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**REGULAR MEETING OF THE  
EXTRA-TERRITORIAL ZONING COMMISSION  
FOR THE CITY OF LAS CRUCES  
DONA ANA COUNTY GOVERNMENT OFFICES  
JUNE 2, 2016  
6:00 p.m.**

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**BOARD MEMBERS PRESENT:**

John Villescas, Chairman  
Robert Hearn, Member  
Tim Sanders, Member  
Mark Best, Member

**BOARD MEMBERS ABSENT:**

Kenneth Allin, Vice Chairman  
John S. Townsend, Member  
Janet Acosta, Secretary

**STAFF PRESENT:**

Sara Gonzales, Associate Planner, CLC  
Becky Baum, RC Creations, LLC, Recording Secretary

**I. CALL TO ORDER (6:08 p.m.)**

Villescas: I'm gonna call tonight's ETZC meeting to order now that we have a quorum. It is 6:08 p.m. on Thursday, June 2nd. You know what, I apologize, let me grab this out of the book.

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 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 10 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 a passage of a case. Please note that a Commissioner may vote "yes on an amendment to a main motion, yet vote "no" on the main motion. Any affected party may appeal the decision made by the Commission to the ETA.

1                   At this moment I would like to ask Commissioner Hearn in the  
2 absence of Commissioner Acosta to act as secretary and to call the roll  
3 please. Do you have a listing there Mr., Commissioner Hearn?  
4

5 Hearn:           I do. Even if it's not quite up to date.  
6

7 Villescas:       I think your mic's not on.  
8

9 Hearn:           Oh, it's not even here. Okay. Janet Acosta, Secretary is absent. John  
10 Townsend, Commissioner, absent. Kenneth Allin, Vice-Chairman, absent.  
11 Tim Sanders.  
12

13 Sanders:         Here.  
14

15 Hearn:           Robert Hearn is here. Mark Best.  
16

17 Best:            Present.  
18

19 Hearn:           Is here. And John Villescas the Chair.  
20

21 Villescas:       I am here.  
22

23 Hearn:           We have four members present.  
24

25 Villescas:       Thank you.  
26

27 **II. ANNOUNCEMENTS**  
28

29 Villescas:       Item two, Announcements. Are there any announcements from the  
30 Commission? If not are there any announcements from staff? Sara.  
31

32 Gonzales:        No Mr. Chair. There is no announcements.  
33

34 Villescas:       If not.  
35

36 **III. APPROVAL OF MINUTES - January 7, 2016**  
37

38 Villescas:       Item three, Approval of the Minutes of January 7th, 2016. Do I have a  
39 motion?  
40

41 Hearn:           Move to approve the minutes.  
42

43 Sanders:         Second.  
44

1 Villescas: We have a motion to approve the minutes of January 7th, 2016 and a  
2 second. Do we have any discussion? If not, Commissioner Hearn would  
3 you poll the Commission?  
4

5 Hearn: Mark Best.

6  
7 Best: I'm going to abstain since I wasn't on the Board then.  
8

9 Villescas: That's okay. You can go ahead and vote and if we don't have a vote we  
10 can't approve the minutes.  
11

12 Best: Okay. Aye.

13  
14 Hearn: Tim Sanders.

15  
16 Sanders: Aye.  
17

18 Hearn: Robert Hearn votes aye. John Villescas.  
19

20 Villescas: I vote aye.  
21

22 MOTION PASSES UNANIMOUSLY.  
23

24 Villescas: So we have approval of the minutes of January 7th of 2016.  
25

#### 26 **IV. POSTPONEMENTS**

27  
28 Villescas: And item four: Postponements. Actually I'll pose that to staff, Sara before  
29 I have something to say.  
30

31 Gonzales: Staff does not have any postponements at this time. However I would  
32 recommend if any of the cases would like to refrain from this evening, I  
33 think it would need to be addressed now since we do have to have a  
34 unanimous vote for them to be either approved or denied, as a  
35 suggestion.  
36

37 Villescas: Thank you. That is exactly what I was going to say. For, let me start with  
38 Case Number 1: Case 64783W. As long as I have been Chair and I know  
39 my predecessor did the same thing, when we have either four or five  
40 Commissioners present, as you heard me read in the announcement I  
41 made at the beginning we work on a modified form of Robert's Rules of  
42 Order. It takes four affirmative votes for the passage of a case. In the  
43 case of this evening you would need 100% yea votes for passage of a  
44 case as it takes four affirmative votes. So I give you the option to  
45 postpone to a case, to a date certain or we can go ahead and hear your  
46 case tonight. It is up to you. It, if you postpone to a, a date certain there

1 would be no additional cost or we can go ahead and hear your case  
2 tonight. It is up to you.  
3

4 Gonzales: Mr. Chair, Commissioners, for Case 1 and 2 the applicants would like to  
5 postpone till there is a full quorum. Case Number 3 would like to be heard  
6 this evening.  
7

8 Villescas: Okay. So we are going to postpone Case Number 1 to a, a, a date certain  
9 which would be, what would the date be?  
10

11 Gonzales: That would be next month. It would be the first week within July, or first  
12 Thursday in July.  
13

14 Villescas: Okay. Let me get my phone out and I can give you a date. Okay. The  
15 first Thursday in July is July 7th, so Case Number 1 will be postponed to  
16 Thursday, July 7th, same place which is right here, Commission  
17 Chambers at 6:00 p.m. Did you say Case 2 as well?  
18

19 Gonzales: Yes.  
20

21 Villescas: Case 2 also to, was, be postponed. That's Case Number 65413W:  
22 Margarita's Subdivision Replat No. 1 Waiver Request postponed to date  
23 certain Thursday, July 7th, 6:00 p.m. County Commission Chambers.  
24

## 25 V. NEW BUSINESS

### 26 1. Case 64783W: Replat of Lot 21, Subdivision "C" EBL&T Waiver.

27  
28 A request for approval of a waiver to the required roadway improvements  
29 associated with a replat known as Replat of Lot 21, Subdivision "C" EBL&T.  
30 The applicant is seeking to waive the required roadway improvements to  
31 Webb Road as well as the required access roadway improvements within the  
32 proposed subdivision. The subject property encompasses 4.92 +/- acres, is  
33 zoned ER5 and is located on the east side of White Thorn Road, 619 +/- feet  
34 south of its intersection with Westmoreland Avenue; a.k.a. 2595 Webb Road,  
35 Parcel ID# 03-30038. Submitted by Moy Surveying Inc., on behalf of Tommy  
36 and Sandra Brown, property owners. **POSTPONED**  
37

### 38 2. Case 65413W: Margarita's Subdivision Replat No. 1 Waiver Request.

39  
40 A request for approval of a waiver to the required roadway improvements  
41 associated with a replat known as Margarita's Subdivision Replat No. 1. The  
42 applicant is seeking to waive the required roadway improvements to Calle de  
43 Las Margaritas as well as the required roadway improvements within the  
44 proposed subdivision. The subject property encompasses 5.181 +/- acres, is  
45 zoned ER4M and is located on the west side of Calle de Las Margaritas, 809  
46

1 +/- feet south of its intersection with Watson Lane; a.k.a. 3876 Calle de  
2 Margaritas; Parcel ID# 03-29734. Submitted by Moy Surveying Inc., on  
3 behalf of Manuel and Yolanda Avalos, Oliva Romero, and Lorenzo  
4 Villalobos, property owners. **POSTPONED**  
5

6 **3. Case 65519W: Soledad Vista Subdivision Replat Waiver Request.**  
7

8 A request for approval of a waiver to the required roadway improvements  
9 associated with a replat known as Soledad Vista Subdivision Replat No. 13.  
10 The applicant is seeking to waive the required roadway improvements to  
11 Alma Road and Wind Dancer Trail for the proposed subdivision. The subject  
12 property encompasses 10.045 +/- acres, is zoned ER2 and is located on the  
13 northeast corner of Alma Road and Wind Dancer Trail; a.k.a. 9505 Wind  
14 Dancer Trail; Parcel ID# 03-10444. Submitted by Borderland Engineers and  
15 Surveyors, LLC., on behalf of Richard and Linda Jacobs, property owners.  
16

17 **Villescas:** So therefore we will proceed to Case Number 3 which did elect to be  
18 heard tonight. That's Case Number 65519W: Soledad Vista Subdivision  
19 Replat Number 13 Waiver Request. Once again I apologize to Case  
20 Numbers 1 and 2 but we will, your cases will be heard on July 7th.  
21 Anyone here for Case 1 and 2, again we will hear those on July 7th. In  
22 the meantime we will proceed to Case Number 65519W: Soledad Vista  
23 Subdivision Replat Number 13 Waiver Request.  
24

25 **Gonzales:** This is Case 65519W for a request for road improvements, a waiver for a  
26 replat known as Soledad Vista Subdivision Number 13. Here is a vicinity  
27 map of the location of the property on Wind Dancer and Alma Road. It is  
28 approximately 2,598 feet from the west side of Soledad Canyon Road.

29 The proposal is 10.045 acres and they're just proposing two lots.  
30 Here is an aerial view of the property. You can see that the properties to  
31 the east side, there is a single home next to, a couple lots down. On the  
32 west side of Alma Road there are homes that are there existing so there is  
33 still a lot of undeveloped land out there. I'll go back to the aerial to explain  
34 each piece of the streets through the presentation so that way you  
35 understand what the waiver request will be for.

36 This is the proposed subdivision showing the two lots. Without any  
37 easements or anything taken out as far as what roadway has to be  
38 provided for an easement to Wind Dancer Trail, both lots equal 5.01  
39 acres. In this case the subdivision came in in the beginning as a large  
40 land subdivision. Large land says anything greater than 5.01 does not  
41 require road improvements. However there is only one place in the ETZ  
42 Code where it does indicate the net acreage has to be 5.01 acres. If you  
43 notice this, the lot to the north, 5B actually does have 5.01 acres because  
44 it does not have to designate any road easement to be given to a street.  
45 The property to the south, it does which is why it falls under the 5.01 acres  
46 as far as net acreage and that's why we're here this evening. So the only

1 place in ETZ where it does say in the Code it has to be net acreage. So  
2 that I would just say is to consideration of, to the lot sizes and why we're  
3 here.

4 It does state in our section of our Code that any subdivision will  
5 have to do any improvements according to Section 4.2H for the  
6 subdivision, any improvements to the subdivision as well as any access  
7 within the property. Currently the property is gravel, rock, it's not paved in  
8 any form. If you go back up to the aerial map, this is where I'll explain. So  
9 from the area where the nearest paved road is, is Soledad Canyon. It's  
10 2,598 feet away. They would have to pave that section to their property.  
11 They also would have to pave Alma and Wind Dancer which is equally  
12 661 feet because it is almost a square. So they would have to pave both  
13 of those sides cause that is their access for the property. Since they are  
14 subdividing it in half you have to have access on Alma to get to the  
15 northern part of the subdivision. At this time the applicant is not  
16 requesting to do any road improvements to Wind Dancer Trail or to Alma  
17 Road due to the large land subdivision as being, it just falls underneath  
18 because of the access easement that has to be given up in order for Wind  
19 Dancer Trail Road. These are the current conditions of the roads out  
20 there. As you drive down Wind Dancer Trail there are some, there is at  
21 least two areas in which you can see arroyos probably draining through  
22 them, or water will collect over the rocks. That is the turnoff for Wind  
23 Dancer and then Alma Road is basically just gravel.

24 These were the properties that were notified based within the 300-  
25 feet requirement for the ETZ as far as notifications.

26 With our ordinance we do have recommendations in which it has to  
27 result in a substantial hardship due to topographic, soil, or subsurface  
28 conditions. In this case we did meet with EDRC and discuss that this  
29 does not meet that requirement and we had recommended denial for the  
30 waiver request.

31 So basically we do have: It is "yes" to approve this waiver request;  
32 "yes" to approve the waiver request with conditions; "no" to deny the  
33 request; or to table or postpone. I will stand here for any questions. The  
34 applicant's representative is here who is doing the subdivision proposal, if  
35 there's any questions.

36  
37 Hearn: Mr. Chairman.

38  
39 Villescas: Commissioner Hearn you have questions for Ms. Gonzales?

40  
41 Hearn: I do.

42  
43 Villescas: Please go ahead.

44  
45 Hearn: By how much square feet does the south lot fail the 5.01 acres?  
46

1 Gonzales: If we were to go to the subdivision we are missing, it is 4.58. We are  
2 missing 0.42 acres.  
3  
4 Hearn: Little less than half.  
5  
6 Gonzales: Yes.  
7  
8 Hearn: Okay. And, and if that were 5.01 ...  
9  
10 Gonzales: We would not be here this evening.  
11  
12 Hearn: We wouldn't even be here about either of the roads.  
13  
14 Gonzales: No Commissioners, we would not.  
15  
16 Hearn: Yeah. Okay. Thank you very much.  
17  
18 Villegas: Are there any, you, you have questions Mr. Sanders?  
19  
20 Sanders: While you're on that slide, could you go through that again? I didn't quite  
21 understand why we're here in the first place.  
22  
23 Gonzales: So what takes place, in the ETZ Code it states that you have to have 5.01  
24 net acreage. The two acreages on each property, the top one is 5.01  
25 acres and it also, their net is 5.01 because they do not have to give up any  
26 road easements cause the road is already established on Alma. That's  
27 why they do not have to provide any more, so they do not fall underneath  
28 as far as net acreage. In Lot 5A because they have to give up the  
29 additional square footage on the south side of the property to Wind  
30 Dancer Trail, it reduces their net acreage because we take out any of the  
31 access easements or utility easements provided on the plat. Drainage  
32 easements do not come out due to you can build over a drainage  
33 easement if it is designed properly.  
34  
35 Sanders: A, and so is that Wind Dancer Trail easement already there or it would be  
36 established because of this action?  
37  
38 Gonzales: Mr. Chair, Commissioners. It is established due to the subdivision. They  
39 have to give up that access easement for the subdivision.  
40  
41 Sanders: So it'd be a new easement on that property.  
42  
43 Gonzales: Yes sir.  
44

1 Villescas: Yeah. So that dotted line there and then the words "Wind Dancer Trail"  
2 indicate the easement they would give up and it's due to that easement  
3 they would give up that we're here tonight. Is that correct Ms. Gonzales?  
4  
5 Gonzales: Mr. Chair, Commissioners. That is correct. If you were to remove that  
6 easement it would reflect the same as the north property as well, 5.01  
7 acres.  
8  
9 Villescas: So due to that easement give-up we're here tonight.  
10  
11 Sanders: So, so, I, so that, it's still 5.01 ...  
12  
13 Villescas: Acres.  
14  
15 Sanders: Acres without the Wind Dancer Trail, correct?  
16  
17 Gonzales: Mr. Chair, Commissioners. That is correct. The actual acreage is 5.01.  
18 Net acreage is accumulated based on what you can actually, it's buildable  
19 area is what net acreage is provided.  
20  
21 Villescas: And you can ...  
22  
23 Gonzales: So it is still part of your land but you just cannot build upon it.  
24  
25 Sanders: All right.  
26  
27 Villescas: So net is less easement. Any other questions for Ms. Gonzales?  
28  
29 Best: Mr. Chair.  
30  
31 Villescas: Please go ahead.  
32  
33 Best: Wind Dancer Trail, that, it says it's a, a required 60-foot easement for that  
34 road.  
35  
36 Gonzales: Mr. Chair. Correct. It is 30 feet from the property to the south and it is 30  
37 feet from that property in order to create the 60 feet within there so if the  
38 property was ever to become developed or paved that part would be  
39 improved.  
40  
41 Best: Okay.  
42  
43 Hearn: Could we look at the photograph one more time please?  
44  
45 Gonzales: This one?  
46

1 Hearn: Yeah.  
2  
3 Gonzales: Okay.  
4  
5 Hearn: And, and Wind Dancer Trail right now stops at Alma?  
6  
7 Baum: You're not on your microphone sir.  
8  
9 Hearn: Oh sorry. Wind, Wind Dancer right now stops at Alma?  
10  
11 Gonzales: Mr. Chair, Commissioner Hearn. That is correct.  
12  
13 Hearn: Right. Okay.  
14  
15 Gonzales: It does not exceed any further. There is just brush.  
16  
17 Hearn: Well that's almost as much as you can say about the roads but that's  
18 okay.  
19  
20 Villescas: Yeah. I was about to ask for a picture of the road but there is none.  
21  
22 Gonzales: If you see here the dead end, it basically dead-ends at that corner. So  
23 right where that street sign is is where Wind Dancer would assume to take  
24 over from the subdivision point. So nothing is developed. It is basically  
25 still just plants. It looks like all the vegetation that is surrounding it that has  
26 not been developed yet, no one has gone out there. With the process of it  
27 being developed then they would be required to actually clear out that  
28 brush in order to improve that access area, whether it would be the gravel  
29 that is provided for the surrounding properties or tonight, that's why we're  
30 here, that would be when they have to put in the road improvements.  
31  
32 Hearn: Could we see one more time the picture of, of the plots of all the, all the  
33 areas out, the, yeah that one. Thank you.  
34  
35 Sanders: So if we were to grant the waiver request access to that lower property,  
36 the one that had, that is requiring the Wind Dancer would be where?  
37  
38 Villescas: Where that little, where the small yellow line is but it would actually, right  
39 now as it stands they would have to improve everywhere you see a yellow  
40 line.  
41  
42 Sanders: Right.  
43  
44 Villescas: They would have to make improvements to those yellow lines all the way  
45 back to that roadway, not sure the name of it but Wind Dancer Trail would  
46 have to be improved all the way up to their property, that additional yellow

1 line that extends along the lower portion which is I think A and the line  
2 going in the vertical direction as well. That's what they would have to  
3 improve in order to subdivide A and B if we do not grant them the waiver.  
4

5 Hearn: But on, on the other hand if we do grant the waiver request what, what will  
6 the situation be, they, Wind Dancer will not continue along the southern  
7 edge of the property but it will come in its present condition up to Alma  
8 and then you can go north on Alma?  
9

10 Gonzales: Mr. Chair, Commissioners. No, they would still have to open up that area  
11 and it would have to be an access. That's where they would have their  
12 main access would be off of Wind Dancer Trail. So they would have to at  
13 least gravel that area, clean out the brush cause it will be as if you would  
14 be able to drive through it. It is still an access road just like the other  
15 properties to the east and the west. There are several areas out there  
16 where you can drive and you actually dead-end into another lot because it  
17 has not been developed or has not been improved but the, essentially as  
18 properties will be coming in to develop they will have to actually eventually  
19 go across. So they will have to create the 30-foot easement as an access  
20 road just like all the other properties have done on Wind Dancer Trail.  
21

22 Hearn: They, they could not have easement off the west end?  
23

24 Gonzales: Their easement is identified on their subdivision proposal onto the north ...  
25

26 Hearn: Okay.  
27

28 Gonzales: Portion as well as the ...  
29

30 Hearn: Okay. I ...  
31

32 Gonzales: West side.  
33

34 Hearn: I, I said the wrong word but I meant access. They could not have access  
35 from the west end?  
36

37 Gonzales: They could have access for either side. However being their access is  
38 provided on the subdivision itself, those two access points do have to be  
39 identified out there as being roadways cause they are road and utility  
40 easements. So that is how everyone would have access out there.  
41

42 Sanders: If we, maybe you can go back to the plat. That might help, I, I'm not  
43 understanding this.  
44

45 Gonzales: Basically the properties are not dedicating any roadway easements is  
46 what it is, so all they are, they're not dedications, they're easements. So

1                   everybody is driving on an easement. So they would essentially identify  
2                   the same thing. Alma Road is already the, the footage it needs to be.  
3  
4   Sanders:       And they both front ...  
5  
6   Gonzales:      They do not have to increase it.  
7  
8   Sanders:      They both front Alma Road.  
9  
10   Gonzales:     They both front Alma Road.  
11  
12   Sanders:      Yeah.  
13  
14   Gonzales:     But they would still have to, since they identify the road easement on their  
15                   subdivision to the south on Wind Dancer that would still have to be a road  
16                   easement that would continue on for the next property to the east side.  
17                   When the east side actually develops, that means they should have  
18                   access just like all the other properties from Soledad Canyon going  
19                   through Wind Dancer continuing on. You would drive through it is the  
20                   essential.  
21  
22   Villescas:     Ms. Gonzales may I ask you property number 18, is that currently  
23                   landlocked? Is there, is there any way to on a roadway reach property  
24                   number 18? Yeah, you just passed it.  
25  
26   Gonzales:     If you go through 18 there is Desert Walk Court right there. It's a like a  
27                   little cul, it's a side street, 18 falls right above that and then there are side  
28                   streets through there.  
29  
30   Villescas:     Oh I see, the little black lines.  
31  
32   Gonzales:     Everybody has basically a road access easement that is provided on  
33                   some form ...  
34  
35   Villescas:     Okay.  
36  
37   Gonzales:     To get to their property and that's where I say if you look at the properties,  
38                   they are essentially not developed within that area so those access  
39                   easements have not been created because no one is developing those  
40                   properties.  
41  
42   Villescas:     Okay.  
43  
44   Gonzales:     Otherwise you would just see, as you see to the northeast side it's just like  
45                   a driveway kind of area. They've created a driveway in their property and

1 that's the only part they had to develop. But you would still have access  
2 through those properties.  
3  
4 Villescas: Okay. And granting this property waiver request, they would develop a  
5 30-foot easement gravel driveway on the south end and then that would  
6 continue to the edge of property 18. Correct?  
7  
8 Gonzales: Mr. Chair. That is correct. This, oops. That would ...  
9  
10 Villescas: Yeah.  
11  
12 Gonzales: Actually continue from Alma, it would go to property 18 so it would stop  
13 there.  
14  
15 Villescas: Okay.  
16  
17 Gonzales: Property 18 decides to develop, they have a 30-foot easement that's  
18 already provided from their property. They would have to develop theirs in  
19 order to get access from theirs. So it basically just continues on  
20 throughout the properties.  
21  
22 Villescas: Okay.  
23  
24 Hearn: Now I, I think, Mr. Chairman I could ask one more. I'm trying to, trying to  
25 get this clear in my head and I'm getting worse all the time.  
26  
27 Villescas: It, it's confusing, I understand, no, I ...  
28  
29 Hearn: If, say we, they had only proposed if they could to have access to both lots  
30 from Alma, never mind Wind Dancer, just come in from Alma that would  
31 require no new easements, no new nothing, they could just come in. Is,  
32 would that work?  
33  
34 Gonzales: I will let the subdivider answer that question.  
35  
36 Hearn: Okay.  
37  
38 Gonzales: The one who's actually doing the development ...  
39  
40 Hearn: Okay.  
41  
42 Gonzales: For that subdivision. He can clarify whether it would be required or not for  
43 that portion.  
44  
45 Hearn: But if, if that were done then everything would be cool, right?  
46

1 Gonzales: Actually then we would not be here as well listening to ...  
2  
3 Hearn: Okay. Okay. Any more questions for me?  
4  
5 Sanders: I just have one more I think. So are they asking for a waiver of  
6 establishing that Wind Dancer easement or are they proposing to  
7 establish that Wind Dancer easement?  
8  
9 Gonzales: Mr. Chair, Commission. They are proposing to provide that easement for  
10 access for later development. They are proposing not to do the road  
11 improvements to either of the access easements nor access from Soledad  
12 Canyon to their actual proposed subdivision.  
13  
14 Sanders: Yeah cause it shows the applicant is, requests that the adjacent roadway  
15 and interior road and utility easement improvements for subdivision  
16 access be waived, and which are those, the ones that go across or ...  
17  
18 Gonzales: That would be the Wind Dancer easement cause those are considered  
19 access easements. They're not considered a road. It's basically a road  
20 and utility easement. They're access ways, they're not considered just a  
21 road. So that's what we consider them. Those are interior because it is  
22 within the subdivision.  
23  
24 Sanders: So, so this says that they're asking that that be waived.  
25  
26 Gonzales: Correct. Because they have ...  
27  
28 Sanders: But I thought you said ...  
29  
30 Gonzales: To improve that roadway for that 30 feet that they're providing.  
31  
32 Sanders: Right.  
33  
34 Gonzales: That 30 feet would have to be a 24-foot double-penetrated surface if they  
35 have to improve it.  
36  
37 Sanders: But they're proposing to establish that easement, not pave it.  
38  
39 Gonzales: Correct. So they're looking, they're going to give up the easement but  
40 they are establishing not to improve that easement.  
41  
42 Sanders: Okay.  
43  
44 Best: Mr. Chairman.  
45  
46 Villescas: Yes sir.

1  
2 Best: So they're asking for a waiver so they don't have to provide pavement of  
3 3,600 feet of, of roadway, all the way back to Soledad Canyon, up Alma,  
4 so ...  
5  
6 Gonzales: Mr. Chair, Commission. That is correct.  
7  
8 Villescas: Boy. Okay.  
9  
10 Hearn: Is it time to hear from the developer?  
11  
12 Villescas: Yes providing, Ms. Gonzales we probably will be calling you back. But,  
13 and Mr. Hearn do you have the sheet to swear Mr. Scanlon in?  
14  
15 Hearn: No but I can do it anyway.  
16  
17 Villescas: Okay. Please do.  
18  
19 Scanlon: My name's Ted Scanlon, my address 2990 North Main.  
20  
21 Hearn: Do you swear to tell the truth, the whole truth, and nothing but the truth  
22 subject to the penalty of law?  
23  
24 Scanlon: I do.  
25  
26 Hearn: Thank you.  
27  
28 Villescas: Please go ahead Mr. Scanlon.  
29  
30 Scanlon: Thank you Mr. Chairman and Commissioners. It's pleasure to be here this  
31 evening. I've said this before because we have an inordinate amount,  
32 number of cases regarding requests for waivers to put roadway  
33 improvements. They come in all the time. And I've been doing business  
34 under the Codes of the City and the ETZ and the County for 40 years here  
35 in Las Cruces and, and it has always seemed to me that when you have  
36 an inordinate number of cases requesting waivers to a particular section of  
37 the Code there's probably something wrong with that section of the Code  
38 and it needs to be looked at. And I would urge the Commission to  
39 recommend that staff or a committee or somebody look at this section of  
40 the Code because it just keeps coming up over and over again. And, and,  
41 and for good reason. Let me ... go the other way. Those yellow lines on  
42 there total about 3,800 linear feet. To build a 24-foot wide double-  
43 penetration roadway with base coarse and grading and all the other things  
44 that need to go along with that, you're looking at about \$60 a linear foot.  
45 That comes to about \$235,000 to pave those roads when none of the  
46 other roads out there in that area are paved at all. And it just doesn't

1 make sense to put that kind of a burden on somebody who just wants to  
2 split a 10-acre tract in two. The way the subdivision is laid out both lots  
3 would, net, would most conveniently have their access from Alma Road.  
4 Because of those arroyo easements that you see in there the house on  
5 the north lot would be south of the, south of the arroyo easement and the  
6 house on the, on the south lot would be north of the arroyo easement and  
7 you wouldn't have to build any kind of crossings and, and you could leave  
8 those arroyos in their natural state. That's the only thing that makes sense  
9 out there for, as far as that aspect of the case goes. The south lot with,  
10 with the requirement for the road easement, I, I, I think the requirement  
11 for, for the road easement makes sense because someday there's going  
12 to be a house on tract 18 or one of those other tracts where they're going  
13 to want to split them up or something and, and there's going to be a need  
14 for somebody to build some kind of a road through there. It'll probably be  
15 a dirt road just like all the rest of the roads out there, but at least there  
16 would be an easement where they would be able to do that. I guess I  
17 really don't have much else to add. Sara covered the business with the  
18 acreage and the easement dedication, or easement grant and so I stand  
19 for any questions. I think it makes a lot of sense to approve this.

20  
21 Hearn: Mr. Chairman.

22  
23 Villegas: Please go ahead Mr. Hearn.

24  
25 Hearn: If, if, if I could just get clear some, somewhere between Mr. Scanlon and  
26 Ms. Gonzales. Is it possible for us to think about this as though there  
27 were no requirement for the easement for Wind Dancer and the only thing  
28 that the developer wanted to do, or the, the subdivider was use Alma  
29 Road as access to both lots and someday there would probably be an  
30 easement for Wind Dancer but just make that not part of our conversation  
31 right now? Does that make sense?

32  
33 Villegas: It makes sense. The, I don't believe, and Mr. Scanlon please correct me if  
34 I'm wrong, I mean the 30-foot easement is a given. It's the roadway  
35 improvement that is the issue.

36  
37 Scanlon: Well the, the, the, there's a Code requirement for dedication of that ...

38  
39 Villegas: Easement.

40  
41 Scanlon: Easement. And there's a separate Code requirement for the roadway  
42 improvements. We could have requested, I suppose a waiver to the  
43 requirement for the easement, the grant of easement but that didn't seem  
44 to, didn't seem to be fair in light of the fact that the property to the south of  
45 Lot 5A has granted a 30-foot road easement sometime in the past.

46

1 Villescas: And, and the majority of the easement that we're talking about is on the  
2 south end of that arroyo that you referred to earlier.  
3  
4 Scanlon: Correct.  
5  
6 Villescas: Yeah. And the plan is to build on the north end of the arroyo.  
7  
8 Scanlon: Yes.  
9  
10 Villescas: Yeah. So I, going back to your question Commissioner Hearn, I don't  
11 believe the 30-foot easement is an issue. I just think the issue is putting a  
12 road there.  
13  
14 Hearn: It, it, I, as I understood it it's an issue because it reduces the net acreage  
15 of that lot below 5.01 and forces all these other things into consideration.  
16 If it weren't there we'd have two lots of five plus a square inch and as Sara  
17 has said, we wouldn't be here tonight. So it's, it's, it's, it's that easement  
18 and its subtraction from the net acreage of that south lot ...  
19  
20 Scanlon: And that, that's another ...  
21  
22 Hearn: That, that causes this whole problem.  
23  
24 Scanlon: That's another Code provision that I have some issues with too. I mean I,  
25 I, granted when you do a, a subdivision and you dedicate the roadways to  
26 the County that acreage comes out of the lot.  
27  
28 Hearn: Yep.  
29  
30 Scanlon: Period. But when you do an easement, an easement is a license that one  
31 entity has for use of the land of another. The land stays in the ownership  
32 of Lot 5A but the public then has a license to have a roadway across it  
33 because of virtue of the grant of easement. Still, still in the property.  
34  
35 Hearn: Sara maybe, maybe you could come back up for a second and, and help  
36 us with the details but could we go back to the picture of, the overall  
37 picture of the lots? One, one of the things that continually bothers me and  
38 I think this may be one of the road issues that Mr. Scanlon has seen a  
39 thousand times is if these folks are forced to pave Wind Dancer Trail all  
40 the, all the way in a whole bunch of people are getting advantage of that  
41 pavement that didn't do it before and that doesn't seem fair. We, we, we  
42 need to find a way to work this out. How, how come all the other people  
43 didn't have to pave it?  
44  
45 Gonzales: Mr. Commissioner, Chair. There may be properties out there that were  
46 already subdivided prior.

1  
2 Hearn: Right.  
3  
4 Gonzales: Did ...  
5  
6 Hearn: All them grandfathers.  
7  
8 Gonzales: Exactly. So if they had subdivided it prior, if it wasn't part of a subdivision.  
9 When the subdivision was originally created it could've been that the road  
10 improvements were required. Once you actually subdivide after the, the  
11 original subdivision then the road improvements are required, so anything  
12 changing what the original state would be.  
13  
14 Hearn: But we don't have any way of, of requesting those other folks kick in and  
15 pay their part or, or anything like that.  
16  
17 Gonzales: Mr. Chair, Commissioner. There is nothing written, no. It just says, it's  
18 solely to the divider of the property, the person who is developing.  
19  
20 Villescas: Any other questions for Mr. Scanlon at this time? Well thank you Mr.  
21 Scanlon and, oh I'm sorry. I didn't even notice that you had sat down.  
22 Thank you. We may be calling you back up. Any other questions for Ms.  
23 Gonzales before I open it up to the public? If not, we'll take comments  
24 from the public if there's anyone from the public that would like to come  
25 forward on this case. If you could state your name and address for the  
26 record into the microphone, Commissioner Hearn will swear you in.  
27  
28 Wofford: Good evening Chairman Villescas. I am Robert Wofford. I live at 4915  
29 Desert Walk Court. It directly abuts this property just to the north.  
30  
31 Hearn: Would you raise your right hand please sir.  
32  
33 Wofford: Yes.  
34  
35 Hearn: Will you swear to tell the truth and nothing but the truth subject to penalty  
36 of law?  
37  
38 Wofford: I, I will.  
39  
40 Hearn: Thank you.  
41  
42 Villescas: Please go ahead.  
43  
44 Wofford: Okay, okay. It's been interesting listening to the discussion about how the  
45 easements and things happen, and if it had been 5.01 we wouldn't be  
46 here. But that property 18 does need access so Wind Dancer has to be

1 plowed I suppose. Wind Dancer actually goes farther east of there. There  
2 are homes on Wind Dancer. It, there's just a, a break there where it  
3 doesn't come in. Same thing is true on Talavera. I live off of Talavera but  
4 I can't get to you know Talavera from the, the paved surface; Have to go  
5 around through Wind Dancer. The history of this lot is that before I bought  
6 my property on Desert Walk in 2008 that it was completely paved, not  
7 paved but plowed and graded. There was some previous property owner,  
8 I believe it's two back who thought they would subdivide it and they got up  
9 there with, with the, their backhoes and etc. the graders before they came  
10 to you, and so there was, so it was a mess. Just a dust bowl out there.  
11 And there was, you guys required that they revegetate it and, and restore  
12 the land to what it, to what it was. When I moved into the subdivision in  
13 2008 I knew what the rules were, that you would have to pave the  
14 subdivision if you wanted to subdivide your property and the problem with  
15 not being able to assess all of the property owners along that road and get  
16 some paving done is another issue entirely than what we're talking here  
17 tonight. Cause as Mr. Scanlon says there are quite a few variances  
18 requested but the way the rules state and, and we all knew them when we  
19 bought that property, as did Mr. Jacobs, the property owner was that you  
20 would have to pave if you wanted to subdivide your lot. And it's not an  
21 unreasonable expectation when you, when you purchase a piece of  
22 property there to expect that the rules will apply eight years down the line  
23 as they did when you first moved in.

24 Now obviously it is prohibitively expensive at \$235,000 to pave that,  
25 to pave those lots. He's not going to do it cause he can't get that much  
26 money out of his property. But if Mr. Jacobs wants to build a house there  
27 and be my neighbor, I would be very welcoming. But I'm a property owner  
28 and that is my viewpoint. I'm not a speculator and so he understood the  
29 rules when he purchased that property. They are, they are patently  
30 obvious because of the history I just told you about, of them having  
31 coming and graded the area. And so he could have no question about,  
32 about "Can I divide this property later?" You, very clear that I'm against it.  
33 Anything else, any questions you have from my perspective or I, oh I,  
34 there, and I've spoken with neighbors who are not here tonight as well.  
35 My neighbors on Desert Walk Court, Michel Ramel, Ron Grannis, I spoke  
36 with them and they are also opposed to the subdivision. In fact Michel  
37 Ramel who is directly to the west of me attempted to buy that property  
38 earlier and was unable to. There's a, another neighbor on a 10-acre lot, I  
39 believe he's here tonight though who asked to, well I'll let him talk. But  
40 the, the neighbors I've spoken with are, are opposed to this as well.  
41 Thank you.

42  
43 Villescas: Are there any questions from the Commission?

44  
45 Wofford: Ron Grannis, 4900 Desert Walk Court. Michel Ramel, 4920. Yeah.

1 Villescas: Got it here, 4920. All right. Thank you very much sir.  
2  
3 Wofford: All right thank you.  
4  
5 Villescas: Appreciate it.  
6  
7 Wofford: I appreciate your time tonight and.  
8  
9 Villescas: Thank you.  
10  
11 Hearn: Thanks.  
12  
13 Villescas: Are there any other members of the public like to come forward? Please  
14 do. If you could state your name and address into the microphone for the  
15 record, Commissioner Hearn will swear you in.  
16  
17 Foster: Hi. I'm Helen Foster. I live at 4920 Alma Road, directly across the street  
18 and I think I need to make it clear to you that Wind Dancer Trail ...  
19  
20 Hearn: Could ...  
21  
22 Foster: Does not ...  
23  
24 Villescas: Wait, hang on one second Ms. ....  
25  
26 Hearn: Could I swear you in just real quick? Would, would you raise your right  
27 hand.  
28  
29 Foster: Oh, I'm sorry.  
30  
31 Hearn: That's okay. Do you promise to tell the truth, the whole truth, and nothing  
32 but the truth subject to penalty of law?  
33  
34 Foster: I do.  
35  
36 Hearn: Thank you.  
37  
38 Foster: Thank you.  
39  
40 Hearn: Now go ahead.  
41  
42 Foster: I, Wind Dancer Trail does not end at his property. The picture you have  
43 up there should be moved to the east a little and you'll see Wind Dancer  
44 Trail continues from there. It's just his property and property 18. There is  
45 still currently a two-track road going through that arroyo on up. We walk it  
46 all the time. It's just that the properties aren't developed. It needs to, that

1 absolutely needs to continue to hook the two ends of Wind Dancer Trail.  
2 And secondly, there are two areas of that road that are paved. We have  
3 paved the arroyo right at the corner of Alma Road and Wind Dancer. That  
4 is paved. Further down at, on Wind Dancer Trail our next-door neighbor  
5 has paved the arroyo in front of their house on Wind Dancer Trail. So  
6 there are two paved portions there for the current residents that are there.

7 We as a community in that area have joined together and paid for  
8 grading of the roads, both Alma and Wind Dancer Trail. We've known all  
9 along, again as Bob stated, that when you bought the property if you  
10 wanted to subdivide, you'd have to pave. I don't think this is anything  
11 surprising or new. I know that Mr. Jacobs knew that when he bought it. I,  
12 cause we had talked with him when he bought the property. And originally  
13 he was going to build there and then found something else. But yeah,  
14 Wind Dancer is, is a continuing road. It doesn't just end there and I think  
15 you need to be clear on that, that it goes east of there except for, for his  
16 property and 18 behind it. There currently is a two-track road going  
17 through there.

18 And you know if, if you're going to create a variance for this I think  
19 there would need to be a special reason. Otherwise why does the  
20 regulation exist? I agree, the regulation might need to be looked at again  
21 but why did you have this regulation and then you're going to give these  
22 variances? I know there's other people that own 10-acre lots in the area  
23 that have been turned down before for the variance so I don't know what is  
24 special about this property that it get, it would have the variance. And  
25 what's going to keep all the other properties from getting the variance?  
26 And that's about it. It's about all I have.

27  
28 Villescas: Any questions from the Commission?

29  
30 Hearn: No. Mr. Chairman. I, I'd just like to say I appreciate your, your remarks  
31 and what we're trying to do and, and I think we always try to do is hear  
32 everything and turn it inside-out and look at all the pieces and, and try to  
33 do a fair job of coming to the, the best answer we can.

34  
35 Foster: Okay. Thank you.

36  
37 Hearn: Thanks.

38  
39 Villescas: Thank you. Any other members of the public like to come forward? If not,  
40 I'll close, oh please sir. You could state your name and address for the  
41 record, Commissioner Hearn will swear you in.

42  
43 Smidt: My name is Al Smidt. I live at 9370 Talavera Avenue. My probably, oh I'm  
44 sorry.

45  
46 Hearn: Would, would you, yeah okay.

1  
2 Smidt: Go ahead.  
3  
4 Hearn: Do you swear to tell the truth, the whole truth, and nothing but the truth  
5 subject to the penalty of law?  
6  
7 Smidt: I do.  
8  
9 Hearn: Thank you.  
10  
11 Smidt: My property does not adjoin this. However I walk that area and she is  
12 right. It does, the trail does not end where it says it ends. There's another  
13 property between that one and where the, if you look at the, where 661  
14 feet is, if you took the bottom line of that there and drew it to your, it'd be  
15 to your right, my left that would be up to the property corner there, that  
16 would be the Wind Dancer Trail. Follow me? And I was told, I own, I'm  
17 sorry.  
18  
19 Gonzales: I want to show you a better ... oh it doesn't continue.  
20  
21 Smidt: Oh I'm not on there. I was told when I bought that 10 acres off of  
22 Talavera, I asked the Commission or the, the County, "If I subdivide what  
23 do I have to do?" And they said, "You have to pave all of Talavera up to  
24 your, past your property line, all of Alma out to Soledad Canyon or from  
25 where Alma and Wind Dancer meet there, that solid yellow line," I'd have  
26 to go to the west all the way out to Soledad Canyon Road. I said, "I don't  
27 have an extra three million laying around," you know. And I still don't you  
28 know. And so, I mean the regulation was there. And so I just, I don't, I  
29 haven't subdivided and I probably will never do it. Anything?  
30  
31 Best: Mr. Chairman.  
32  
33 Villescas: Please go ahead.  
34  
35 Best: Where are you sir on this map as opposed ...  
36  
37 Smidt: Okay.  
38  
39 Best: Say if we're on Desert Walk Court and where are you?  
40  
41 Smidt: I'm to the east of that. There's that, you see that one building out, up there  
42 to the east, well right just about, if you'd go to your right again of the W on  
43 Wind Dancer, you see a part of a building there.  
44  
45 Villescas: Uh huh.  
46

1 Smidt: That's mine.  
2  
3 Best: Okay.  
4  
5 Smidt: My 10 acres is there. Anything else gentlemen?  
6  
7 Villescascas: Any, any questions?  
8  
9 Sanders: The, your property is where it says Wind Dancer, you're to the north of the  
10 word Wind, is that what you're saying?  
11  
12 Smidt: Well, just about the, if you took the W there and divided it in half and went  
13 back to the west, you see a little bit of white. That's one of my buildings  
14 there.  
15  
16 Sanders: Oh, okay.  
17  
18 PERSON IN THE AUDIENCE SPEAKING, NOT AT THE MICROPHONE.  
19  
20 Smidt: Yeah, a, square ...  
21  
22 PERSON IN THE AUDIENCE SPEAKING, NOT AT THE MICROPHONE.  
23  
24 Smidt: It's, it's off of Talavera.  
25  
26 Sanders: Oh, I see. Okay. Thank you.  
27  
28 Smidt: Okay.  
29  
30 Sanders: Yeah. I got you.  
31  
32 Smidt: I'm sorry.  
33  
34 Sanders: I got you. Yeah.  
35  
36 Smidt: I didn't make myself clear.  
37  
38 Villescascas: Yeah.  
39  
40 PERSON IN THE AUDIENCE SPEAKING, NOT AT THE MICROPHONE.  
41  
42 Sanders: Yeah that mouse magic ...  
43  
44 Smidt: If it, I don't, I don't think I've showed up.  
45  
46 Sanders: It magically moved over there.

1  
2 Gonzales: It's right here. His property is located right there.  
3  
4 PERSON IN THE AUDIENCE SPEAKING, NOT AT THE MICROPHONE.  
5  
6 Smidt: That's where, that's my ...  
7  
8 Villescas: Yeah.  
9  
10 Smidt: Driveway there that she's pointing to.  
11  
12 PERSON IN THE AUDIENCE SPEAKING, NOT AT THE MICROPHONE.  
13  
14 Sanders: Yeah. Okay.  
15  
16 Gonzales: *(Inaudible)*.  
17  
18 Villescas: Oh, that Wind Dancer.  
19  
20 Sanders: Yeah I was looking up here.  
21  
22 Villescas: I was looking at the other Wind Dancer, yeah. Thank you.  
23  
24 Smidt: I'm sorry.  
25  
26 Villescas: That's okay. Any other questions? Thank you very much. Appreciate it.  
27  
28 Smidt: Thank you.  
29  
30 Villescas: Are there any other members of the public that would like to come  
31 forward? If not, at this time we'll close it off to the public and open it up to  
32 the Commission. Is there any discussion from the Commission?  
33  
34 Best: Mr. Chair.  
35  
36 Villescas: Please go ahead.  
37  
38 Best: I'm just going to throw out that I think a, a requirement of \$228,000 to pave  
39 these roads is a lot to expect of the applicant. But I also think it's unfair  
40 that the rest of the residents on Wind Dancer will benefit from the  
41 expenses paid by the applicant. But I guess that's the law.  
42  
43 Hearn: Mr. Chairman.  
44  
45 Villescas: Commissioner Hearn.  
46

1 Hearn: Just by, by way of continuing the discussion, it sounds to me like, like we  
2 all know and we can see we, there's a, a situation with roads out in the  
3 Talavera area which we all wish were better. Well maybe not because it  
4 has its own effects on, on the way development goes. But everybody's  
5 doing a pretty good job of living by the rules and, and following the rules  
6 and to me this looks like a situation where continuing to follow the rules is  
7 probably a good idea.  
8  
9 Sanders: Is what?  
10  
11 Hearn: A good idea.  
12  
13 Sanders: Oh.  
14  
15 Villescas: From, just from, from my perspective it just, you know from the comments  
16 we got from the public it appears that others have not subdivided due to  
17 the constraints that are out there, have not approached for waivers  
18 because they knew the expense that would be involved. That's just my  
19 two cents.  
20  
21 Sanders: Yeah. I'm just guessing here but those all the way west on Wind Dancer,  
22 there's subdivisions there. There's one that, right next to it that has a four-  
23 plex. I bet you'd find waivers in the files for most of those roads going all  
24 the way down to Achenbach, whatever that road is. Probably like, just like  
25 we find everywhere else, it's one waiver after another.  
26  
27 Hearn: Mr. Chairman.  
28  
29 Villescas: Commissioner Hearn.  
30  
31 Hearn: I'll move to approve Case 65519W consistent with the findings and  
32 recommendations of staff.  
33  
34 Villescas: Do we have a second?  
35  
36 Sanders: I second.  
37  
38 Villescas: Okay. We have a motion from Mr. Hearn for approval of Case 65519W:  
39 Soledad Vista Subdivision Replat Number 13 Waiver Request, and a  
40 second. Do we have any discussion from the Commission?  
41  
42 Hearn: Mr. Chairman.  
43  
44 Villescas: Mr. Hearn.  
45

1 Hearn: I feel old tonight but I would appreciate it if Ms. Gonzales would  
2 summarize the situation and tell us if we vote "yes" what happens and if  
3 we vote "no" what the situation is just so I know.  
4

5 Gonzales: Mr. Chair, Commission. If you vote "yes" to approve the waiver that would  
6 mean that the road improvements are not required, which means you  
7 would have to find other findings since staff did recommend denial, than  
8 what was provided to you. If you vote "yes" and approve the waiver with  
9 any of the conditions, you can pose conditions within the property to say  
10 you want to approve the waiver but with certain circumstances. You can  
11 put those on there. If you vote "no" to deny the waiver that means you are  
12 following what staff has recommended as far as the denial and you can  
13 use our findings.  
14

15 Hearn: And from a, from a practical standpoint then if the owner wants to go  
16 ahead and subdivide he would have to do all the road paving and all the  
17 other things that are involved.  
18

19 Gonzales: Mr. Chair, Commissioner. Yes. If he, whether he would be denied or  
20 approve, if he gets approved tonight for the waiver he would not have to  
21 do the road improvements and will subdivide the property. If he gets  
22 denied I am not sure since the applicant is not here, you may ask the  
23 applicant's representative if he will subdivide the property or not, but he  
24 will be liable for those costs.  
25

26 Hearn: Thank you.  
27

28 Sanders: Once again I guess the, another option would be to drop the Wind Dancer  
29 easement and then he could subdivide as you said earlier, is that right?  
30

31 Gonzales: However, yes Mr. Chair. He, if he did not have that easement. However  
32 according, even I agree with the public itself. That easement is required  
33 based on that is access to lot 18, or number 18 on your notification map.  
34 It is going to provide the access to continue on that road. Out there there  
35 are several properties that are not developed in which the road, basically  
36 the access easement has stopped. So you usually have to make a U-turn.  
37 I drove down Talavera and had to come back around because you cannot  
38 continue on Talavera. You have to come back down Alma and go back  
39 out. So because those properties are not developed those easements  
40 have not been developed either. So the only way to continue Wind  
41 Dancer would to be providing that easement.  
42

43 Best: Mr. Chairman. One, one other question for ...  
44

45 Villescas: Please go ahead.  
46

1 Best: Ms. Gonzales. If lot, the owners of lot 18 come in, if we grant the waiver  
2 then are we just pushing this, kicking this down the can to the owner of lot  
3 18, then when he develops his lot with the 30-foot easement, is he going  
4 to have to go all the way back as well?  
5

6 Gonzales: Mr. Chair, Commission. That is correct.  
7

8 Best: So we're just kicking the can down the road if we grant the waiver.  
9

10 Gonzales: If that's the process, however if the applicant can meet the same  
11 requirement depending on how big his lot is, if it is 10.97 then you're  
12 looking at something where if that easement has taken place they will not  
13 be required to do the road improvements either because they may not fall  
14 underneath the 5.01 net acreage requirement.  
15

16 Villescas: Yeah.  
17

18 Gonzales: So it depends on the actual lot size of the neighboring properties. I cannot  
19 say that each one out there is 10.0 acres unfortunately.  
20

21 Villescas: Yeah. Who knows, lot 18 could be just big enough. We don't, we don't  
22 know that. Could even be smaller, we don't know that. Any further  
23 discussion from the Commission? If there's no further discussion then  
24 we'll, I will close the discussion and ask Commissioner Hearn to poll the  
25 Commission.  
26

27 Hearn: Commissioner Best.  
28

29 Best: No.  
30

31 Hearn: Commissioner Sanders.  
32

33 Sanders: Yes.  
34

35 Hearn: Commissioner Hearn votes no. Chairman Villescas.  
36

37 Villescas: I vote no.  
38

39 MOTION DENIED.  
40

41 Villescas: So the request for a waiver fails on a vote of one to three. Any decisions  
42 made by the ETZC can be appealed to the ETZA.  
43

#### 44 VI. STAFF INPUT

45 1. Monthly Subdivision Report  
46

1  
2 Villescas: So on to the next item, item four: Staff Input.  
3  
4 Hearn: Mr. Chairman.  
5  
6 Villescas: Yes sir.  
7  
8 Hearn: Can I intercede for just a second?  
9  
10 Villescas: Sure.  
11  
12 Hearn: From you folks from the public before you leave, please understand that  
13 you had a very important effect on the outcome of this case tonight and  
14 public attendance at these meetings really matters. We appreciate you  
15 being here.  
16  
17 PERSON IN THE AUDIENCE SPEAKING, NOT AT THE MICROPHONE.  
18  
19 Hearn: Even if we voted the other way it would've been important for you to be  
20 here.  
21  
22 Villescas: Okay. Item number, I'm sorry I have it backwards, item number six: Staff  
23 Input, Monthly Subdivision Report. Ms. Gonzales.  
24  
25 Gonzales: We haven't met in a while so we do have a ...  
26  
27 Villescas: Quite a bit.  
28  
29 Gonzales: I know. We have a minor subdivision that came in which was Old Time  
30 Subdivision. From the time that we haven't met till now the subdivision is  
31 already ready to file.  
32  
33 Villescas: Wow.  
34  
35 Gonzales: I know. And then we haven't had any minor or large subdivisions come in  
36 as of May yet. We did receive one this month, in June so I won't see you  
37 maybe, who knows. That's it for now.  
38  
39 Villescas: Wow.  
40  
41 Hearn: That's, that's, is that for the City or just for the ETZ?  
42  
43 Gonzales: Just for ETZ.  
44  
45 Hearn: Yeah.  
46

1 Gonzales: We only report on ETZ. City subdivisions have increased as well. That's  
2 why I say February through right now has become our, our busy months.

3  
4 Villescas: Great. That's good.

5  
6 Gonzales: Development is good.

7  
8 Villescas: Anything major in the City? Any, just out of curiosity anything major in the  
9 City?

10  
11 Gonzales: Nothing yet.

12  
13 Villescas: No. Okay.

14  
15 **VII. COMMISSION INPUT**

16  
17 Villescas: Item number seven: Commission Input.

18  
19 Sanders: *(Inaudible)*.

20  
21 Baum: Your microphone.

22  
23 Villescas: Your mic.

24  
25 Sander: I'm sorry.

26  
27 Villescas: Microphone.

28  
29 Baum: You're not on your microphone.

30  
31 Sanders: Oh, I'm sorry.

32  
33 Villescas: Go ahead. What'd you say?

34  
35 Sanders: So at the County meeting we had, at the end of it we had quite a  
36 discussion about the requirement for us to have four positive votes in  
37 order to approve a motion and the discussion was whether we could or  
38 should be reverting to a simple majority and so Mr. Meadows is checking  
39 into that issue. I, I take it you two are City Attorneys or, yeah. You know  
40 and I, I mean my personal preference is that we go to a simple majority  
41 but I'd, I don't know about the rest of the Commissioners but it's something  
42 that Steve Meadows was going to check into and it, I assume it really  
43 applies to the, the City part of this too. It seems strange that we you know  
44 have to have, like when we have five commissioners we have to have four  
45 "yea" votes so, so he's supposed to check into it for the next meeting.

46

1 Gonzales: Okay.  
2  
3 Sanders: I just thought I'd let you know.  
4  
5 Villescas: I, just a little history, Commissioner Hearn I believe you were on the  
6 Commission at the time when we rewrote our bylaws, I want to say it was  
7 three years ago. We actually changed that in the bylaws to "majority."  
8 For instance in the case of five where three "yea" votes would pass and so  
9 we changed it and then it got reversed based on some State statute or  
10 State law. So it was reversed on us. I don't know the legalities or the, or  
11 the whys but we did change it and then it was changed back on us.  
12  
13 Gonzales: Okay.  
14  
15 Hearn: But we have an ETZ down in the south county that doesn't do that. So  
16 who knows.  
17  
18 Villescas: They, they have simple majority.  
19  
20 Hearn: Yeah.  
21  
22 Villescas: So ...  
23  
24 Sanders: Yeah and it's becoming more and more difficult to get commissioners here  
25 so we're having, I mean we have trouble every time we have to ask them,  
26 you know do you want to roll the dice or postpone you know so, so I don't  
27 know I, I guess, I guess our request is to come back to the next meeting  
28 and let us know what the attorneys say or whoever is the decider on that  
29 issue so.  
30  
31 Villescas: Yeah, I would ...  
32  
33 Gonzales: Okay.  
34  
35 Villescas: I would certainly enjoy having a simple majority especially when we have  
36 five but I don't, I don't know the legalities behind that. Any other  
37 Commission input?  
38  
39 Sanders: Figure you guys have to earn your pay tonight so, not that you don't but.  
40  
41 Gonzales: Don't worry, we're going to be back, we're going to be back next month.  
42  
43 Villescas: Are, are you really?  
44  
45 Gonzales: Well we'll have ...  
46

1 Hearn: We, we just ...  
2  
3 Gonzales: The other two cases.  
4  
5 Hearn: Created it tonight. Yeah.  
6  
7 Gonzales: We have the two cases ...  
8  
9 Villescas: Oh that's right.  
10  
11 Gonzales: So we will be returning next month.  
12  
13 Villescas: That's right.  
14  
15 Gonzales: To make sure we do have those cases because they are all pending on  
16 their subdivisions that they provided.  
17  
18 Villescas: Okay. Yeah I forgot about that.  
19  
20 Hearn: That's another neat reason for doing that. We can create future business.  
21

22 **VIII. PUBLIC INPUT**

23  
24 Villescas: Item number eight: Public Announcement, or Public Input. And I don't  
25 see any public.  
26

27 **IX. ADJOURNMENT (7:08 p.m.)**

28  
29 Villescas: So item nine: Adjournment. Do we have a motion for adjournment?  
30

31 Hearn: Yep.

32  
33 Sanders: Second.

34  
35 Villescas: All in favor.  
36

37 **MOTION PASSES UNANIMOUSLY.**

38  
39 Villescas: All opposed. We stand adjourned. Thank you.  
40

41  
42  
43  
44  
45 \_\_\_\_\_  
Chairperson  
46