 property available now for commercial development for which everybody
4 ... I live in that area besides having commercial property. We have
5 always thought the Johnson family would hold off selling that property or
6 ... so that we would have commercial use; either a large box store or strip
7 center, and I know that there have been people in there inquiring about
8 that property in the past. I think part of the problem has been even though
9 contrary to statement made earlier that no body would ever develop it in
10 our lifetime, well that's not true cause there has been people that have
11 wanted to develop it and I think the price has been slightly prohibitive.
12 And I know that for a fact. But anyway my point being is that all of us that
13 live, the thousands of people that live on that side of the river are looking
14 for development for services, and that is the only property, if you think
15 about it, if you looked at all your aerial views there. That's all that's left to
16 develop on the west side of the river for retail.

17 Now, to get back to the point at hand, with establishing a two-acre
18 development and/or establishing that road that would cut to the ... from
19 Highway 70 up to that residence which I hate to deny somebody having to
20 build a residence of course, but on the other hand from the standpoint of
21 future development for all of us residents on that side of the river, there's
22 nothing else ... there's no place anybody can go except drive across the
23 river into the City and give them the taxes. So I just thought I'd bring that
24 up just for consideration of this entire issue because we in that area that
25 live there really need the Johnson property and whoever else's property
26 that is all the way to Picacho that again has had for sale signs on it for
27 years, cause I live there and I've seen them. And we've always hoped
28 that that property would go to some substantial real estate commercial
29 development. That's about all I have to say. Thank you.

30
31 Villescascas: Thank you. Would anyone else like to come up and make a comment? If
32 not, I'll close it off to the public and open it up to the Commission. Would
33 any Commissioners like to make a comment or a question? If there is no
34 Commission discussion I'd just like to make a couple of points, 1) the
35 comment made by Mr. Scanlon about a ... basically a driveway to get to
36 the back of the house, I am kind of in line with that. Not a big old
37 commercial road as is called for by the code. It is a lot of expense, even a
38 small road is quite a bit of expense. I know I personally can't afford it.
39 The comments by the gentleman who just stood up, I think even with the
40 ... with the house in the back I think if anybody wanted to develop the
41 property for commercial use in the front someday and has the money to
42 buy the existing not only property but the existing home that's in the front, I
43 think there's still enough that ... that home that's going to be built, I think
44 there's still enough frontage to Picacho to build commercial type
45 properties especially a strip type mall that he alluded to at one point. I
46 think those would be my ... my two points of view.

1
2 Hoffman: Mr. Chairman.
3
4 Villescas: Yes sir.
5
6 Hoffman: I'm trying to figure through this and finding out that this is one of those
7 kinds of things the first time you look at it you say, "Gee the official
8 requirements just don't make sense". A 50-foot road back there doesn't
9 seem like a reasonable thing to do and that's the kind of thing that I
10 usually look to support. But in this case the property being zoned
11 commercial, being in a place where commercial property is now or in the
12 future potentially a value, keeping it ... keeping the commercial zoning
13 preserves the future value of the property. We've all seen things like this
14 where present plans were negated when the property was sold a short
15 time later. And I kind of feel like this is ... this is a case where the property
16 owner would like to have it both ways and I ... I'm not sure that's the right
17 thing to do. It's commercial; they want to keep it commercial. They could
18 change it to residential, so I'm in ... inclined to say let's stick with the
19 commercial requirements.
20
21 Villescas: If you were a commercial buyer of this property would you stick a
22 commercial road there at that location?
23
24 Hoffman: I guess I just don't see that as a relevant part of the discussion right now.
25
26 Villescas: Yeah that's probably true.
27
28 Acosta: Mr. Chairman.
29
30 Villescas: Yes ma'am.
31
32 Acosta: I have a question for staff.
33
34 Guza: Yes.
35
36 Villescas: Oh I'm sorry, go ahead.
37
38 Acosta: Could you go back to what our options are to approve or deny? I have a
39 question on that.
40
41 Guza: Yes.
42
43 Acosta: So based on number two, if we vote yes to approve the waiver request
44 with conditions, what would be your recommendation for conditions?
45

1 Guza: I'm not sure that I would necessarily have a recommendation. It would be
2 up to the Commission to ...
3

4 Acosta: I mean we understand we have to put that, but what would be your
5 guidance to give us as far as conditions go? What would be our options
6 that you can see that would ... that you would recommend as a whole?
7

8 Guza: You possibly could place a condition that ... I believe it was Commissioner
9 Hoffman stated that it can only be used for a residential driveway and if
10 any sort of commercial development were ever proposed it would you
11 know ... those requirements would be needed in terms of the 50-foot
12 paved access. You could also place conditions of your liking from any sort
13 of angle from a rezoning you know, it can be ... it could be approved if it's
14 rezoned to a residential zone, anything of those ... of that nature that you
15 might feel would stop future impacts on the property.
16

17 Acosta: Okay, so let's ... let's refer back to Commissioner Hoffman's remarks, say
18 that we did put a condition on this based on ... to be utilized only for
19 residential driveway and proposed that if it would ever be sold as
20 commercial then ... do you guys log that in and so, I mean how would that
21 be enforced later on? Let's say we're looking 10 years down the road, I
22 mean is that really enforceable?
23

24 Guza: It would be put into the record on the property and ...
25

26 Acosta: So is it like a lien, kind of a lien on that, just kind of a red flag or how does
27 that work?
28

29 Guza: I'm not exactly 100% sure of the legal ramifications. I would defer to
30 someone with more expertise on that.
31

32 Ochoa: Mr. Chairman, Commissioner Acosta, just discussing it with our ... County
33 Engineering and with the applicant's representative, by possibly putting a
34 condition on the proposed waiver that on the actual subdivision plat itself
35 that we add some type of disclosure, some type of note ... requiring some
36 type of note be placed on there that the proposed roadway that is
37 proposed with that subdivision be used only for residential use, any future
38 redevelopment of commercial will require a ... to follow either City or
39 County standards or something like that.
40

41 Acosta: Thank you. Appreciate that.
42

43 Hoffman: Mr. Chairman.
44

45 Villescascas: Yes sir.
46

1 Hoffman: I'd like to offer a motion.
2
3 Villescas: May I make one ... one comment, one final comment before you do that
4 please? Is that okay? I ... as you know I cannot make a motion but if I
5 could make a motion I would add these conditions to it, is as you know all
6 motions have to be made in the affirmative even though you really want to
7 vote no, but if I could make a motion I would add these conditions to it; I
8 would first add the condition that the road has to end at the home site. In
9 other words, the road cannot go through the property all the way ... all the
10 way through to the next property. I would add the condition that the ...
11 that the waiver is contingent on the ... for the purpose of building a single
12 site built residence and that the waiver is also for the condition of
13 residential use only. Anyway, those are the ... you were asking for
14 possible conditions and that's what I came up with. But, anyway since I
15 can't make a motion I can't put those conditions in. But anyway, please
16 go ahead with your motion.
17
18 Sanders: I'd like to offer a motion that we on ... on Case ETZS-13-035 that we
19 approve the applicant's waiver request allowing a 25-foot wide private
20 access easement and 24-foot wide gravel surface driveway with the
21 condition that the roadway only be used as a farm and residential
22 driveway.
23
24 Villescas: Do I have a second to the motion?
25
26 Hoffman: Okay, Mr. Chair.
27
28 Villescas: Second? I'm sorry, what?
29
30 Hoffman: Mr. Chair. Commissioner Hearn seconded.
31
32 Villescas: Okay.
33
34 Hoffman: Discussion.
35
36 Villescas: So do we have any discussion.
37
38 Hoffman: Discussion.
39
40 Villescas: Yes sir.
41
42 Hoffman: Thank you. I agree with the conditions, I think just for clarity we might
43 want to say "as has been brought up that this ... this roadway will serve
44 one single-family home as the applicants request" because there is the
45 possibility of having quite a few homes there in which case that level of
46 traffic might create a problem for that particular road, and this is what the

1 applicants have requested. So I'd recommend ... I'd suggest for your
2 consideration as a friendly amendment that the condition be that this
3 roadway is to serve a farm and one single-family home.
4
5 Villescas: So you would like to make an amendment to the main motion?
6
7 Hoffman: Yes.
8
9 Villescas: Okay.
10
11 Sanders: There are two houses this is going to serve I think. The one that exists
12 now. I'm not disagreeing with your amendment, but there's an existing
13 house on the property that is going to be served by this road as well as an
14 additional house that they're proposing, so just there's two houses.
15
16 Hoffman: Okay, is that the case? Okay. So, to serve no more than two single-
17 family houses. Thank you.
18
19 Villescas: Okay. Let me ask you to put it as I would like to make an amendment to
20 the main motion and then make exactly what you said and then we'll ask
21 for a second and then we'll take a discussion on that and we'll take a vote
22 on that.
23
24 Hoffman: Yes, Mr. Chair I would like to make a motion to amend the primary motion
25 that the condition in the primary motion be that this roadway is to serve no
26 more than two single-family homes.
27
28 Villescas: Do I have a second to the motion ... to the amendment?
29
30 Hearn: Second.
31
32 Villescas: Do we have any discussion? If there's no discussion, would you please
33 call for the roll?
34
35 Acosta: Okay, for clarification, am I calling roll call for both the ...
36
37 Villescas: No, just the amendment.
38
39 Acosta: Just the amendment.
40
41 Villescas: Just the amendment.
42
43 Acosta: Commissioner Allin.
44
45 Allin: Aye.
46

1 Acosta: Commissioner Hearn.
2
3 Hearn: Aye.
4
5 Acosta: Commissioner Sanders.
6
7 Sanders: Aye.
8
9 Acosta: Commissioner Hoffman.
10
11 Hoffman: Aye.
12
13 Acosta: Commissioner Acosta, aye. Chairman Villescas.
14
15 Villescas: I vote aye. So the main motion has been amended. The main motion is
16 now, and Ms. Acosta could you read that to us?
17
18 Acosta: I cannot read the main motion, I'm a little confused. I need clarification.
19
20 Villescas: Okay. The main motion is ...
21
22 Acosta: Could ...
23
24 Ochoa: Mr. Chairman.
25
26 Villescas: Yes sir.
27
28 Ochoa: If I may interject please.
29
30 Villescas: Okay. Please.
31
32 Ochoa: I believe the language you're probably looking for just from what I've been
33 getting in my notes is the motion is to approve the proposed waiver
34 request with the conditions that the proposed 25-foot wide private road
35 easement 24-foot wide gravel roadway be strictly for residential use and to
36 only be utilized for the use of two single-family residences. That's
37 essentially it.
38
39 Hoffman: Yeah, the only thing I added in there was farm and residential use sir.
40
41 Ochoa: That is correct sir. I'm sorry. Farm ... for the farm and residential use,
42 correct.
43
44 Villescas: Thank you. Do we have any further discussion on the main motion? If
45 not, Ms. Acosta would you call roll on the main motion?
46

1 Acosta: Commissioner Allin.
2
3 Allin: Aye.
4
5 Acosta: Commissioner Hearn.
6
7 Hearn: Aye.
8
9 Acosta: Commissioner Sanders.
10
11 Sanders: Aye.
12
13 Acosta: Commissioner Hoffman.
14
15 Hoffman: Aye.
16
17 Acosta: Commissioner Acosta votes aye. And Chairman Villescas.
18
19 Villescas: Aye. So the motion as amended passes unanimously a vote as six with
20 one abstained. Okay, that was the first case. Do we want to take a break
21 before we go onto the next case or are we okay for the next case?
22
23 2. **Case ETZS-13-020: Kissiah-Parrigin Subdivision No. 14, Preliminary**
24 **Plat.** A request for approval of a preliminary plat known as Kissiah-Parrigin
25 Subdivision No. 14 for a 7.292 +/- acre lot zoned ER3/4M and located on the
26 west side of Kissiah Drive, 0.55 +/- miles north of its intersection with
27 Peachtree Hills Road. The proposed preliminary plat will be subdividing one
28 existing residential lot into seven smaller residential lots. Submitted by
29 Borderland Engineers & Surveyors, LLC on behalf of Manuel and Ana Maria
30 Hernandez, property owners.
31
32 3. **Case ETZS-13-020W: Kissiah-Parrigin Subdivision No. 14, Preliminary**
33 **Plat Waiver Request.** A request for a waiver from the right-of-way
34 dedication and improvement requirements associated with the proposed
35 preliminary plat known as Kissiah-Parrigin Subdivision No. 14. The applicant
36 is seeking to waive the required right-of-way improvements to Mesa Drive
37 and the required Borderland Engineers & Surveyors, LLC on behalf of
38 Manuel and Anna Maria Hernandez, property owners.
39
40 Villescas: Okay, Case number two, Case ETZS-13-020, Kissiah-Parrigin Subdivision
41 Number 14, Preliminary Plat. A request for approval of a preliminary plat
42 known as the Kissiah-Parrigin Subdivision Number 14 for a 7.292 +/- acre
43 lot zoned ER3/4M and located on the west side of Kissiah Drive, 0.55 +/-
44 miles north of its intersection with Peachtree Hills Road. The proposed
45 preliminary plat will be subdividing one existing residential lot into seven
46 smaller residential lots. Submitted by Borderland Engineers and

1 Surveyors, LLC on behalf of Manuel and Anna Maria Hernandez, property
2 owners. Staff.
3

4 Ochoa: Mr. Chairman, I ask for a motion to suspend the rules so we can hear this
5 case and the proposed waiver request as well for the Kissiah-Parrigin
6 Subdivision Number 14 which is item number three in the agenda, so we
7 could hear them both concurrently please.
8

9 Villegas: Okay, let me read that one out. Case ETZS-13-020W. Kissiah-Parrigin
10 Subdivision Number 14, preliminary plat waiver request. A request for a
11 waiver from the right-of-way dedication and improvement requirements
12 associated with the proposed preliminary plat known as Kissiah-Parrigin
13 Subdivision Number 14. The applicant is seeking to waive the required
14 right-of-way improvement to Mesa Drive and the required right-of-way
15 dedication and improvements to Slade Lane, as submitted by Borderland
16 Engineers and Surveyors, LLC, on behalf of Manuel and Anna Maria
17 Hernandez, property owners. I can see why you want to suspend the
18 rules. Does anyone on the Commission want to make a motion to
19 suspend the rules?
20

21 Allin: So moved.
22

23 Villegas: Do I have a second?
24

25 Hoffman: Second.
26

27 Villegas: Any discussion? The only discussion I'd like to make is that we hear the
28 cases together and then at the end we take independent vote.
29

30 Ochoa: Mr. Chairman, to add to that we would have to re-instate the rules so you
31 could go ahead and vote on those in the end and I'll remind you after all
32 discussion is concluded and we're ready for votes, that the rules do need
33 to be reinstated and a vote would have to be taken.
34

35 Villegas: Okay. And do we have to vote to reinstate the rules at that time?
36

37 Ochoa: Yes sir.
38

39 Villegas: Okay.
40

41 Acosta: So we have a ... we have a motion on the table.
42

43 Villegas: Okay and the motion is to suspend the rules.
44

45 Acosta: Yes sir.
46

1 Villescas: Okay. Any discussion? If not, Ms. Acosta would you take the roll please?
2
3 Acosta: Commissioner Allin.
4
5 Allin: Aye.
6
7 Acosta: Commissioner Hearn.
8
9 Hearn: Aye.
10
11 Acosta: Commissioner Sanders.
12
13 Sanders: Aye.
14
15 Acosta: Commissioner Hoffman.
16
17 Hoffman: Aye.
18
19 Acosta: Commissioner Acosta votes aye. And Chairman Villescas.
20
21 Villescas: I vote aye. The rules are suspended and we'll hear cases two and three
22 together. Please go ahead.
23
24 Ochoa: Thank you sir. Adam Ochoa of Development Services, City of Las Cruces
25 Development Services for the record again. Two cases we're looking at
26 here together is Case ETZS-13-020 and ETZS-13-020W. It is a request
27 for approval of a preliminary plat known as Kissiah-Parrigin Subdivision
28 Number 14 and approval of a wavier request from the associated roadway
29 improvements and road dedication requirements with that preliminary plat.
30 Shown here on the vicinity map, the hash marks here, the subject
31 property's located on the west side of Kissiah Drive, north of Peachtree
32 Hills, about half a mile north of there. Shown here on the aerial, looks like
33 we still have a manufactured home there and a mobile home existing on
34 the property, other small subdivisions located around there. Located to
35 the west as well is a proposed collector roadway known as Mesa Drive.
36 Currently the subject property is known as Lot 3 of Block B of the
37 Kissiah-Parrigin Subdivision which was filed back in 1975. It
38 encompasses approximately 7.292 acres. Currently there is one mobile
39 home on there and one manufactured home and currently zoned ER3/4M,
40 requiring a minimum of three-quarter of an acre lot and allowing mobile
41 homes on there. That zone change was approved back in June 2013, if
42 you all might remember that coming before you all. The applicant tonight
43 is proposing a preliminary plat to subdivide the one existing lot into seven
44 new residential lots. Access shall be from a private ... a new private road
45 easement that would be known as Slade Lane. No lots shall have direct
46 access to Kissiah Drive, the way they're being proposed to be subdivided

1 and no access shall be permitted to Mesa Drive as well to the west. This
2 proposed preliminary plat is required to provide all necessary right-of-way
3 dedications and road improvements including any access improvements
4 and so forth like that by the ETZ Subdivision Ordinance. This proposed
5 subdivision is not exempt from providing these requirements as outlined in
6 Section 4.2 of the Subdivision Code.

7 Shown here, the proposed subdivision plat with one, two, three,
8 four, five, six, seven lots. Here is the proposed Slade Lane which would
9 be a cul-de-sac here. It is proposed as a 40-foot wide private road that
10 will be graveled.

11 Section 4.2.B of the ETZ Subdivision Code requires roadway
12 designation ... roadways designated; excuse me, by the Mesilla Valley
13 Metropolitan Planning Organization to comply with all City of Las Cruces
14 Design Standards. To the west of this property, adjacent to this property
15 is Mesa Drive, a designated roadway which is required to be a minimum of
16 85-feet in wide ... 85-feet in width, excuse me. The applicant is required
17 to dedicate one-half of the required right-of-way for Mesa Drive, 42.5-feet,
18 with the subdivision, along the boundary of the subdivision and the
19 applicant is required to provide all improvements to that section of Mesa
20 Drive including the pavement, the ... and including sidewalk, curb and
21 gutter. The applicant is also required to provide improvements equivalent
22 to a minor local roadway or roadway that'll be approved by City and
23 County staff from the boundary of the subdivision all the way down south
24 to Peachtree Hills Road. The applicant is proposing to provide the
25 required dedicated right-of-way adjacent to the property for Mesa Drive,
26 but is proposing no road improvements.

27 The second portion of the waiver request is the access for the new
28 residential lots off of the proposed road easement, Slade Lane. Section
29 4.2 of the ETZ Subdivision Code requires a minimum 50-foot wide
30 dedicated an accepted right-of-way or permanent road easement. That
31 easement or right-of-way is required to be improved with a minimum of 24-
32 foot wide double penetration asphalt surface road. The applicant is
33 proposing to provide a 40-foot wide private road easement, 10-feet less
34 than the minimum required with a 24-foot wide gravel surface road with
35 this proposed subdivision.

36 To give you a better idea of what we're talking about here on this
37 aerial, the green arrows here show the 42.5-foot wide dedicated section
38 they'd have to provide for Mesa Drive and also those road improvements,
39 the 42.5-feet that include the asphalt, the sidewalk, curb and gutter. The
40 red line which leads from the southern boundary of the property all the
41 way down to Peachtree Hills, roughly a little over a half a mile in length is
42 required to be a ... equivalent to somewhat of a minor local roadway that
43 would be approved by City and County staff, the road section approved by
44 City and County staff.

45 This here is a close up look at what the proposed Slade Lane, the
46 private road would be. This area is what is being proposed ... required by

1 code to be a 50-foot wide road easement with a 24-foot wide asphalt
2 surface. Shown here on the notification map, subject property and all the
3 property owners that did receive notice of the proposed preliminary plat
4 and waiver request. The proposed subdivision is supported ... the
5 proposed preliminary plat itself is supported by City staff and all other
6 reviewing departments of the City of Las Cruces and Dona Ana County.
7 The waiver in Section 6.1 says ... states where strict compliance with the
8 ETZ Subdivision Ordinance would result in a substantial hardship because
9 of exceptional topographical, soil, or other surface or subsurface condition,
10 the ETZ may vary, modify, or waive the requirements for a subdivision.
11 Staff did not see that this proposed subdivision meets those requirements
12 and therefore at the March 20th, 2014 EDRC meeting or Extra-Territorial
13 Development Review Committee, the proposed preliminary plat and
14 waiver request were reviewed. The preliminary plat was recommended
15 for approval with conditions, that condition being that the waiver request
16 shall be approved prior to, or construction drawings shall be submitted
17 with the final plat for the proposed subdivision. And for the waiver request
18 the EDRC did vote to recommend denial for that proposed waiver request
19 stating that again the subdivision does not meet the standards for a waiver
20 request of Section 6.1 of the Subdivision Code.

21 With those, your options tonight for the Case-ETZS-13-020 is; 1) to
22 vote yes to approve the preliminary plat as recommended by staff with that
23 one condition; 2) to vote yes to approve the preliminary plat with any
24 additional conditions; 3) to vote no and deny the preliminary plat; or 4)
25 table or postpone and direct staff accordingly. For options for ETZS-13-
26 020W, the waiver request is: 1) to vote yes to approve the waiver request;
27 2) to vote yes to approve the waiver request with any additional conditions
28 seen appropriate by the Commission; 3) to vote no to deny the waiver
29 request as recommended by staff; or 4) table and postpone, and again
30 direct staff according. That concludes my presentation. Staff did receive
31 two phone calls about the proposed preliminary plat and waiver request,
32 one gentleman just wanted to know what ... wanted to get some
33 information, that's essentially it. Another gentleman had actually no
34 issues with the proposed subdivision or preliminary plat stating that this is
35 already existing all over Kissiah, it's not an issue essentially is what the
36 gentleman stated. He did refuse to leave his information though. With
37 that I stand for questions and the applicant is available for any questions.

38
39 Acosta: Mr. Chairman.

40
41 Villescascas: Ms. Acosta. Let me ask on quick favor. Could you go back two slides?
42 There. Okay, go ahead Ms. Acosta.

43
44 Acosta: Clarify something for me. The EDRC voted to recommend denial for the
45 waiver request and you cited a code number or a section, can you put it in

1 simpler terms for me, why did they deny the waiver? What did it not
2 meet?
3

4 Ochoa: The waiver request did not meet kind of the definition for a hardship by the
5 ETZ Subdivision Code. The definition of a hardship being an exceptional
6 topographic, soil, or surface or subsurface condition that would make
7 essentially the development of that subdivision almost impossible or the
8 development of the requirements of the code basically impossible for them
9 to do, that would be the basis to approve the waiver request. That is the
10 strict definition of how staff can support a waiver request.
11

12 Acosta: Okay. Go back to some slides where you were showing ... right there,
13 you can use that one. Next one up. Their neighboring properties that butt
14 into this pretty much, they're subdivided as well, right? So I don't
15 understand why that would be such a hardship with ... I would say the
16 land basically if ... if the other properties around them are being
17 subdivided as well. So it's kind of ... I don't understand that. Clarify that
18 for me.
19

20 Ochoa: Mr. Chairman, Commissioner Acosta, the subdivisions to the south, I
21 believe you're referring to the one that has Sweetwater Court and Tierra
22 Roja Court, those subdivisions were created pre-ETZ requirements, so
23 those are essentially grandfathered in so ...
24

25 Acosta: Okay. That's what I needed to know.
26

27 Ochoa: They're existing the way they are. Since this is a new subdivision it does
28 need to follow correct code.
29

30 Acosta: Okay. Thank you. And one more question, I'm sorry, is Kissiah a
31 collector or is just kind of a ... what kind of road is that?
32

33 Ochoa: Kissiah Drive is just a local roadway actually, but it's about 60-foot wide ...
34 a 60-foot wide roadway ma'am.
35

36 Acosta: Okay. Thanks.
37

38 Hearn: Question. Could you go back to item one on the voting options and
39 explain, as recommended by staff. I'm sorry, I'm just, I couldn't track all
40 this stuff all together.
41

42 Ochoa: No problem sir. I apologize for my ... for my speed through that.
43

44 Hearn: Just a lot ... a lot going on.
45

1 Ochoa: It sure is. The vote ... the first one is to vote yes to approve the
2 preliminary plat as recommended by staff. Staff being the EDRC who
3 recommended approval for the preliminary plat with the condition that the
4 preliminary plat will either have to obtain approval of the proposed waiver
5 request or would have to submit construction drawings with the final plat in
6 order to create ... to finalize the subdivision.
7

8 Hearn: Okay, but you are not in any way recommending that it be approved as it's
9 presented here with 40-foot easement and a gravel surface?
10

11 Ochoa: Mr. Chairman, Commissioner Hearn, the ... that's actually the waiver
12 request itself.
13

14 Hearn: I understand.
15

16 Ochoa: So it's a separate issue. Yes sir.
17

18 Hearn: Right. Okay, but when you say as recommended by staff, that means
19 after the waiver is approved or something, not as it's basically laid out?
20

21 Ochoa: Mr. Chairman, Commissioner Hearn, no sir, essentially what we're trying
22 to ... what we're saying is, staff has no issues with the preliminary plat as
23 long as they either receive the waiver by the Commission or they can
24 finish up the preliminary plat and then they come in with a final plat
25 essentially they would have to come in with construction drawings as well.
26

27 Hearn: Yeah. Okay. Thank you.
28

29 Sanders: So if we don't approve the waiver request, then what is the status position
30 on the preliminary plat?
31

32 Ochoa: Mr. Chairman, Commissioner Sanders the applicant can continue with the
33 preliminary plat as proposed, the only change would be essentially they
34 would have to change the 40-foot easement to a 50-foot easement and
35 then the construction standards and so forth like that would be taken care
36 of during the final platting of it.
37

38 Hearn: I guess I have one more question just on general procedures, is it
39 common to have a small subdivision set up like this with that access road,
40 in this case Slade Lane, being a private road?
41

42 Ochoa: Mr. Chairman, Commissioner Hearn, subdivisions do have the option to
43 provide access to their lots in their subdivision through either a public
44 right-of-way or permanent road easement, so it ... I guess for something
45 this size it's typical if you will, but definitely not seen all the time, but it is
46 something that is allowed by code sir.

1
2 Hearn: Does it ... does it have an affect on ... on any of the later requirements for
3 quality of the road or any other kinds of things if it's private as opposed to
4 public? I'm just thinking private roads are just creating problems all over
5 everywhere and a little ways down the road people don't want them
6 anymore and they want to get rid of them.
7
8 Ochoa: Mr. Chairman, Commissioner Hearn that is correct, they'd be privately
9 owned. Essentially the road would run down either the northern or
10 southern or whatever area of the existing ... of the proposed lots as shown
11 on the plat here. The roadway actually runs through the actual portions of
12 those lots so it'd be the responsibility of those property owners to maintain
13 that roadway.
14
15 Hearn: I understand that part; I'm just asking why it's not being proposed as a
16 public road.
17
18 Ochoa: Mr. Chairman, I'll leave that up to the applicant to explain.
19
20 Hearn: Okay. Okay thank you.
21
22 Villegas: You could save me some time, what does the fire department say?
23
24 Ochoa: Mr. Chairman the fire department ... excuse me. The fire department did
25 approve the proposed preliminary plat ...
26
27 Villegas: Any contingencies?
28
29 Ochoa: Essentially just stating ... let me find it here, I'm sorry.
30
31 Villegas: It's all right.
32
33 Hoffman: I ... Mr. Chair. This does meet code.
34
35 Villegas: Okay.
36
37 Hoffman: International Fire Code, because it's 100-foot diameter cul-de-sac as I
38 read this.
39
40 Villegas: That's with the 50-feet.
41
42 Hoffman: Just the diameter of the cul-de-sac.
43
44 Villegas: Okay.
45
46 Hoffman: Which is what is necessary to get a fire truck turned around going out.

1
2 Villescas: Yeah.
3
4 Hoffman: Because you're going to have tanker relay going on here.
5
6 Ochoa: Mr. Chairman, also to add to that, the fire department did approve this
7 essentially stating that during the final plat they would have to submit a
8 type of fire protection plan stamped by a registered engineer indicating the
9 fire plans to specifications of the fire department essentially.
10
11 Sanders: Mr. Chairman I have a question.
12
13 Villescas: Please go ahead.
14
15 Sanders: Yes, on the ... can you put the ... the slide up that had the red and green
16 roads on it again showing the City's proposed exit? Yeah see I don't
17 understand that cause the applicant is showing the access along Kissiah
18 Drive correct?
19
20 Ochoa: Mr. Chairman, Commissioner Sanders, that is correct.
21
22 Sanders: So why would the City be recommending they improve the roads that
23 aren't going to be used by that property?
24
25 Ochoa: Mr. Chairman, Commissioner Sanders, it is Subdivision Code requirement
26 that the road dedication and improvements are required for all adjacent
27 roadways to a proposed subdivision sir. Even though access is not
28 proposed to this proposed subdivision on Mesa Drive, they are still
29 adjacent to it and are essentially on the hook for those requirements. But
30 that is a stated statement by the applicant as a reason why not to provide
31 those road improvements to Mesa Drive stating that they will not be
32 accessing it or providing any type of traffic onto that roadway. That was
33 one of their bases for their waiver request for that section of the waiver
34 essentially.
35
36 Sanders: So is Kissiah Drive, is it paved? Or the City would not be recommending
37 any improvements to that roadway?
38
39 Ochoa: Mr. Chairman, Commissioner Sanders, Kissiah Drive is essentially ... it's a
40 County road and County engineering did not require any type of
41 improvement to Kissiah Drive.
42
43 Sanders: Is it paved or is it?
44
45 Ochoa: It is paved. Yes sir.
46

1 Hoffman: Mr. Chairman.
2
3 Villescas: Yes.
4
5 Hearn: I wonder if it's time to help focus our discussion if we ... we've been
6 through the presentations to go back on the rules and take these one at a
7 time now?
8
9 Hoffman: Have we heard from everyone?
10
11 Villescas: We haven't heard from the applicant yet.
12
13 Acosta: Mr. Chairman we haven't heard from the applicant.
14
15 Hearn: Okay.
16
17 Villescas: Any other questions for staff before we go to the applicant?
18
19 Hoffman: I do have a question for staff.
20
21 Villescas: Please go ahead.
22
23 Hoffman: Perhaps you can help me; in this zoning district three ...
24
25 Ochoa: ER3/4M, yes sir.
26
27 Hoffman: There we go. Yeah, 3R3/4 ... ER3/4M. Minimum lot size three-quarter
28 acre which is fine. A minimum lot width, does ... clearly these lots
29 become more narrow than 100-feet. What does minimum lot width refer to
30 then? It has to be at least 100-feet wide anywhere?
31
32 Ochoa: Mr. Chairman, Commissioner Hoffman, typically that's kind of a County
33 call if you will as to what they require for their minimum width and depth
34 requirements sir. Just speaking on behalf of the City, the way we look at it
35 is if that property is ... doesn't meet the minimum width requirement on
36 one end because if it's either a flag lot or in the end of a cul-de-sac, it's ...
37 then the other end needs to not only meet but essentially far exceed the
38 minimum requirements sir. There's also minimum lot size requirement
39 that they have to hit, so basically whatever side that isn't adjacent or that
40 isn't smaller has to be essentially a lot bigger sir.
41
42 Hoffman: Thank you.
43
44 Villescas: Anything else before we go on to the applicant? If not, would the applicant
45 like to come forward?
46

1 Scanlon: Thank you Mr. Chairman.
2
3 Villescascas: And you're already sworn in.
4
5 Scanlon: Yes. Mr. Chairman and members of the Commission. The reason that
6 the subdivision has been platted the way it is, is because it's basically a
7 carbon copy of all of the other subdivisions that have been done on the
8 tracts, the similar tracts out on Kissiah with an exception ... with the
9 exception that we will be dedicating 42.5-feet of Mesa Drive along the
10 back of the subdivision which none of the other subdivisions have been
11 required to do. Let me back up here a little to ... okay let's look at this
12 one. The green arrows indicate the area that the City is requesting we
13 build half of a minor arterial roadway. And then the red would be a paved
14 minor local road for little over a half a mile down to Peachtree Hills I think
15 is the road down there. That is ... nobody would ever drive on that. They
16 have no reason to on either one of those sections unless, except maybe
17 burglars or something, I don't know, but nobody would have any reason to
18 drive on there until such time as the property is ... to the west is
19 developed and ... but there would be no traffic on that roadway and it
20 would deteriorate within just a matter of a few years cause it wouldn't be
21 used. The request for waiver for ... to road improvements for Slade Lane
22 is being made just out of equity because that's what ... what everybody
23 else built was 40-foot wide easement and a ... and a 24-foot gravel road
24 or whatever they built out there, we'll have to measure them and see, but
25 that's basically the basis of the request is in equity for what was ... been
26 allowed by the other subdividers on these similar tracts in the past. I'd be
27 happy to answer any questions beyond that.
28
29 Villescascas: Does the Commission have any questions for Mr. Scanlon? If not, thank
30 you Mr. Scanlon. At this point I'd like to cut it off to the staff and to the
31 applicant and open it up to members of the public. Are there any
32 members of the public that would like to come up and make any kind of
33 discussion on this item before us at this time? If not we'll cut it off to
34 members of the public and open it up to the Commission. Does the
35 Commission have any further comments on this case?
36
37 Acosta: Mr. Chair.
38
39 Villescascas: Please Ms. Acosta.
40
41 Acosta: Adam do we have an engineer in the house right now?
42
43 Ochoa: Mr. Chairman, Commissioner Acosta, yes we do. We have County
44 Engineering here.
45
46 Acosta: Okay. Sir, you knew this was coming, didn't you?

1
2 Molina: Rene Molina, 845 North Motel Boulevard.
3
4 Acosta: Do you swear and affirm the testimony you are about to give is the truth
5 and nothing but the truth under penalty of law?
6
7 Molina: I sure do.
8
9 Acosta: Can you tell me your recommendations on this particular property sir
10 please, based on your expertise?
11
12 Molina: Based on the code I would recommend denial. The code is very specific.
13 It's a roadway within the subdivision. Actually the road is required to be
14 surfaced with an inch and a half of hot mix, that's the requirement. That's
15 the requirement for the internal roadway. The reason I believe they're
16 going to 40-feet of utility easement is if they went to 50-feet they would
17 lose one lot. If they went to 50-feet the gross on that acreage, the net
18 acreage would be lower than three quarters, possibly. So they have the
19 potential of losing a lot, that's why it went to 40-feet. Now, do I believe
20 that 40-foot is a detriment, no I don't think so, but in my opinion the
21 surfacing is ... is what's a detriment because what we'll experience or
22 what we have experienced, the County has experienced is that we have
23 individuals that sure initially they'll maintain the road and then maybe 10,
24 15 years down the road then they'll look at us for taking the roadway for
25 ownership and maintenance and that's where we see problems. So if they
26 would meet the code it would be a lot more easier on our side, the
27 County's side to consider taking the roadway. We've ... we've
28 experienced that in the East Mesa, southern part of the County, as well.
29 So yes, we have to uphold the code obviously. Pavement structure-wise,
30 inch and a half of hot mix longevity if it's properly designed will far exceed
31 the proposed section. Did that answer your question?
32
33 Acosta: It did. Thank you very much.
34
35 Molina: You're very welcome.
36
37 Villescascas: I have a question along the same lines. So the 40-feet is fine with you, but
38 it's the ... you would rather see it as an inch and a half of the hot mix,
39 does that pretty much sum it up?
40
41 Molina: The code requirements specify inch and a half. I agree with the code
42 requirements. I again believe that inch and a half of hot mix will far
43 exceed the life of what is being proposed.
44
45 Villescascas: Okay, but the 40-feet would be okay?
46

1 Molina: I don't see a big issue with it.
2
3 Villescas: Okay. Thank you. Does anyone else have any other questions?
4
5 Hearn: Mr. Chairman.
6
7 Villescas: Please go ahead.
8
9 Hearn: Thanks. On the issue of public versus private road, is there any clear
10 reason in your mind why this would better be a private road than a public
11 road or visa versa right off ... right from the start?
12
13 Molina: The only thing I could think of is again the lots if they're constrained such
14 that they're meeting three quarters of an acre right now net-wise with 40-
15 feet; we ... the County wouldn't take a 40-foot right-of-way. We would
16 take a 50-foot right-of-way. So if they could do a 50-foot right-of-way with
17 the required improvements, we'd be happy to take that road.
18
19 Hearn: So even if we granted the waiver on 40-feet and required the appropriate
20 surface, the County still would not accept the road.
21
22 Molina: We can't accept it. Our minimum width for right-of-way ... and it would
23 have to be right-of-way of course, is 50-feet.
24
25 Hearn: Even if we said there's a waiver?
26
27 Molina: That's correct. I would recommend denial. I would talk you know, I would
28 go to other meetings and do whatever I could to not accept it. Our
29 minimum roadway width, right-of-way width, keep in mind that the right-of-
30 way, this is an easement, we would own it fee simple, is 50-feet.
31
32 Hearn: So this is almost doomed to be a private road, even if we ... even if we
33 grant the waiver?
34
35 Molina: There's ... there's roads that are privately maintained and they're very
36 successful. I mean go look at Picacho Hills. There's a lot of roadways out
37 there that are privately maintained and they're ... they ... they're better
38 than some of the County maintained roadways.
39
40 Hearn: But on the other hand there are a lot that are not.
41
42 Molina: And ... and typically those are more just dirt roads.
43
44 Hearn: Yeah.
45

1 Molina: Or graveled roads and there's not enough maintenance on it and it starts
2 deteriorating, then we still have ... we have emergency vehicles going out
3 there and there's ... there's issues with getting access because the
4 roadway conditions.
5
6 Hearn: So if I just tried to summarize real quick, your professional opinion, never
7 mind the code, is that 40-feet is inadequate width, and I'm not trying to put
8 you in a box, but that would not be acceptable to the County as ... as a
9 public road, but we could grant the waiver and that could be built as a
10 private road, but you absolutely recommend that the surface be the code
11 required surface not gravel.
12
13 Molina: I do.
14
15 Hearn: Okay.
16
17 Sanders: I have one question.
18
19 Villescascas: Please go ahead.
20
21 Sanders: I think it gets down to the weeds, but to me the road ... Slade road should
22 be a 50-foot right-of-way granted to the County and I think that that would
23 not change the size of their lots because their lots are platted into that
24 easement, regardless of how wide ... how wide the easement is. So I
25 think they could still support their subdivision with a 50-foot easement and
26 dedicated to the County. And I'm looking at their ... the map that they
27 presented, they show the lots platted to the middle of the easement.
28
29 Molina: Right. So in other words, if they wanted to pursue having the County take
30 over ownership and maintenance of the roadway, the roadway would have
31 to be 50-feet in width and it would have to be right-of-way. Again that
32 acreage would be taken out of the properties, not looking at the plat.
33 Right well looking at the net acreage, they've got the smallest lot is 0.782
34 and that's with 40-feet, so take away 10-feet of frontage on all the lots and
35 they may ... they may lose a lot. I mean they're ... or just do some
36 shifting; however, the way it's presented to us is the way we have to
37 review it. I would ... if they came in with a 50-foot road right-of-way with
38 the required improvements, I don't see a problem with why the County
39 wouldn't take it for ownership and maintenance, if it's properly designed of
40 course.
41
42 Sanders: Yeah. Okay. Thank you.
43
44 Villescascas: And that would include the inch and a half of hot mix. The gravel would
45 not cut it.
46

1 Molina: That's the minimum. The structural section, the pavement section, the hot
2 mix and base course would have to be engineered.
3
4 Villescas: Okay.
5
6 Molina: Inch and a half is just the minimum.
7
8 Villescas: Okay.
9
10 Molina: And the roadway standards, because of the zoning it'd have to follow
11 County design standards, the roadway width would have to be 24-feet of
12 travel lanes with four-foot asphalt shoulders on each side. Just to make
13 the applicant aware.
14
15 Villescas: Okay. Thank you. Any other discussion by the Commission? Staff will
16 you do me a favor; you would bring it back up to that page I asked you to
17 bring up before?
18
19 Ochoa: Which one was it sir?
20
21 Villescas: There you go. Just in case anybody who makes a motion wants to use
22 any of these recommendations by staff, it's right there in front of them to
23 read and not have to bring it from memory.
24
25 Ochoa: Mr. Chairman.
26
27 Acosta: Mr. Chair for the record, before we make any recommendations or
28 motions we need to make a motion to ...
29
30 Villescas: Oh that's right, bring us off.
31
32 Acosta: If we're ready for that. If we're not ready, we're still in discussion, we can
33 continue.
34
35 Ochoa: And Mr. Chairman may I interject please?
36
37 Villescas: Sure.
38
39 Ochoa: Staff did take the liberty in your staff reports for the ... for this case
40 actually separating the one waiver request are essentially four in one if
41 you will. The right-of-way for ... I'm sorry, three is what it is. The road
42 improvements to Mesa Drive. The width of the right-of-way/permanent
43 road easement. And the improvements to that private road. So those are
44 outlined. If a motion wants to be carried as to approving some and not
45 one or amending one and so on and so forth like that.
46

1 Villescas: I'm sorry, I understood. Any other comments before we make a motion to
2 separate?
3
4 Hearn: Mr. Chairman.
5
6 Villescas: Mr. Hearn.
7
8 Hearn: I wonder if we might hear from the applicant again?
9
10 Villescas: Sure, you need to ask a question?
11
12 Hearn: Yes.
13
14 Villescas: Okay.
15
16 Hearn: No, not just to bring him up to talk.
17
18 Villescas: Mr. Scanlon would you mind coming up? Oh there you are.
19
20 Hearn: As we've been through this discussion and certainly the way ... the way I
21 look at this the prospect of approving a waiver for a private road with
22 gravel surface, let's just assume that doesn't have a good chance of
23 passing.
24
25 Scanlon: Okay.
26
27 Hearn: And whatever passes is going to require a hard surface up to code
28 standards. Do you feel that your client would be in a position to support
29 going ahead and building the road to the County standards that you all
30 were just discussing so that it could become a County road?
31
32 Scanlon: I would have to discuss that with my client of course you know. You'll
33 make a decision tonight one way or the other on that and ... and of course
34 that will be binding unless he decides to appeal. The ... I think he's going
35 to have to look at the economics of the whole thing.
36
37 Hearn: Sure.
38
39 Scanlon: Certainly the construction of Mesa Drive is completely ...
40
41 Hearn: That's a different issue.
42
43 Scanlon: That's a completely different issue. That would cost over \$350,000 to
44 build that road and if you divide that over seven lots that's \$50,000, a lot
45 just to build that road and these lots are not going to sell for half that
46 much. So, I think that that's a real big issue. I ... I'm not certain what the

1 economics are, what ... but you know if you decide to require the County
2 standard for that roadway then he'll either have to do that or he'll have to
3 abandon the project. So you know that's just.
4
5 Hearn: Okay. Thank you.
6
7 Acosta: Mr. Chair.
8
9 Villescas: Ms. Acosta.
10
11 Acosta: And I have one more question for Mr. Scanlon. I'm sorry you sat down
12 before I could wave you down. And you may or may not know this but I'm
13 sure that you do, what ... and is it a substantial amount between gravel
14 and that one and a half hot mix. If requiring you to do a hot mix does that
15 ... how much do ... an estimate that you think?
16
17 Scanlon: Probably adds between, and gravel would be like a base course road, so
18 we've got to put down base course anyway, but, so the additional amount
19 would probably be ... let me get my calculator.
20
21 Acosta: Okay. Just a rough. Just to give me an understanding.
22
23 Scanlon: I just need to see ... it would probably add something in the neighborhood
24 of \$10,000 to \$15,000 to the cost of the roadway to put the asphalt on it.
25
26 Acosta: Okay.
27
28 Scanlon: Maybe closer to \$20,000, I didn't compute the cul-de-sac, so, yeah it'd
29 probably be around \$20,000.
30
31 Acosta: Thank you.
32
33 Villescas: Any other discussions again before we separate?
34
35 Acosta: Just for clarification, just for the Commissioners up here, the rest of the ...
36 the subdivisions that are up there, they're all generally just gravel from my
37 understanding, correct?
38
39 Ochoa: Mr. Chairman, Commissioner Acosta that is correct. As a matter of fact
40 Kissiah is the only paved road essentially out there. All of the other roads
41 or the branches off of Kissiah are gravel or essentially dirt roads.
42
43 Villescas: Are they all grandfathered or are they all ... are they all private roads?
44

1 Ochoa: Mr. Chairman, I don't think they're all private roads; some are dedicated
2 and grandfathered in. Some are private roads. But like I said, essentially
3 grandfathered in, the way they are existing is the way they are.
4

5 Villescascas: Okay. I'm kind of curious as to ... I don't think there's an answer to it, but
6 I'm kind of curious as to what the cost savings is for the County to
7 maintain the roads as to a private road where you have to maintain the
8 roads. Probably pays off over time, I just don't know how much time. But
9 it's neither here nor there. Are we ready to separate? If so, will somebody
10 put forward a motion?
11

12 Hearn: I move we go back on the rules. Yeah we separate the two cases.
13

14 Ochoa: Reinstate.
15

16 Hearn: And consider them individually.
17

18 Ochoa: Reinstate the rules.
19

20 Hearn: Reinstate the rules.
21

22 Villescascas: Reinstate the rules. Does anybody have a second?
23

24 Acosta: I'll second.
25

26 Villescascas: Okay. Any discussion?
27

28 Hoffman: Mr. Chair.
29

30 Villescascas: Yes sir.
31

32 Hoffman: Thank you. We ... we do have the staff recommendations regarding ...
33 now I believe we are discussing ETZS-13-020, that is the plat, preliminary
34 plat, so the staff recommends approval with conditions. Now the issue of
35 the 40-foot versus the 50-foot, that is something that the land owner really
36 can decide for themselves cause the final plat could have the 50-foot right-
37 of-way and then it could be considered for adoption by the County. Not
38 really our business, it's the landowners.
39

40 Villescascas: That is correct.
41

42 Hoffman: Make that call. So this is a preliminary plat and of course one of the
43 conditions would be that the waiver be approved. So, let's see ...
44

45 Hearn: Mr. Chairman could I just for a second, we've got a live motion.
46

1 Hoffman: Oh, sorry.
2
3 Villescas: True, we need to ...
4
5 Hearn: Change the rules.
6
7 Hoffman: Yeah, let's get back there.
8
9 Villescas: We need to get a second then we can have discussion.
10
11 Acosta: We do have a first, Commissioner Hearn made the motion, I made the
12 second.
13
14 Villescas: Okay.
15
16 Acosta: To go back to voting these on separate cases.
17
18 Villescas: Okay.
19
20 Acosta: So I just need to ... I need your approval for a roll call.
21
22 Villescas: Okay, Ms. Acosta would you call the roll?
23
24 Acosta: Commissioner Allin.
25
26 Allin: Aye.
27
28 Acosta: Commissioner Hearn.
29
30 Hearn: Aye.
31
32 Acosta: Commissioner Sanders.
33
34 Sanders: Aye.
35
36 Acosta: Commissioner Hearn ... excuse me Hoffman.
37
38 Hoffman: Aye.
39
40 Acosta: Commissioner Acosta votes aye. And Chairman Villescas.
41
42 Villescas: I vote aye. So we're back on. So, we're on ETZS-13-020. Please ...
43
44 Hoffman: Sorry for getting out of order.
45
46 Villescas: That's okay. That happens a lot when we ... when we do that.

1
2 Hoffman: Yeah. So the ... the real issue on the ... the plat itself, preliminary plat is
3 that the waiver request has to be approved before the final plat, so we do
4 have several layers of input here. So I would say ... my own feeling is,
5 okay, that we should approve this preliminary plat with those conditions
6 which then puts it back in the land owners court to decide what they want
7 to do.
8
9 Acosta: So are you making a motion Mr. Hoffman?
10
11 Hoffman: I'd be happy to if we're ready for that.
12
13 Hearn: I'd like to discuss just a little bit more first.
14
15 Villescas: You know, okay. Mr. Hearn do you have some discussion right now?
16
17 Hearn: Yeah.
18
19 Villescas: Please go ahead.
20
21 Hearn: I'm not sure exactly where that was headed but I know for myself from my
22 experience in what I consider part of my responsibility here, I cannot
23 approve a private gravel road in a situation like this. I think we're
24 propagating a misery and ... and we've just got to put a stop to it.
25
26 Hoffman: Mr. Chair, may I respond to that?
27
28 Villescas: Sure.
29
30 Hoffman: Couldn't agree more, however, since we have separated the cases, we're
31 talking about the plat and the waiver of the road conditions will come up
32 next.
33
34 Hearn: Okay, I guess I don't understand the separate the two cases. I thought
35 one was Slade Road and the other one was Mesa Road.
36
37 Ochoa: Mr. Chairman for clarification.
38
39 Villescas: Please.
40
41 Ochoa: The separation is between the preliminary plat and the full waiver request,
42 and then ... so you vote on the preliminary plat whether you would accept
43 it with the recommend ... recommended condition that staff has done, or
44 any additional recommendations or any (*inaudible*) recommendations and
45 then the waiver request would be a separate one sir.
46

1 Villescas: Okay, so say we approve the preliminary plat with the conditions of the
2 required access and improvements required of the applicant ... approval
3 of the conditions of the proposed preliminary plat, the waiver request ... oh
4 that's the waiver. So, that's it? Have I gone far enough?
5

6 Ochoa: Mr. Chairman, the condition that staff is proposing is that the preliminary
7 plat be approved with condition that either the waiver request get
8 approved or construction drawings shall be submitted with the final plate
9 for the proposed subdivision.

10

11 Villescas: Okay, they ... the plat gets approved.

12

13 Ochoa: Correct.

14

15 Villescas: Get approved or ...

16

17 Ochoa: It's right in front of your screen, yes sir.

18

19 Acosta: So.

20

21 Villescas: Okay.

22

23 Acosta: We make a motion based on what's ... what the EDRC is recommending
24 as well?
25

26 Ochoa: Correct. That was our recommendation to you with that condition if you
27 like to read that condition into the record as your motion and add any
28 additional conditions as seen appropriate by the Commission, so be it.
29

30 Acosta: Okay. Are we ready to make a motion, Commissioners?
31

32 Hearn: What ... what does the phrase "construction drawings" mean? If the
33 waiver request is approved or, so the waiver request is not approved what
34 then are the construction drawings?
35

36 Ochoa: Then the construction drawings are what's required for showing the
37 improvements to the roadways for the required roadways for the
38 subdivision sir. And those'd be submitted with the final plat.
39

40 Hearn: And there will be something different from the wavier request presumably
41 meeting code?
42

43 Ochoa: Yes sir, that or the applicant can appeal of course.
44

45 Hearn: Okay.
46

1 Ochoa: Again that is a separate issue that is for the waiver itself, this is just for the
2 preliminary plat sir.
3
4 Acosta: Okay, I'll make a motion.
5
6 Villa: Please do.
7
8 Acosta: I make a motion for Case ETZS-13-020 for approval with the following
9 conditions; the waiver request shall be approved prior or ... prior to or
10 construction drawings shall be submitted with the final plat for proposed
11 subdivision.
12
13 Villescascas: Do we have a second?
14
15 Hearn: Second.
16
17 Villescascas: Do we have any discussion? No further discussion. Let's take a vote.
18 Ms. Acosta would you call roll please.
19
20 Acosta: Commissioner Allin.
21
22 Allin: Aye.
23
24 Acosta: Commissioner Hearn.
25
26 Hearn: Aye.
27
28 Acosta: Commissioner Sanders.
29
30 Sanders: Aye.
31
32 Acosta: Commissioner Hoffman.
33
34 Hoffman: Aye.
35
36 Acosta: Commissioner Acosta votes aye. And Chairman Villescascas.
37
38 Villescascas: I vote aye. Okay, that's the first one. The second one shall be ETZS-13-
39 020W. Let's open that up to discussion. Do we have any discussion on
40 that one? Of course most of the questions or discussion if we're going to
41 have any at all would be on the conditions that we would add to the motion
42 and the conditions would be what exactly?
43
44 Acosta: Staff.
45

1 Ochoa: Again, Mr. Chairman, the waiver request is one waiver request but is
2 made up of three separate actual waivers if you will.
3

4 Villescas: Okay.
5

6 Ochoa: So if you ... if someone wished to make a motion, they'd make a motion to
7 approve certain sections of it or deny certain sections of it or approve the
8 whole thing for all three under the waiver request sir.
9

10 Villescas: Okay, so we make a motion to approve the waiver request with the
11 following conditions ...
12

13 Ochoa: No sir, no ... I'm sorry, may I interject again. Not conditions sir.
14 Essentially there are no conditions for this so it is up to the Commission
15 whether to approve the ... the ... excuse me, waiver as proposed for Mesa
16 Drive and for Slade Lane; to approve the waiver request, certain portions
17 of it and not other portions of it; approve the waiver request with any
18 conditions; not approve the waiver request as recommended by staff; and
19 table and postpone.
20

21 Acosta: I guess what we're looking for is clarification on conditions. What are our
22 condition options that we ... we can implement in there if we wanted to
23 vote yes? I mean that's what I'm ... me as a Commissioner looking for,
24 guidance.
25

26 Ochoa: Mr. Chairman, Commissioner Acosta, there are no real conditions. What
27 was discussed here tonight was whether the applicant essentially has to
28 meet standards or not meet standards. If he ... if a condition is for them to
29 meet standards, that's not really a condition because ...
30

31 Villescas: Okay.
32

33 Ochoa: They have to meet standards anyway. So, it'd be essentially you're going
34 to approve their waiver request as they're requesting it or you're going to
35 deny their waiver request as they stated it.
36

37 Villescas: Okay, so we would, and again you have to put everything in an affirmative
38 so we would say, the motion would be to approve the waiver request and
39 then deny the waiver request, is that proper?
40

41 Ochoa: Just for further clarification, yes sir you can make a motion, you could
42 even split your motions if you will since there are three separate ones.
43 You could make a motion to approve let's say the Mesa ... the waiver
44 request for all requests for Mesa Drive, make that motion, second it, and
45 vote on that. Then make another motion to approve the waiver request for
46 Slade Lane and either approve or deny and so on and so forth like that.

1
2 Hearn: Mr. Chairman if I may, one ... one more question for clarification?
3
4 Villescascas: Yes sir, I'd like to have quite a bit of discussion on this one actually.
5
6 Hearn: Then ... then for example we could not approve Slade Lane being 40-feet
7 wide but with a hard surface.
8
9 Villescascas: Yeah, Slade Lane as the engineer said we could of course again make a
10 motion in the affirmative and just deny it. He would have to provide 50-
11 feet, the inch and a half, and then the County would discuss taking it over,
12 is that ... did I misunderstand that?
13
14 Ochoa: If I may clarify Mr. Chairman, Commissioner Hearn, you could further
15 separate the ... again there are essentially three waivers, so you could
16 also vote on two separate occasions for the right-of-way requirements or
17 width of the roadway for the easement if you will for Slade Lane and then
18 the improvements for Slade Lane separately as well.
19
20 Hearn: But on the other hand if we ... if we simply deny that waiver request, just
21 say "no", they've still got to do something, if they're going to have the
22 subdivision, so they've got to come back with the engineering drawings as
23 in our earlier request, whatever that is, and attempt to get that approved.
24
25 Ochoa: Mr. Chairman, Commissioner Hearn that is correct. They will either have
26 to meet City ... I'm sorry standards or they would have ... they could
27 appeal that recommend ... that motion to deny, to ETA.
28
29 Hoffman: Yes and what we need here a motion to separate the question which then
30 permits us to address each of these questions separately so that we can
31 move forward on any of the ones in which we have agreement. So I am
32 moving ... if we've nothing else on the table at this point, I'm going to
33 move that we separate the question and that we address separately the
34 waiver request regarding Mesa Drive, the waiver request for the width of
35 the right-of-way, and the waiver request for the surfacing of the right-of-
36 way. That's my motion.
37
38 Ochoa: Mr. Chairman if I may interject again, that actually is not required sir. You
39 could just make a motion to approve the waiver request for Mesa Drive,
40 second it, and go forward and then make a motion to approve the right-of-
41 way width or easement width for Slade Lane, second, and go through it.
42 And then a third motion finally for the improvements to Slade Lane,
43 second, and go through with it.
44
45 Hoffman: Yeah, well I believe that this is a valid parliamentary procedure and what
46 I'm really trying to do is clarify the question so that we can move forward.

1
2 Hearn: Just one thing and ... and not a problem with that, but is the ... is the
3 entire issue with Mesa Drive all contained in one request. I'm having
4 trouble sorting things out. We've got two issues, one is paving the half
5 width up by the back of the property and the other one is paving all the
6 way down to Peachtree.
7
8 Ochoa: Mr. Chairman, the issue ... Mr. Chairman, Commissioner Hearn, I'm sorry,
9 the waiver is for the entire road improvements to Mesa Drive, that includes
10 the 42.5-foot width area and the local roadway.
11
12 Hearn: Okey-dokey.
13
14 Sanders: So, but we could have a motion waiving the paving requirement but
15 requiring them to grant the 42.5-foot right-of-way on Mesa Drive, correct?
16
17 Ochoa: Mr. Chairman, Commissioner Sanders, they're already dedicating that
18 42.5 width of subdivision, so it is not a requirement. The applicant is
19 already doing that.
20
21 Hoffman: So if the Commission would like to move forward and discuss all of these
22 together and then vote on them separately, fine, there is a motion on the
23 table which if you wanted to talk about them all together just don't second
24 it.
25
26 Villescascas: Okay the motion on the table is to separate the three items that were
27 listed. Do we have a second?
28
29 Hearn: I second that, yes.
30
31 Villescascas: Okay, any discussion? If not, Ms. Acosta would you take roll please?
32
33 Acosta: Commissioner Allin.
34
35 Allin: Aye.
36
37 Acosta: Commissioner Hearn.
38
39 Hearn: Aye.
40
41 Acosta: Commissioner Sanders.
42
43 Sanders: No.
44
45 Acosta: Commissioner Hoffman.
46

1 Hoffman: Aye.
2
3 Acosta: Commissioner Acosta says no. Chairman Villescas.
4
5 Villescas: Aye. Okay, so it passes. So let's take ... let's take the first one which is
6 ...
7
8 Hoffman: Mesa Drive.
9
10 Villescas: Mesa, it'd be the easiest one and the issue on Mesa is to ... they want a
11 waiver to the 40-feet and the gravel is that correct.
12
13 Ochoa: Mr. Chair.
14
15 Hoffman: No.
16
17 Ochoa: Mr. Chairman, no sir. The waiver for Mesa Drive is for the entire road
18 improvements of Mesa Drive.
19
20 Villescas: Okay. So, the motion would be for the entire road improvements to Mesa
21 Drive, that's a pretty easy one.
22
23 Sanders: And you're saying we do not need to discuss the 42-foot easement
24 because that's what the ... already.
25
26 Ochoa: That's correct.
27
28 Sanders: I would like to offer a motion about Mesa Drive.
29
30 Villescas: Please do.
31
32 Sanders: It's related to ETZS-13-020W. I move that we grant the waiver request as
33 presented by the applicant related to Mesa Drive.
34
35 Hoffman: Second.
36
37 Villescas: Any discussion? If not, Ms. Acosta would you take a ... take roll please.
38
39 Acosta: Commissioner Allin.
40
41 Allin: Aye.
42
43 Acosta: Commissioner Hearn.
44
45 Hearn: Aye.
46

1 Acosta: Okay, hold on ... okay, Commissioner Sanders.
2
3 Sanders: Aye.
4
5 Acosta: Commissioner Hoffman.
6
7 Hoffman: Aye.
8
9 Acosta: Commissioner Acosta says aye, and Chairman Villescas.
10
11 Villescas: I vote aye. Okay. That takes care of that one, now we're down to two.
12
13 Acosta: The right-of-way.
14
15 Villescas: Let's take the right-of-way on Slade. And if I understand that one correctly
16 that is the applicant asked for a waiver for the right-of-way to Slade to 40-
17 feet and again we have to present that in the affirmative, so that's how we
18 would present it. We have to present it as a ... I'd like to move that we
19 grant the waiver request to 40-feet on Slade Drive. Is that correct?
20
21 Ochoa: That is correct. That's a motion to improve the width of Slade Lane to 40-
22 feet.
23
24 Villescas: Okay. I can't make the motion, would somebody like to make that motion?
25
26 Hoffman: I'll make that motion.
27
28 Villescas: Okay.
29
30 Hoffman: That we approve the waiver request regarding a 40-foot right-of-way ...
31
32 Ochoa: Width.
33
34 Hoffman: Width for Slade Lane. And we need to be careful, it's Slade, it's a heavy
35 metal band, cause there's also a Slate.
36
37 Ochoa: Correct. It's a 40-foot easement, not right-of-way sir.
38
39 Hoffman: Thank you. Forty-foot easement for Slade Lane.
40
41 Hearn: Second.
42
43 Villescas: Okay. Any discussion? If no discussion, Ms. Acosta would you call roll
44 please.
45
46 Acosta: Commissioner Allin.

1
2 Allin: Aye.
3
4 Acosta: Commissioner Hearn.
5
6 Hearn: No.
7
8 Acosta: Commissioner Sanders.
9
10 Sanders: No.
11
12 Acosta: Commissioner Hoffman.
13
14 Hoffman: Yes.
15
16 Acosta: Commissioner Acosta votes aye. Chairman Villescas.
17
18 Villescas: I vote no.
19
20 Acosta: One, two, three yeses and one, two, three nos, so it does not pass.
21
22 Villescas: So that fails.
23
24 Hoffman: Once again our best option by tying.
25
26 Villescas: The vote was three to three, need four affirmative votes, so that one failed.
27
28 Acosta: Correct.
29
30 Villescas: Which brings us to the last one.
31
32 Acosta: Surface.
33
34 Villescas: Surface. And if I remember correctly the applicant asked for a waiver to
35 the surface to gravel with base of course is going to be required with the
36 gravel. So the motion would be to grant the applicant's wavier request for
37 a gravel road with base. Is that correct?
38
39 Ochoa: Mr. Chairman just for clarification, it's a motion to approve the waiver
40 request to not provide 25-foot wide paved roadway in lieu of and providing
41 a gravel roadway.
42
43 Villescas: Okay. Not provide paved road in ... in lieu of a gravel road with base.
44
45 Ochoa: Twenty-four foot wide, that is correct.
46

1 Villescas: Twenty-four foot wide. Okay. Would somebody like to make that motion?
2
3 Hoffman: So moved.
4
5 Villescas: That suffice?
6
7 Hearn: Seconded.
8
9 Villescas: And second. Do we have any discussion on that? If no second ... I mean
10 if no discussion, Ms. Acosta would you please take roll?
11
12 Acosta: Commissioner Allin.
13
14 Allin: Aye.
15
16 Acosta: Commissioner Hearn
17
18 Hearn: Make sure we know what we're doing, yeah. No.
19
20 Acosta: Sir could you repeat your vote?
21
22 Villescas: That's a no?
23
24 Hearn: No.
25
26 Acosta: Commissioner Sanders.
27
28 Sanders: No.
29
30 Acosta: Commissioner Hoffman.
31
32 Hoffman: No.
33
34 Acosta: Commissioner Acosta says aye, and Chairman Villescas.
35
36 Villescas: No. That one fails as well. So are we done with that one? Okay, that
37 takes care of ETZS-13-020 and ETZS-13-020W. Okay and I don't need to
38 remind that anything that we decide here can be appealed to the ETZA.
39 Okay, the next case, or do you need a small break?
40
41 Acosta: Yes, please.
42
43 Villescas: Okay.
44
45 Acosta: A two minute break actually.
46

1 Villescas: How long?

2
3 Acosta: Two minutes, I could ...

4
5 Villescas: Okay, five minute break. We'll be right back.

6
7 RECESSED FOR SEVEN MINUTES.

8
9 Villescas: Okay, I'm calling this meeting of the ETZC back into order. And we have
10 just finished item number three, which brings us to the end of old
11 business.

12
13 **V. NEW BUSINESS - NONE**

- 14
15 1. **Case ETZS-13-033: Hondo Tracts Replat No. 14 Waiver Request.**
16 Request for a waiver from ETZ Subdivision Ordinance Minimum Access
17 Standards of a 24-foot wide double penetration surfaced road with a properly
18 prepared base. The waiver is associated with a proposed two-lot split of a
19 4.038-acre parcel located at 9705 Owls Nest Road, zoned ER3M and a
20 Parcel ID of 03-15098. Submitted by Michael Gonzales of Moy Surveying
21 Inc. on behalf of Ernest Duran, property owner.

22
23 Villescas: Now we are into new business, and item number one under new business
24 is Case number ETZS-13-033, Hondo Tracts Replat Number 14, a waiver
25 request. A request for a waiver from ETZ Subdivision Ordinance Minimum
26 Access Standards of a 24-foot wide double penetration surfaced road with
27 a properly prepared base. The waiver is associated with a proposed two-
28 lot split of 4.038 acre parcel located at 9705 Owls Nest Road, zoned
29 ER3M and a Parcel ID of 03-15098. Submitted by Michael Gonzales of
30 Moy Surveying Incorporated on behalf of Ernest Duran, property owner.
31 Staff. Oh, you're right there.

32
33 Guza: Yes Chairman.

34
35 Villescas: Go ahead.

36
37 Guza: As you stated, the next case up is ETZS-13-033W, a waiver request
38 related to Hondo Tracts Replat Number 14. The vicinity map shows that
39 subject property in relation to Jack Rabbit Road as well as Owls Nest
40 Road to the immediate south. And to the east of the parcel is Brahman
41 Road and to the south, El Centro Boulevard which are the closest paved
42 and accepted County roadways. Here is an aerial of the property as it is
43 currently. There is one single-family dwelling unit to the east of the parcel.
44 The proposed subdivision proposes that the lot be split into two equal
45 parts of 2.019 acres and the proposed use would be an additional single-
46 family dwelling unit on the new second lot.

1 The waiver request is to minimum access requirements as required
2 by Section 4.2H of the ETZ Subdivision Ordinance. The ... I'm sorry, I
3 made an error on the PowerPoint but it's to a minimum of 24-foot wide
4 double penetration surface road with a properly prepared based to the
5 nearest accepted road. And the applicant is instead proposing no
6 improvements. Notification was sent to 16 surrounding properties, you
7 can see which properties received notification. I did receive one phone
8 call response from a neighboring property owner, I'll use my mouse to
9 show you who that property owner was; this parcel right here. The
10 gentleman called and said that ... first inquired exactly as to what was the
11 waiver for and then stated that he felt that the additional development
12 would put strain on local roads and would possibly degradate them, so he
13 didn't support the waiver.

14 EDRC met on July 24th to discuss this case. The discussion
15 focused on the nature of the hardship stated in the waiver. The waiver
16 stated a hardship of the current Jack Rabbit Road which is improved on a
17 small area; improved meaning there is gravel surfacing but that it is
18 currently impeded by a neighboring property owner. However, the EDRC
19 saw this as a civil matter not pertinent to the conditions with which it can
20 recommend approval to a waiver request. Those conditions being Section
21 6.1, so they voted to deny the ... to recommend denial of the waiver
22 request. And again Section 6.1 states that a waiver can be approved
23 where the strict compliance of the ETZ Subdivision Ordinance would result
24 in substantial hardship because of exceptional topographic, soil, or other
25 subsurface conditions and the ETZ ... the EDRC did not find those
26 conditions met.

27 Your options this evening are to vote yes to approve the waiver
28 request to all improvements; to vote yes with conditions for the waiver; to
29 vote no and deny the waiver request as recommended by staff; or to table
30 and postpone and give staff further direction. And again the vicinity map
31 to show where we are talking about in relation to major roads. And that
32 concludes by presentation and I can stand for question from the
33 Commission.

34
35 Villescas: Do any Commissioners have any questions for staff?

36
37 Hearn: Mr. Chairman.

38
39 Villescas: Mr. Hearn, go ahead.

40
41 Hearn: Just real quickly Mr. Guza, could you go to perhaps one of the larger
42 maps and show us what paving would be required and what the current
43 access to that lot is?

44
45 Guza: Sure and ... let's see this one. Okay, so the requirement is for 24-foot
46 wide double penetration surface to the nearest paved roadway which in

1 this case would be El Centro. They could also pave Owls Nest all the way
2 to Brahman Road here. And the current access of the parcel is off of Owls
3 Nest, the unimproved dirt road from Brahman. And the aforementioned
4 impediment off of Jack Rabbit is right here where this property owner has
5 gated access off from here.
6
7 Hearn: Okay. Thank you very much.
8
9 Guza: No problem.
10
11 Sanders: Is Jack Rabbit a dedicated easement to the City?
12
13 Guza: It is an easement, it is not dedicated. But it is a ... let's go to the plat. It is
14 an access easement here as I'm showing you dedicated for access.
15
16 Sanders: But it's not dedicated to the City?
17
18 Guza: No, no it is not dedicated.
19
20 Hearn: Are there any buildings out there on that lot?
21
22 Guza: On the existing parcel?
23
24 Hearn: Yeah.
25
26 Guza: Yes. There is one single-family residence.
27
28 Hearn: Is that what that is?
29
30 Guza: Yes.
31
32 Hearn: Okay.
33
34 Guza: Here you can see that it exists. I believe it is a mobile home.
35
36 Hearn: And if that lot is split what would be the maximum number of homes that
37 could feasibly be put in with existing zoning? I'm not sure what the zoning
38 is.
39
40 Guza: It's ER3M and that's a single-family designation, so one additional home
41 on the new lot, one per lot.
42
43 Hearn: Okay. Thank you.
44

1 Hoffman: I'd just like to clarify that point. I think you're asking ... were you asking
2 how many homes could be built on that four-acre lot that we're talking
3 about?
4
5 Hearn: Yeah if it ... if it ... yes.
6
7 Hoffman: Yeah, and it's one acre minimum.
8
9 Guza: Yes, it would have to be further subdivided.
10
11 Hoffman: Yeah.
12
13 Guza: Because there ... or an SUP could be granted by the County for multiple
14 dwelling units on one lot, but the way that they're proposing the
15 subdivision, just a two lot split, only one could be added on that new
16 additional lot.
17
18 Hearn: Okay. I think you're both right. Right?
19
20 Guza: Yes.
21
22 Hoffman: And you're right.
23
24 Villescascas: This additional expense of the road improvements, would they be split
25 between the seller and the buyer or just the buyer?
26
27 Guza: I would need further clarification on that from the applicant, but from what I
28 believe that I've heard on this case is that the new existing dwelling unit
29 would be occupied by a relative of the existing occupant of the property.
30
31 Villescascas: Okay. Thank you. Anyone else have any questions of staff? If not, could
32 we hear from the applicant? If you could raise your right hand and state
33 your name and address for the record, and Ms. Acosta will swear you in.
34
35 Gonzales: Michael Gonzales with Moy Surveying, 414 North Downtown Mall.
36
37 Acosta: Do you swear and affirm the testimony you are about to give is the truth
38 and nothing but the truth under penalty of law?
39
40 Gonzales: I do.
41
42 Acosta: Thank you.
43
44 Gonzales: The purpose behind this split is for the gentleman that owns the land, Mr.
45 Robert Duran to be able to move his son onto the same property with him.
46 And that's why the purpose of the two lot split. In answer to your question

1 about density, with the way that the property sits and the easements that
2 are there, the maximum density they could get out of this is three tract, but
3 they're only looking at splitting it into two; one for the father and one for
4 the son. The reason we're asking for the waiver is because the access to
5 the nearest paved road, El Centro, is physically blocked by one of the
6 neighbors, considers the road to be his private road and that nobody
7 should be crossing it. He has called the police on Mr. Duran and his son
8 when they use that road to get to their property, that that's why they go all
9 the way around ... all the way down to Brahman, around to Owls Nest and
10 come back down Owls Nest, just cause they don't want to ... they don't
11 want to battle with the neighbor. So since they have that access, that's
12 the way they come around to the property. It is a public easement but just
13 ... they don't want to battle with the neighbor you know, and since they
14 have the secondary easement they utilize it. If we attempted to put a
15 double-pen surface on that gentleman's property he would fight it tooth
16 and nail. And it ... it is true it is a civil matter, but that's why we're asking
17 for the waiver, we feel it's an undue hardship to have to battle him out for
18 the ... when we're just wanting to split it into two parts for family members.
19 I'm sorry that Mr. Duran could not be here. He works for White Sands
20 Missile Range and he was suddenly called out of town for his job this
21 morning. I'm sorry that he could not be here, but I can stand for any
22 questions.

23
24 Hoffman: Mr. Chair.

25
26 Villescas: Please.

27
28 Hoffman: Since it's a one-acre minimum lot size and the request is to create two lots
29 of 2.02 acres, what impedes the owner from further subdividing them?

30
31 Gonzales: It's net acreage, so the lots may be labeled as two, but they're actually ...
32 for divisible land they're 1.6 and 1.8, so they don't have ... they could not
33 be re-subdivided without rebalancing the lot line.

34
35 Hoffman: Thank you.

36
37 Villescas: Did you say that the land that the gentleman considers his private road is
38 actually public access?

39
40 Gonzales: It's written on the deed as a road and utility easement on his deed, but he
41 has gates up, large metal gates. I don't know if you have photographs in
42 your packets, but he has the property gated on both ends and also along
43 Owls Nest. So he's got ... yes, so, and he has them gated off and on the
44 other end that you may not be able to see he actually has a chain draped
45 across as a gate blocking any kind of access from that avenue.

46

1 Villescas: Interesting.
2
3 Gonzales: When the Sheriff's department goes out they ... he tells them "Hey it's
4 private property, I don't want them on it." The Sheriff's department doesn't
5 know whether it is or isn't, so they just see that the drive is his and he
6 maintains it, so they back him up on it. We'd have to take him to court, or
7 Mr. Duran would have to take him to court to open up that access.
8
9 Villescas: Okay. Anyone else have questions for the applicant? Thank you very
10 much. We appreciate it.
11
12 Gonzales: Thank you.
13
14 Villescas: Is there anyone from the public that would like to make a statement on this
15 case? If not, staff what's the standing on that road I was just asking
16 about.
17
18 Guza: Can you please clarify what exactly you mean?
19
20 Villescas: Yeah, I mean is it legal for him to block it off and have chains on it and etc.
21 etc.?
22
23 Guza: I'm ... I can't really comment on the exact legality of it, but the short
24 answer I would say is that it's not but it's also not the purview of staff ...
25
26 Villescas: Yeah, I understand that.
27
28 Guza: Or the Commission to enforce said law.
29
30 Villescas: Yeah. I just wondered you know because if we did not grant the waiver he
31 has to meet code, that that's much shorter and it would save him big
32 bucks you know so I just don't know what the mechanism would be, but if
33 it is in fact public, he certainly would be within his right to use it you know
34 to meet the requirement. That's why I was asking. Anyone else have any
35 questions ... more questions for staff? Okay. Thank you.
36
37 Guza: Thank you Chairman.
38
39 Villescas: Since there's no further public input I'll close it off to the public and open it
40 up to the Commission. Is there any questions, discussion, etc. among the
41 Commissioners?
42
43 Hearn: Well Mr. Chairman.
44
45 Villescas: Yes sir.
46

1 Hearn: This is one of those situations for me where the law has a good intension
2 and there are good places when it applies. In this case doing a lot split is
3 not going to increase the traffic, it's not going to cause a big stress on the
4 local road conditions. It seems to me to be quite reasonable to grant the
5 waiver request.
6

7 Hoffman: Mr. Chair.
8

9 Villescas: Yes sir.
10

11 Hoffman: While I certainly agree with those sentiments and the sentiment of the
12 landowner, which are discussed at some length in the Development
13 Review Committee where they talk about this illegal road blockage and
14 how he just doesn't want to create more problems about it, it is also very
15 clear in the Fire Marshall's report that this is creating ... the Fire Marshal
16 makes the point that there is already one house for which access is
17 extremely limited for emergency vehicles, approving this request would
18 make it two houses with very inadequate access for emergency vehicles.
19

20 Villescas: Well I'm ... excuse me, I'm in agreement. If it is in fact a public access it is
21 public access and you know regardless of the circumstance you know, in
22 this case it's because of the split it's come to the attention of someone.
23 But it's public access that person has no standing in blocking off that road
24 to the fire department, ambulance, to anyone, but again that's a whole
25 different issue. The ... as far as the waiver goes you know again my
26 personal opinion is that you know we are here to enforce code when
27 possible and you know it's tough, I know it's expensive, but you know
28 waiver after waiver after waiver after waiver and it's like you know what
29 are we here for and I don't know, that's just my personal point of view.
30 Anyone else care to make a comment or discussion.
31

32 Hearn: Well it seems to me a useful point could be made along with your ... your
33 point on the number of waivers, but there are just a lot of cases where the
34 law doesn't apply sensibly and part of our job is to make sure that we don't
35 just arbitrarily apply the law.
36

37 Villescas: Yeah.
38

39 Hearn: And look for times when waivers make sense.
40

41 Villescas: Yeah, yeah I understand. You know ...
42

43 Hearn: This is an area where people have big dogs and big guns and you just
44 don't want to make them angry, even if you're in the right.
45

1 Villescas: I know, especially when you get up in the northern part and you have all
2 these you know just straight lines you know and arroyos weren't taken into
3 account and all the stuff and it looks like somebody took a map and was
4 sitting at a desk in New York City and just took his ruler out and just made
5 these lines arbitrarily and then make no sense at all. So I hear you, I
6 know where you're coming from, I've been around this Commission long
7 enough and I know Mr. Allin has. Any other comments? If not would ...
8
9 Gonzales: Chair, may I interject?
10
11 Villescas: Yes sir.
12
13 Gonzales: Mike Gonzales again. As to emergency access, Owls Nest is a clear ...
14 it's 50-feet wide, it's an easement that goes all the way back to the paved
15 road and it is easily accessible. It's just that the code ... the way the code
16 is written it's ... we're supposed to double-pen to the nearest County
17 maintained road along a public access and that's ... the waiver we're
18 asking for is through that part that is being blocked by the neighbor. Owls
19 Nest back to Brahman is clear and it is a dirt road and it may need
20 maintenance, but it is 50-foot wide easement with a clear easily accessible
21 dirt road.
22
23 Sanders: I have a question. Yes, I'm just curious, is Owl's Nest the same status as
24 Jack Rabbit is, that it's just a easement going to a piece of property.
25
26 Gonzales: Correct. There ... there ...
27
28 Sanders: My second question is what keeps ...
29
30 Gonzales: Yeah there ...
31
32 Sanders: Go ahead.
33
34 Gonzales: Yeah there all ... there all easements. Only El Centro and Brahman are
35 dedicated.
36
37 Sanders: Yeah I'm of the opinion that this gentleman needs to go the legal route to
38 open up Jack Rabbit because there's no reason why somebody couldn't
39 block Owls Nest too in a similar fashion.
40
41 Gonzales: Correct. I ... it happens a lot with these private easements.
42
43 Sanders: Yeah, it's a mess. So you know I'm of the opinion he sort of got the cart
44 before the horse here, that he ought to open, or get his access opened on
45 Jack Rabbit and then come before this Board and ask for this (*inaudible*).
46

1 Gonzales: I understand your sentiment on that. He just ... he's trying not to get into a
2 fight with the neighbor. He's just trying to be a good neighbor and he has
3 alternate access and ... and he feels he can use it and if ... he doesn't
4 need to get into that fight. He doesn't want to.
5
6 Sanders: I understand. Yeah.
7
8 Villescas: Anyone else? Woops.
9
10 Hearn: Yes sir.
11
12 Villescas: Yes sir.
13
14 Guza: Oh, I've got no comment I was just standing if you needed assistance.
15
16 Villescas: Okay. Would someone care to make a motion in this case? We have to
17 make a motion.
18
19 Hearn: Mr. Chairman.
20
21 Villescas: Please go ahead.
22
23 Hearn: In the Case ETZS-13-033 a wavier request, move to approve the waiver
24 request.
25
26 Villescas: Do we have a second?
27
28 Acosta: Second.
29
30 Villescas: Any discussion? Okay, if there's no discussion, Ms. Acosta would you call
31 roll please.
32
33 Acosta: Commissioner Allin.
34
35 Allin: No.
36
37 Acosta: Commissioner Hearn.
38
39 Hearn: No.
40
41 Acosta: Commissioner Sanders.
42
43 Sanders: No.
44
45 Acosta: Commissioner Hoffman.
46

1 Hoffman: No.
2
3 Acosta: Commissioner Acosta, no. Chairman Villescas.
4
5 Villescas: No. So the vote is 0-6, and just a reminder any of our rulings can be
6 appealed to the ETZA. Otherwise as it stands the City standards would
7 have to be applied to this case. And that takes care of ETZS-13-033.
8

- 9 2. **Case ETZS-14-014W: Ramos Subdivision Waiver Request.** Request for
10 waiver from ETZ Subdivision Ordinance Right-of-way and Road
11 Improvement Standards. The waiver is associated with a proposed two-lot
12 split of a 4.125-acre parcel located at 5480 Maura Lane, zoned ER3M and a
13 Parcel ID of 03-17786. Submitted by Steve Peale of Borderland Engineers
14 and Surveyors LLC on behalf of Arturo and Angelica Ramos, property
15 owners.
16

17 Villescas: Okay, let's see what's next on my agenda. We have a second case under
18 new business, ETZS-14-014W, Ramos Subdivision Waiver Request.
19 Request for waiver from ETZ Subdivision Ordinance right-of-way and
20 Road Improvement Standards. The waiver is associated with a proposed
21 two-lot split of a 4.125-acre parcel located at 5480 Maura Lane, zoned
22 ER3M and a Parcel ID of 03-17786. Submitted by Steve Peal of
23 Borderland Engineers and Surveyors LLC on behalf of Arturo and
24 Angelica Ramos, property owners. Staff.
25

26 Guza: Thank you Chairman. As you stated this case is ETZS-14-014W, a waiver
27 request associated with Ramos Subdivision. The subject property is
28 outlined on the vicinity map to show its relation to surrounding properties
29 as well as Desert Wind Way which is the nearest accepted County right-
30 of-way.

31 The aerial map of the property shows the existing conditions, there
32 are two dwelling units on the parcel currently. The subdivision proposed
33 to divide the parcel into two lots with an additional easement for access to
34 the newly created second lot. The waiver request is to minimum access
35 standards as shown in Section 4.2H of the ETZ Subdivision Ordinance, it's
36 a 24-foot wide double penetration surface road with a properly prepared
37 base to the nearest accepted road which is Desert Wind Way. The
38 applicant as I mentioned on the last slide is proposing an additional 20-25
39 foot access easement to Lot 2 with no surfacing improvements, as well as
40 no improvements to the existing easements along Maura Lane up to
41 Desert Wind Way.

42 Notification was sent out to surrounding property owners, 15
43 parcels were notified. One of the property owners notified phoned in and
44 inquired about the waiver but then stated they had no issues with the
45 waiver. On May 22nd, 2014 the EDRC reviewed the proposed waiver
46 request, the discussion focused on the nature of the hardship in the waiver

1 and the EDRC subsequently voted five to zero to recommend denial of the
2 waiver request. They stated that the waiver request did not meet ETZ
3 Subdivision Ordinance Section 6.1 which states that a waiver can be
4 considered where strict compliance of the ETZ Subdivision Ordinance
5 would result in substantial hardship because of exceptional topographic,
6 soil, or other surface or subsurface conditions. While the waiver did state
7 that they felt what they had was some topographic issues in regards to the
8 arroyos and wash crossings of the existing conditions of Maura Lane, staff
9 found that they were not in fact exceptional because they are the same
10 that any of the surrounding properties would face and also stated that
11 such conditions may actually imply or give some sort of credence to the
12 idea that further subdivision on a poorly accessible road is not something
13 that should be supported. So they recommended denial.

14 Your options this evening are; to vote yes to approve the waiver
15 request; vote yes to approve the waiver request with conditions; to vote no
16 to deny the waiver request as recommended by staff; or to table and
17 postpone the request and give staff further direction. And again the
18 vicinity map to show you exactly where the parcel is located. And I'll flip
19 back to the aerial because that seems to be what a lot of people have
20 been wanting. And I will stand for questions at this time from the
21 Commission.
22

23 Villescascas: Let me ask you, the undeveloped property, is that what has become part
24 of the new park or is that just BLM land?

25
26 Guza: Are you speaking of the property to the east? That's BLM land.
27

28 Villescascas: Okay. Thank you. Anyone else have question for staff?
29

30 Allin: Yes.
31

32 Villescascas: Mr. Allin.
33

34 Allin: What's the condition of this Sal Si Puedes Road?
35

36 Guza: Sal Si Puedes is a platted road from the original subdivision in the early
37 20th Century. It ... if you follow my cursor here, here is the Sal Si Puedes
38 platted area, it's completely unimproved and I would say non-navigable
39 even.
40

41 Allin: Easily. Easily non-navigable.
42

43 Guza: Yes sir.
44

45 Villescascas: So how do people get up there on that ... on just that one road? That's
46 the only access up there?

1
2 Guza: Yes. Maura Lane is the access used currently to the site.
3
4 Allin: What condition is it in?
5
6 Guza: I've a got a photo here for you. It is ...
7
8 Villescascas: That's it?
9
10 Guza: Yes. I would say dirt primarily with some patches of gravel but no
11 improved base or anything that I could see.
12
13 Hearn: Is there an existing and clear easement and path for them to put in the
14 required paving if that's what they need to do?
15
16 Guza: Yes. There is a ... it's a 15-foot easement on each parcel up Maura Lane
17 up to Desert Wind, totaling 30-feet wide of easement and the requirement
18 of the 24-foot double-pen could fit on that 30-foot easement as well as the
19 25-foot easement proposed in addition here I'm showing on the plat as
20 well as the turn around that they put in the plat to allow for emergency
21 apparatus.
22
23 Hearn: Yeah, okay. And ... and that path up to the north is clear of utility poles
24 and rock walls and things of that sort.
25
26 Guza: Yeah that path is pretty much in the condition that I show on this site
27 photo. That's looking north towards Desert Wind, you can't see Desert
28 Wind entirely because it's up there, but that is the general condition of the
29 site.
30
31 Villescascas: So if the ... if there was a fire on the BLM property, especially with this
32 drought now, the fire equipment would travel this road up here?
33
34 Guza: They may travel Maura Lane. They may also go out Desert Wind ...
35
36 Villescascas: Okay.
37
38 Guza: To where it dead ends there and have access. I'm ...
39
40 Villescascas: Okay.
41
42 Guza: I would think that they may choose Desert Wind because it is paved to
43 that end there.
44
45 Villescascas: A little higher. Okay.
46

1 Guza: But I can't speak entirely for.
2
3 Villescas: Okay.
4
5 Allin: Is Desert Wind paved?
6
7 Guza: Desert Wind is paved up to I believe its terminal point, although I didn't
8 actually investigate if it's paved entirely all the way to it's terminal point. It
9 is paved all the way to Maura Lane though.
10
11 Allin: Mr. Chair.
12
13 Villescas: Yes sir.
14
15 Allin: I make a motion to approve ETZS ...
16
17 Villescas: Okay, let us give the applicant opportunity to address the Commission.
18 Would the applicant like to address the Commission?
19
20 Scanlon: Yes sir.
21
22 Villescas: Please go ahead.
23
24 Scanlon: Thank you Mr. Chairman, Members of the Commission.
25
26 Acosta: Mr. Scanlon if you can state your name just real quick so the ... they can
27 record that you're speaking.
28
29 Scanlon: Okay, Ted Scanlon.
30
31 Acosta: Thank you.
32
33 Scanlon: A couple of commentaries before I get started; one is that it's ... general
34 rule of thumb is that if you have a municipal code that keeps getting
35 waiver after waiver after waiver request it's a pretty good
36 indicator that that section of code needs some work. So it may be that
37 that's ... staff might want to take a look at that.
38 But ... and the other thing is Commissioner Allin, the Sal Si Puedes
39 means "get out if you can" and so that's kind of the ... that road was
40 named because of it gets a little bad, especially during rainstorms.
41 Basically I have a case here that's not too dissimilar to the first case
42 that I brought before you tonight; it's got a driveway to a couple of houses.
43 The ... we just want to divide this tract into two pieces so it'll be legal for
44 two residences and then build a driveway to them. I think fire has lifted
45 the ... our proposal for this and doesn't have any particular issues with it. I
46 do want to point out another thing though, you can see this house to the

1 southwest, its driveway comes in right here. It has no easement. It's land
2 locked and has not legal access whatsoever, but the people have been
3 allowing them to use their property here to traverse from Desert Wind
4 down across their land and into the property. By creating an easement
5 that we have depicted on the plat that's contiguous to our west property
6 line, we would be creating a legal access for that property and curing
7 some issues as far as with emergency response and those sorts of things
8 and blocking someone's access. So, it's a way to conveniently cure a
9 problem next door for those people as well as to create a couple of tracts
10 for the residences that are there. So, that's basically my case. If you
11 have any questions I'd be happy to answer them.
12

13 Villescas: Is in ... go ahead?
14

15 Sanders: Yes I had a couple of questions on it. What was ... I thought you said the
16 Fire Marshal didn't have a problem with this but their report said that they
17 would not approve it. Their comment ... maybe you don't have a copy of
18 their comments, but that's ...
19

20 Scanlon: I think I ... we had subsequent conversations with them after they had
21 issued that report and we had configured those easements in such a way
22 that they could bring their apparatus in there and turn it around in that T-
23 shape configuration.
24

25 Sanders: Okay. Yeah all I have is what's before. You know the other thing you'd
26 mentioned is maybe the code needs to be redone but I think you know this
27 Commission runs into the problem of one subdivision after another after
28 another all the way along roads.
29

30 Scanlon: Sure.
31

32 Sanders: Such as Maura Lane. You know and at some point, you know Maura
33 Lane needs to be paved. Maybe it should've been paved 10 years ago,
34 maybe it should be paved five years from now, but you know the gist is
35 that granting one variance after another along those roads just doesn't
36 work.
37

38 Scanlon: Yeah. Well I don't think there's any actual right-of-way for Maura Lane at
39 this time south of Desert Wind. There's a right-of-way I think north, but
40 there isn't any right-of-way for Maura Lane south of desert Wind and that's
41 why all we've got is a situation where we've got a driveway that's going to
42 two lots.
43

44 Sanders: Well I thought City staff said it was an easement, but ...
45

1 Guza: Ezekiel Guza for the record. It is an easement, not dedicated, so the City
2 is not wanting it to be a fully 50-foot wide dedicated and accepted County
3 roadway. They are requesting the minimum access which does require
4 the double penetration paved surface material.
5

6 Sanders: Okay.
7

8 Guza: So there's a difference between the distinction of dedication versus
9 easement but the improved surface is required or is being required by
10 County staff. And with regards to your County fire comment, they ... the
11 fire department did accept the turnaround easement as a ... as
12 acceptable, however they do ... it states here on their ... on the comments
13 that they do want a road with asphalt, concrete, or other approved driving
14 surface capable of supporting imposed load, so they approved kind of the
15 subdivision plat with the easement, but the surfacing they were not in
16 support of, of the waiver for that.
17

18 Villescascas: Yeah, said it couldn't support 75,000 lbs. under certain conditions which
19 I'm assuming they mean rain, mud, muck, that kind of deal. Also, as far
20 as that one load ... one lone house goes, wouldn't improving the road give
21 that home direct ... I mean certainly that home's property goes up to the
22 road and wouldn't that ... probably right now the road is so bad that he
23 takes that cut through that other person's property. He could just go
24 straight to his right and get to the road if it was improved. I would ... and
25 that's just a guess on my part. But yeah I was looking at that fire marshal
26 and he says that the condition, lack of solid surface cannot support the
27 75,000 lbs. of the weight of the fire fighting equipment. Any other
28 questions for Mr. Scanlon? If not, thank you Mr. Scanlon. Is there anyone
29 from the public that would like to make input on this case? If not we'll
30 close it off to the public and open it up to the Commission. Are there any
31 Commissioners that would like to make comments or discussion for the
32 record?
33

34 Hearn: Mr. Chairman.
35

36 Villescascas: Mr. Hearn.
37

38 Hearn: This brings me back to one of ... one of my simplest cases. The applicant
39 proposed to essentially take this map and draw a line across the lot. It
40 doesn't change anything about how many people live there, the load on
41 the fire department, the load on the road, anything. And I just can't see
42 that as the basis for making them have to pave that road. It would
43 improve the ability of fire engines to get in there, but there's not going to
44 be any need for any more fire engines than there are right now. It would
45 provide better access to the neighbor's lot and they're providing a way for
46 the fire engines to turn around. So to me this is just one of the cases

1 where we're potentially looking for a way to keep a law from applying in a
2 situation where it just doesn't make sense. Thank you.
3
4 Villescas: No, I agree with you except there's another way to look it too, they're
5 creating an opening where these improvements that are long over due can
6 now be made, though there's you know two ways to look at the same
7 thing.
8
9 Hearn: Yep.
10
11 Villescas: Anybody else have any comments or suggestions?
12
13 Hoffman: If I may?
14
15 Villescas: Yes.
16
17 Hoffman: I have a question for staff. There are two dwelling units on this single lot.
18
19 Guza: Yes, it is nonconforming in that respect right now. There are two dwelling
20 units currently.
21
22 Hoffman: And is anything going to happen as a result of this hearing or the fact that
23 the County is aware of this situation?
24
25 Guza: It is as far as I can tell legal nonconforming.
26
27 Hoffman: Okay.
28
29 Guza: So it is not ... they're not illegal right now, so. Therefore they are
30 essentially grandfathered in to the two units on one lot.
31
32 Hoffman: Thank you.
33
34 Allin: Mr. Chair.
35
36 Villescas: Yes sir.
37
38 Allin: Actually this land out there is so disconnected from the rest of the world.
39 Sand pits are so deep that would require a major contract to keep any kind
40 of a road in any one of those lots along there.
41
42 Villescas: So what you're saying is that a road improvement would not be
43 necessary?
44
45 Allin: Not probable. Not a functional roadway. It's rain and such that it would be
46 extremely difficult to put in and/or maintain a road of ... in that particular

1 location at this stage of it's development. That's one property (*inaudible*)
2 on an extended arm that has no viable resource to support it.
3
4 Villescas: Staff how old are those houses up there? Are they built in the '70s or
5 something that their grandfathered in?
6
7 Guza: I would have to do research or defer to the applicant on that.
8
9 Villescas: Okay. Just curious.
10
11 Allin: There's nothing north of Westmoreland Road. That far along
12 Westmoreland in ... above 65. There are just no buildings north of
13 Westmoreland.
14
15 Villescas: Yeah. I don't remember anything being up that high.
16
17 Allin: And while Westmoreland is high, you could build in Westmoreland, you
18 could build a road on Westmoreland.
19
20 Villescas: Yeah.
21
22 Allin: But north and south of Westmoreland is a humongous valley and sand pit.
23
24 Villescas: Yeah.
25
26 Allin: And for a good ways back to ... I can't remember the road that you get to
27 it.
28
29 Villescas: Well they did have that tuberculoses hospital for a better term, I don't
30 know what it was, but you know that was up high. Anyway, any other
31 comments on this case? If not would somebody like to make a motion?
32
33 Hearn: Mr. Chairman.
34
35 Villescas: Yes sir.
36
37 Hearn: I move to approve Case ETZS-14-014, a waiver request.
38
39 Sanders: Second.
40
41 Villescas: We have a motion and second. Do we have any discussion? If we have
42 no discussion, Ms. Acosta would you call roll?
43
44 Acosta: Commissioner Allin.
45
46 Allin: Aye.

1
2 Acosta: Commissioner Hearn.
3
4 Hearn: Aye.
5
6 Acosta: Commissioner Sanders.
7
8 Sanders: No.
9
10 Acosta: Commissioner Hoffman.
11
12 Hoffman: No.
13
14 Acosta: I'm sorry sir?
15
16 Hoffman: No.
17
18 Acosta: Commissioner Acosta votes aye. And Chairman Villescas.
19
20 Villescas: No.
21
22 Acosta: So we have a tie, three to three.
23
24 Villescas: They need four affirmative votes. So that fails. And once again, any
25 decision made by this Board can be appealed to the ETZA.
26
27 **VI. STAFF INPUT**
28
29 1. Monthly Subdivision Report
30
31 Villescas: Okay, let's see what I have next on my agenda. This was case number
32 two under new business and now we're to four, staff input; monthly
33 subdivision report. Staff.
34
35 Guza: Thank you Chairman Villescas. For the calendar month of July the City
36 had three new large land area or minor subdivision cases submitted. If
37 you've got any questions I can stand for them.
38
39 Villescas: That's all right. What did we have the period before, do you know?
40
41 Guza: Pardon me?
42
43 Villescas: What did we have the period before? Does that represent growth or
44 negative?
45

1 Guza: I would have to double check; I believe we did not have three or more so it
2 would be growth.

3
4 Villescas: Okay, good. Was that it?

5
6 Guza: That's it unless you had further questions in regards to the new
7 submissions.

8
9 Villescas: Okay. I don't have any more questions on that. Anybody? No. Okay.

10
11 Guza: Okay. Thank you.

12
13 Villescas: Sure.

14
15 **VII. COMMISSION INPUT**

16
17 Villescas: Commission input. Any input from the Commissioners? Everybody like
18 the new format on the cases? I do, personally.

19
20 **VIII. PUBLIC INPUT**

21
22 Villescas: Public input? Don't think so.

23
24 **IX. ADJOURNMENT (9:30 P.M.)**

25
26 Villescas: Motion for adjournment.

27
28 Allin: So moved

29
30 Acosta: So moved.

31
32 Villescas: Second.

33
34 Allin: Second.

35
36 Villescas: Okay, all in favor.

37
38 ALL: Aye.

39
40 Villescas: All opposed. Let's go home.

41
42
43
44
45
46 _____
Chairperson