City of Las Cruces®

MEMORANDUM

To: Las Cruces Extra-Territorial Zoning Authority

From: Sara Gonzales, Planner

Date: July 28, 2016 **File #:** M-16-182

Subject: Case 65519A: Soledad Vista Replat No. 13 Waiver Request -Appeal

On July 20, 2016 City staff presented Case 65519A for an appeal to the decision of the Extra-Territorial Zoning Commission for case 65519W made on June 2, 2016 denying a waiver request for road improvements associated with a proposed subdivision known as Soledad Vista Replat No. 13. The applicant is seeking to waive the required roadway improvements to the access roads for the proposed subdivision, Alma Road and Wind Dancer Trail. During the meeting the Extra-Territorial Zoning Authority requested additional information on the waivers approved, denied, or withdrawn for the surrounding area. Staff has provided a map and listing for properties that have gone through the subdivision process and requested waivers, please refer to Attachment #1.

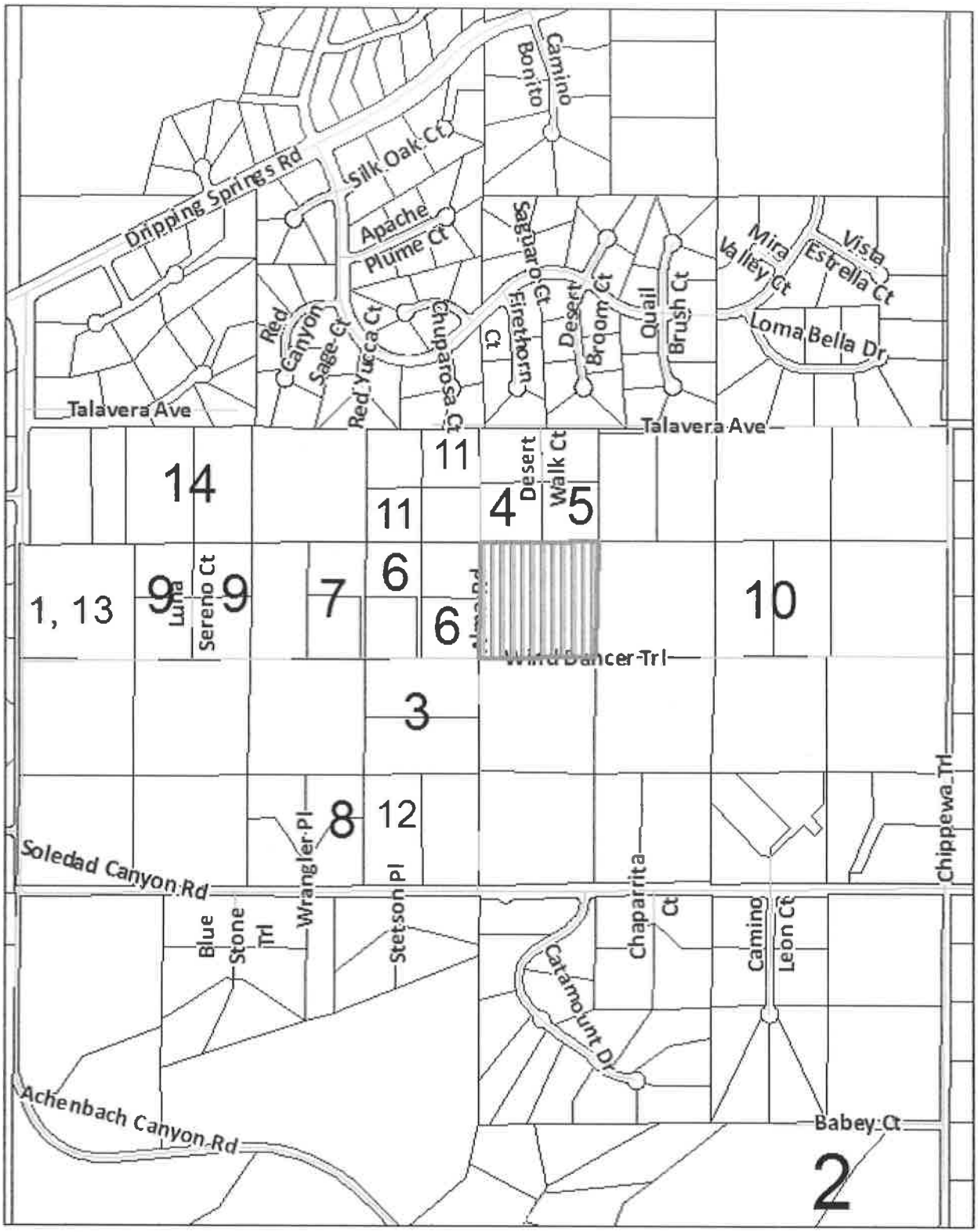
If you need more information, please feel free to contact me at 528-3085.

Thank you.

Attachments

cc: Adam Ochoa, Acting Senior Planner
Katherine Harrison-Rogers, Acting B&DS Administrator

WAIVER REQUESTS



0 150 300 450 600 750 900 1,050 1,200 1,350 1,500

Feet

Community Development Department
700 N Main St
Las Cruces, NM 88001
(575) 528-3222

This map was created by Community Development to assist in the administration of local zoning regulations. Neither the City of Las Cruces or the Community Development Department assumes any legal responsibilities for the information contained in this map. Users noting errors or omissions are encouraged to contact the City (575) 528-3043.

SUBDIVISION	DATE	WAIVER	LOTS	MAP NO.	
SOLEDAD VISTA NO. 2 REPLAT NO. 11	11/7/2010	YES	4	9	
SOLEDAD VISTA REPLAT NO. 6	11/18/2004	YES	2	10	
SOLEDAD VISTA NO. 2 REPLAT NO. 6	4/16/1997	YES	4	8	
SOLEDAD VISTA NO. 2 REPLAT NO. 9	2/4/1999	YES	4	6	
SOLEDAD VISTA NO . 2 REPLAT NO. 5	4/4/1996	NO	4	13	required improvements never filed
SOLEDAD VISTA NO. 2 REPLAT NO. 7	2/18/1998	YES	4	11	
SOLEDAD VISTA NO. 2 REPLAT NO. 8	2/4/1999	YES	2	7	
SOLEDAD VISTA NO. 2 REPLAT NO. 10	9/16/2003			14	large land subdivision
SOLEDAD VISTA NO. 2 REPLAT NO. 3	12/21/1989		2	12	no additional improvements required
SOLEDAD VISTA NO. 2	11/22/1978		16	4	prior to joint powers for ETZ in 1987
SOLEDAD VISTA NO. 2 REPLAT NO. 12	10/15/2015		2	1	withdrew application
SOLEDAD VISTA NO. 3 REPLAT NO. 4	8/6/2009	YES	18	2	no additional improvements required
SOLEDAD VISTA NO. 2 REPLAT NO. 1			2	3	large land subdivision
SOLEDAD VISTA NO. 3	1/31/1992	YES	12	5	

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

CITY OFFICES
Community Development Department
City Hall, 700 N. Main Street
P.O. Box 20000
Las Cruces, NM 88004
Phone: (575) 528-3043
Fax: (575) 528-3155

COUNTY OFFICES
County Planning Department
Doña Ana County Government Center
845 North Motel Blvd.
Las Cruces, NM 88007
Phone: (575) 647-7350
Fax: (575) 525-6131

TO:	Extra-Territorial Zoning Authority
FROM:	Extra-Territorial Zoning Commission
PREPARED BY:	Sara Gonzales, Planner
DATE:	June 27, 2016
SUBJECT:	Soledad Vista Replat No. 13 Waiver Request – Appeal

65519A: Soledad Vista Replat No. 13 Subdivision Waiver Request Appeal
An appeal of the decision of the Extra-Territorial Zoning Commission for case 65519W made on July 2, 2016, denying a waiver request for road improvements associated with a proposed subdivision known as Soledad Vista Replat No. 13. The applicant is seeking to waive the required roadway improvements to the access roads created by the subdivision, Alma Road and Wind Dancer Trail, which provides access to the subdivision and to Soledad Canyon Road, which is located near the closest paved road. The subject property encompasses 10.045 ± acres, is zoned ER2 and is located on the north east corner of Alma Road and Wind Dancer Trail, 2598 ± feet east of its intersection with Soledad Canyon Road; Parcel ID# 03-10444. Submitted by Borderland Engineers and Surveyors, LLC., on behalf of Richard and Linda Jacobs, property owners

BACKGROUND

Soledad Vista Replat No. 13 proposes two (2) lots on 10.045 ± acres. The subject property will have access from Wind Dancer Trail which is a private 30-foot-wide road and utility easement.

The ETZ Subdivision Ordinance, Section 4.2A, states all subdivisions in the ETZ are required to improve adjacent rights-of-way. Additionally, Section 4.2B states that any road construction for the subject property shall adhere to Dona Ana County Design Standards. The requirement for improvement for Wind Dancer Trail is that the subdivider construct the road from the boundary of the subject property to the nearest paved public roadway (Soledad Canyon Road). The subdivider is requesting a waiver to the complete improvement of this roadway.

The ETZ Subdivision Ordinance, Section 4.2c states that all subdivisions shall provide one hundred percent of the required road improvements to interior rights-of-way. The subdivider is requesting a waiver to the required roadway improvements to Alma Road and Wind Dancer Trail.

The waiver request for no road improvements and no interior road improvements was not supported by the EDRC (Extra-Territorial Zoning Review Committee) or the Dona Ana County Engineering Department on May 5, 2016. Furthermore, on July 2, 2016, the ETZ Commission considered the waiver request for the subject property for road improvements to Wind Dancer Trail and Alma Road. The ETZ Commission denied the applicant's waiver request during the July 2, 2016 due to the discussion of several concerned neighboring properties and the current status of the roadway. The denial is consistent based upon the following findings:

1. The applicant is requesting to waive roadway improvements to Wind Dancer Trail and Alma Road.
2. Dona Ana County Design Standards require the construction of the roadways and easements for access.
3. As specified by Section 6.1 of the ETZ Subdivision Ordinance, the applicant did not demonstrate a substantial hardship due to exceptional topographic, soil or other sub-surface conditions that would otherwise inhibit the objectives of the ETZ regulations.

RECOMMENDATION

The ETZ Commission convened on July 2, 2016 to consider the proposed waiver request. The waiver request was denied by a 3-1 (three Commissioners absent) vote. Additionally, the EDRC convened on Thursday May 5, 2016 and unanimously recommended denial for the waiver request to the ETZ Commission.

OPTIONS

1. Approve the appeal. This action reverses the ETZ Commission decision of denial. The applicant will not be responsible for roadway improvements to and within the proposed subdivision.
2. Deny the appeal. This action affirms the ETZ Commission decision of denial. The appellant will be responsible for roadway improvements.

ATTACHMENTS

1. Appeal Letter from Applicant
2. ETZ Commission Meeting Agenda and Minutes
3. ETZ Commission Staff Report and Attachments for Case 65519W, Soledad Vista Replat No. 13 Waiver Request
4. Vicinity Map

ATTACHMENT #1

BORDERLAND
ENGINEERS AND SURVEYORS LLC
2540 N. TELSHOR BLVD. STE D
Las Cruces, New Mexico 88011
Phone: (575) 522-1113
Fax: (575) 522-0058

City of Las Cruces
PO Box 20000
Las Cruces, NM 88004

June 16, 2016

Atten: Dona Ana County/City of Las Cruces
Planning Department,

Re: Waiver to Large Land Area Subdivision Minimum Lot Size
Request **App # 62131**
Soledad Vista Subdivision – Replat No.13

To Whom it May Concern:

On behalf of our Client, Richard & Linda Jacobs, please accept this request for a waiver to the City of Las Cruces, ETZ Subdivision Oridinance for "Large Land Area Subdivision" minimum lot size being 5.01 **NET acres.** We are requesting a waiver for the Large Land Area Subdivision minimum lot size to be 5.01 ***GROSS acres***

The subject property (parcel #03-10444) is located at 9505 Wind Dancer Trail. Being a 10.045 Acre Tract of Land, Located in Section 20, T.23S., R.3E., N.M.P.M.. The subdivision is located at the Northeast intersection of Alma Road and Wind Dancer Trail.

The property is located in the Talavera area East of the City of Las Cruces in primarily vacant desert and sees very little growth.

Lot 5B of the proposed Soledad Vista Subdivision – Replat No.13 is 5.01 Acres and lot 5A is 5.04, which qualifies this Subdivision to be a "Large land Area Subdivision" under Article II, Sections 1.12 and 2.5, however, with the 30 foot wide Road Easement on the South property line known as "Wind Dancer Trail", Lot 5B becomes 4.58 acres (NET) according to Section 4.2M-11. Our Waiver request is for the Net requirement to be waived within the City of las Cruces, ETZ Subdivision Oridinance for "Large Land Area Subdivision" minimum lot size, so that both lots within this 2 Lot subdivision known as "Soledad Vista Subdivision – Replat No.13" can be defined as "Large Land Area Subdivsion" Lots.

In accordance with the Doña Ana County and City of Las Cruces Subdivision Code, we request a waiver he City of Las Cruces, ETZ Subdivision Oridinance for "Large Land Area Subdivision" minimum lot size, so that both lots within this 2 Lot subdivision known as "Soledad Vista Subdivision – Replat No.13" can be defined as "Large Land Area Subdivsion" Lots.

Thank you for your consideration and as always, if you should have any questions, please don't hesitate to call.

Sincerely,

Steve Peale
Borderland Engineers and Surveyors, LLC.

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

CITY OFFICES
Community Development Department
City Hall, 700 N. Main Street
P.O. Box 20000
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EXTRA-TERRITORIAL ZONING COMMISSION AGENDA

The Las Cruces Extra-Territorial Zoning Commission agenda for a public hearing to be held on **Thursday, June 2, 2016 at 6:00 p.m.** in the County Commission Chambers at 845 N. Motel Boulevard, Las Cruces, New Mexico.

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

I. CALL TO ORDER

II. ANNOUNCEMENTS

III. APPROVAL OF MINUTES – January 7, 2016

IV. POSTPONEMENTS – NONE

V. NEW BUSINESS

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

Tommy and Sandra Brown, property owners.

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

3. **Case 65519W: Soledad Vista Subdivision Replat No. 13 Waiver Request**
   A request for approval of a waiver to the required roadway improvements associated with a replat known as Soledad Vista Subdivision Replat No. 13. The applicant is seeking to waive the required roadway improvements to Alma Road and Wind Dancer Trail for the proposed subdivision. The subject property encompasses 10.045 ± acres, is zoned ER2 and is located on the northeast corner of Alma Road and Wind Dancer Trail; a.k.a. 9505 Wind Dancer Trail; Parcel ID# 03-10444. Submitted by Borderland Engineers and Surveyors, LLC., on behalf of Richard and Linda Jacobs, property owners.

VI. STAFF INPUT

1. Monthly Subdivision Report

VII. COMMISSION INPUT

VIII. PUBLIC INPUT

IX. ADJOURNMENT

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.

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.

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

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

Villescas: I think your mic's not on.

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

Sanders: Here.

Hearn: Robert Hearn is here. Mark Best.

Best: Present.

Hearn: Is here. And John Villescas the Chair.

Villescas: I am here.

Hearn: We have four members present.

Villescas: Thank you.

II. ANNOUNCEMENTS

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

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

Villescas: If not.

III. APPROVAL OF MINUTES - January 7, 2016

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

Hearn: Move to approve the minutes.

Sanders: Second.

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

Hearn: Mark Best.

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

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

Best: Okay. Aye.

Hearn: Tim Sanders.

Sanders: Aye.

Hearn: Robert Hearn votes aye. John Villescas.

Villescas: I vote aye.

MOTION PASSES UNANIMOUSLY.

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

IV. POSTPONEMENTS

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

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

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

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

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

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

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

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

Gonzales: Yes.

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

V. NEW BUSINESS

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Hearn: Mr. Chairman.

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

Hearn: I do.

Villescas: Please go ahead.

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

Gonzales: If we were to go to the subdivision we are missing, it is 4.58. We are missing 0.42 acres.

Hearn: Little less than half.

Gonzales: Yes.

Hearn: Okay. And, and if that were 5.01 …

Gonzales: We would not be here this evening.

Hearn: We wouldn't even be here about either of the roads.

Gonzales: No Commissioners, we would not.

Hearn: Yeah. Okay. Thank you very much.

Villescas: Are there any, you, you have questions Mr. Sanders?

Sanders: While you're on that slide, could you go through that again? I didn't quite understand why we're here in the first place.

Gonzales: So what takes place, in the ETZ Code it states that you have to have 5.01 net acreage. The two acreages on each property, the top one is 5.01 acres and it also, their net is 5.01 because they do not have to give up any road easements cause the road is already established on Alma. That's why they do not have to provide any more, so they do not fall underneath as far as net acreage. In Lot 5A because they have to give up the additional square footage on the south side of the property to Wind Dancer Trail, it reduces their net acreage because we take out any of the access easements or utility easements provided on the plat. Drainage easements do not come out due to you can build over a drainage easement if it is designed properly.

Sanders: A, and so is that Wind Dancer Trail easement already there or it would be established because of this action?

Gonzales: Mr. Chair, Commissioners. It is established due to the subdivision. They have to give up that access easement for the subdivision.

Sanders: So it'd be a new easement on that property.

Gonzales: Yes sir.

Villescas: Yeah. So that dotted line there and then the words "Wind Dancer Trail" indicate the easement they would give up and it's due to that easement they would give up that we're here tonight. Is that correct Ms. Gonzales?

Gonzales: Mr. Chair, Commissioners. That is correct. If you were to remove that easement it would reflect the same as the north property as well, 5.01 acres.

Villescas: So due to that easement give-up we're here tonight.

Sanders: So, so, I, so that, it's still 5.01 ...

Villescas: Acres.

Sanders: Acres without the Wind Dancer Trail, correct?

Gonzales: Mr. Chair, Commissioners. That is correct. The actual acreage is 5.01. Net acreage is accumulated based on what you can actually, it's buildable area is what net acreage is provided.

Villescas: And you can ...

Gonzales: So it is still part of your land but you just cannot build upon it.

Sanders: All right.

Villescas: So net is less easement. Any other questions for Ms. Gonzales?

Best: Mr. Chair.

Villescas: Please go ahead.

Best: Wind Dancer Trail, that, it says it's a, a required 60-foot easement for that road.

Gonzales: Mr. Chair. Correct. It is 30 feet from the property to the south and it is 30 feet from that property in order to create the 60 feet within there so if the property was ever to become developed or paved that part would be improved.

Best: Okay.

Hearn: Could we look at the photograph one more time please?

Gonzales: This one?

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Hearn: Yeah.

Gonzales: Okay.

Hearn: And, and Wind Dancer Trail right now stops at Alma?

Baum: You're not on your microphone sir.

Hearn: Oh sorry. Wind, Wind Dancer right now stops at Alma?

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

Hearn: Right. Okay.

Gonzales: It does not exceed any further. There is just brush.

Hearn: Well that's almost as much as you can say about the roads but that's okay.

Villescas: Yeah. I was about to ask for a picture of the road but there is none.

Gonzales: If you see here the dead end, it basically dead-ends at that corner. So right where that street sign is is where Wind Dancer would assume to take over from the subdivision point. So nothing is developed. It is basically still just plants. It looks like all the vegetation that is surrounding it that has not been developed yet, no one has gone out there. With the process of it being developed then they would be required to actually clear out that brush in order to improve that access area, whether it would be the gravel that is provided for the surrounding properties or tonight, that's why we're here, that would be when they have to put in the road improvements.

Hearn: Could we see one more time the picture of, of the plots of all the, all the areas out, the, yeah that one. Thank you.

Sanders: So if we were to grant the waiver request access to that lower property, the one that had, that is requiring the Wind Dancer would be where?

Villescas: Where that little, where the small yellow line is but it would actually, right now as it stands they would have to improve everywhere you see a yellow line.

Sanders: Right.

Villescas: They would have to make improvements to those yellow lines all the way back to that roadway, not sure the name of it but Wind Dancer Trail would have to be improved all the way up to their property, that additional yellow

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

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

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

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

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

Hearn: Okay.

Gonzales: Portion as well as the ...

Hearn: Okay. I ...

Gonzales: West side.

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

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

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

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

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everybody is driving on an easement. So they would essentially identify the same thing. Alma Road is already the, the footage it needs to be.

Sanders: And they both front …

Gonzales: They do not have to increase it.

Sanders: They both front Alma Road.

Gonzales: They both front Alma Road.

Sanders: Yeah.

Gonzales: But they would still have to, since they identify the road easement on their subdivision to the south on Wind Dancer that would still have to be a road easement that would continue on for the next property to the east side. When the east side actually develops, that means they should have access just like all the other properties from Soledad Canyon going through Wind Dancer continuing on. You would drive through it is the essential.

Villescas: Ms. Gonzales may I ask you property number 18, is that currently landlocked? Is there, is there any way to on a roadway reach property number 18? Yeah, you just passed it.

Gonzales: If you go through 18 there is Desert Walk Court right there. It's a like a little cul, it's a side street, 18 falls right above that and then there are side streets through there.

Villescas: Oh I see, the little black lines.

Gonzales: Everybody has basically a road access easement that is provided on some form …

Villescas: Okay.

Gonzales: To get to their property and that's where I say if you look at the properties, they are essentially not developed within that area so those access easements have not been created because no one is developing those properties.

Villescas: Okay.

Gonzales: Otherwise you would just see, as you see to the northeast side it's just like a driveway kind of area. They've created a driveway in their property and

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that's the only part they had to develop. But you would still have access through those properties.

Villescas: Okay. And granting this property waiver request, they would develop a 30-foot easement gravel driveway on the south end and then that would continue to the edge of property 18. Correct?

Gonzales: Mr. Chair. That is correct. This, oops. That would ...

Villescas: Yeah.

Gonzales: Actually continue from Alma, it would go to property 18 so it would stop there.

Villescas: Okay.

Gonzales: Property 18 decides to develop, they have a 30-foot easement that's already provided from their property. They would have to develop theirs in order to get access from theirs. So it basically just continues on throughout the properties.

Villescas: Okay.

Hearn: Now I, I think, Mr. Chairman I could ask one more. I'm trying to, trying to get this clear in my head and I'm getting worse all the time.

Villescas: It, it's confusing, I understand, no, I ...

Hearn: If, say we, they had only proposed if they could to have access to both lots from Alma, never mind Wind Dancer, just come in from Alma that would require no new easements, no new nothing, they could just come in. Is, would that work?

Gonzales: I will let the subdivider answer that question.

Hearn: Okay.

Gonzales: The one who's actually doing the development ...

Hearn: Okay.

Gonzales: For that subdivision. He can clarify whether it would be required or not for that portion.

Hearn: But if, if that were done then everything would be cool, right?

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Gonzales: Actually then we would not be here as well listening to ...

Hearn: Okay. Okay. Any more questions for me?

Sanders: I just have one more I think. So are they asking for a waiver of establishing that Wind Dancer easement or are they proposing to establish that Wind Dancer easement?

Gonzales: Mr. Chair, Commission. They are proposing to provide that easement for access for later development. They are proposing not to do the road improvements to either of the access easements nor access from Soledad Canyon to their actual proposed subdivision.

Sanders: Yeah cause it shows the applicant is, requests that the adjacent roadway and interior road and utility easement improvements for subdivision access be waived, and which are those, the ones that go across or ...

Gonzales: That would be the Wind Dancer easement cause those are considered access easements. They're not considered a road. It's basically a road and utility easement. They're access ways, they're not considered just a road. So that's what we consider them. Those are interior because it is within the subdivision.

Sanders: So, so this says that they're asking that that be waived.

Gonzales: Correct. Because they have ...

Sanders: But I thought you said ...

Gonzales: To improve that roadway for that 30 feet that they're providing.

Sanders: Right.

Gonzales: That 30 feet would have to be a 24-foot double-penetrated surface if they have to improve it.

Sanders: But they're proposing to establish that easement, not pave it.

Gonzales: Correct. So they're looking, they're going to give up the easement but they are establishing not to improve that easement.

Sanders: Okay.

Best: Mr. Chairman.

Villescas: Yes sir.

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Best: So they're asking for a waiver so they don't have to provide pavement of 3,600 feet of, of roadway, all the way back to Soledad Canyon, up Alma, so ...

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

Villescas: Boy. Okay.

Hearn: Is it time to hear from the developer?

Villescas: Yes providing, Ms. Gonzales we probably will be calling you back. But, and Mr. Hearn do you have the sheet to swear Mr. Scanlon in?

Hearn: No but I can do it anyway.

Villescas: Okay. Please do.

Scanlon: My name's Ted Scanlon, my address 2990 North Main.

Hearn: Do you swear to tell the truth, the whole truth, and nothing but the truth subject to the penalty of law?

Scanlon: I do.

Hearn: Thank you.

Villescas: Please go ahead Mr. Scanlon.

Scanlon: Thank you Mr. Chairman and Commissioners. It's pleasure to be here this evening. I've said this before because we have an inordinate amount, number of cases regarding requests for waivers to put roadway improvements. They come in all the time. And I've been doing business under the Codes of the City and the ETZ and the County for 40 years here in Las Cruces and, and it has always seemed to me that when you have an inordinate number of cases requesting waivers to a particular section of the Code there's probably something wrong with that section of the Code and it needs to be looked at. And I would urge the Commission to recommend that staff or a committee or somebody look at this section of the Code because it just keeps coming up over and over again. And, and, and for good reason. Let me ... go the other way. Those yellow lines on there total about 3,800 linear feet. To build a 24-foot wide double-penetration roadway with base coarse and grading and all the other things that need to go along with that, you're looking at about $60 a linear foot. That comes to about $235,000 to pave those roads when none of the other roads out there in that area are paved at all. And it just doesn't

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

Hearn: Mr. Chairman.

Villescas: Please go ahead Mr. Hearn.

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

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

Scanlon: Well the, the, the, there's a Code requirement for dedication of that …

Villescas: Easement.

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

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Villescas: And, and the majority of the easement that we're talking about is on the south end of that arroyo that you referred to earlier.

Scanlon: Correct.

Villescas: Yeah. And the plan is to build on the north end of the arroyo.

Scanlon: Yes.

Villescas: Yeah. So I, going back to your question Commissioner Hearn, I don't believe the 30-foot easement is an issue. I just think the issue is putting a road there.

Hearn: It, it, I, as I understood it it's an issue because it reduces the net acreage of that lot below 5.01 and forces all these other things into consideration. If it weren't there we'd have two lots of five plus a square inch and as Sara has said, we wouldn't be here tonight. So it's, it's, it's, it's that easement and its subtraction from the net acreage of that south lot ...

Scanlon: And that, that's another ...

Hearn: That, that causes this whole problem.

Scanlon: That's another Code provision that I have some issues with too. I mean I, I, granted when you do a, a subdivision and you dedicate the roadways to the County that acreage comes out of the lot.

Hearn: Yep.

Scanlon: Period. But when you do an easement, an easement is a license that one entity has for use of the land of another. The land stays in the ownership of Lot 5A but the public then has a license to have a roadway across it because of virtue of the grant of easement. Still, still in the property.

Hearn: Sara maybe, maybe you could come back up for a second and, and help us with the details but could we go back to the picture of, the overall picture of the lots? One, one of the things that continually bothers me and I think this may be one of the road issues that Mr. Scanlon has seen a thousand times is if these folks are forced to pave Wind Dancer Trail all the, all the way in a whole bunch of people are getting advantage of that pavement that didn't do it before and that doesn't seem fair. We, we, we need to find a way to work this out. How, how come all the other people didn't have to pave it?

Gonzales: Mr. Commissioner, Chair. There may be properties out there that were already subdivided prior.

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Hearn: Right.

Gonzales: Did …

Hearn: All them grandfathers.

Gonzales: Exactly. So if they had subdivided it prior, if it wasn't part of a subdivision. When the subdivision was originally created it could've been that the road improvements were required. Once you actually subdivide after the, the original subdivision then the road improvements are required, so anything changing what the original state would be.

Hearn: But we don't have any way of, of requesting those other folks kick in and pay their part or, or anything like that.

Gonzales: Mr. Chair, Commissioner. There is nothing written, no. It just says, it's solely to the divider of the property, the person who is developing.

Villescas: Any other questions for Mr. Scanlon at this time? Well thank you Mr. Scanlon and, oh I'm sorry. I didn't even notice that you had sat down. Thank you. We may be calling you back up. Any other questions for Ms. Gonzales before I open it up to the public? If not, we'll take comments from the public if there's anyone from the public that would like to come forward on this case. If you could state your name and address for the record into the microphone, Commissioner Hearn will swear you in.

Wofford: Good evening Chairman Villescas. I am Robert Wofford. I live at 4915 Desert Walk Court. It directly abuts this property just to the north.

Hearn: Would you raise your right hand please sir.

Wofford: Yes.

Hearn: Will you swear to tell the truth and nothing but the truth subject to penalty of law?

Wofford: I, I will.

Hearn: Thank you.

Villescas: Please go ahead.

Wofford: Okay, okay. It's been interesting listening to the discussion about how the easements and things happen, and if it had been 5.01 we wouldn't be here. But that property 18 does need access so Wind Dancer has to be

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

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

Villescas: Are there any questions from the Commission?

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

Villescas: Got it here, 4920. All right. Thank you very much sir.

Wofford: All right thank you.

Villescas: Appreciate it.

Wofford: I appreciate your time tonight and.

Villescas: Thank you.

Hearn: Thanks.

Villescas: Are there any other members of the public like to come forward? Please do. If you could state your name and address into the microphone for the record, Commissioner Hearn will swear you in.

Foster: Hi. I'm Helen Foster. I live at 4920 Alma Road, directly across the street and I think I need to make it clear to you that Wind Dancer Trail ...

Hearn: Could ...

Foster: Does not ...

Villescas: Wait, hang on one second Ms. ...

Hearn: Could I swear you in just real quick? Would, would you raise your right hand.

Foster: Oh, I'm sorry.

Hearn: That's okay. Do you promise to tell the truth, the whole truth, and nothing but the truth subject to penalty of law?

Foster: I do.

Hearn: Thank you.

Foster: Thank you.

Hearn: Now go ahead.

Foster: I, Wind Dancer Trail does not end at his property. The picture you have up there should be moved to the east a little and you'll see Wind Dancer Trail continues from there. It's just his property and property 18. There is still currently a two-track road going through that arroyo on up. We walk it all the time. It's just that the properties aren't developed. It needs to, that

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

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

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

Villescas: Any questions from the Commission?

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

Foster: Okay. Thank you.

Hearn: Thanks.

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

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

Hearn: Would, would you, yeah okay.

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Smidt: Go ahead.

Hearn: Do you swear to tell the truth, the whole truth, and nothing but the truth subject to the penalty of law?

Smidt: I do.

Hearn: Thank you.

Smidt: My property does not adjoin this. However I walk that area and she is right. It does, the trail does not end where it says it ends. There's another property between that one and where the, if you look at the, where 661 feet is, if you took the bottom line of that there and drew it to your, it'd be to your right, my left that would be up to the property corner there, that would be the Wind Dancer Trail. Follow me? And I was told, I own, I'm sorry.

Gonzales: I want to show you a better ... oh it doesn't continue.

Smidt: Oh I'm not on there. I was told when I bought that 10 acres off of Talavera, I asked the Commission or the, the County, "If I subdivide what do I have to do?" And they said, "You have to pave all of Talavera up to your, past your property line, all of Alma out to Soledad Canyon or from where Alma and Wind Dancer meet there, that solid yellow line," I'd have to go to the west all the way out to Soledad Canyon Road. I said, "I don't have an extra three million laying around," you know. And I still don't you know. And so, I mean the regulation was there. And so I just, I don't, I haven't subdivided and I probably will never do it. Anything?

Best: Mr. Chairman.

Villescas: Please go ahead.

Best: Where are you sir on this map as opposed ...

Smidt: Okay.

Best: Say if we're on Desert Walk Court and where are you?

Smidt: I'm to the east of that. There's that, you see that one building out, up there to the east, well right just about, if you'd go to your right again of the W on Wind Dancer, you see a part of a building there.

Villescas: Uh huh.

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Smidt: That's mine.

Best: Okay.

Smidt: My 10 acres is there. Anything else gentlemen?

Villescas: Any, any questions?

Sanders: The, your property is where it says Wind Dancer, you're to the north of the word Wind, is that what you're saying?

Smidt: Well, just about the, if you took the W there and divided it in half and went back to the west, you see a little bit of white. That's one of my buildings there.

Sanders: Oh, okay.

PERSON IN THE AUDIENCE SPEAKING, NOT AT THE MICROPHONE.

Smidt: Yeah, a, square ...

PERSON IN THE AUDIENCE SPEAKING, NOT AT THE MICROPHONE.

Smidt: It's, it's off of Talavera.

Sanders: Oh, I see. Okay. Thank you.

Smidt: Okay.

Sanders: Yeah. I got you.

Smidt: I'm sorry.

Sanders: I got you. Yeah.

Smidt: I didn't make myself clear.

Villescas: Yeah.

PERSON IN THE AUDIENCE SPEAKING, NOT AT THE MICROPHONE.

Sanders: Yeah that mouse magic ...

Smidt: If it, I don't, I don't think I've showed up.

Sanders: It magically moved over there.

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Gonzales: It's right here. His property is located right there.

PERSON IN THE AUDIENCE SPEAKING, NOT AT THE MICROPHONE.

Smidt: That's where, that's my …

Villescas: Yeah.

Smidt: Driveway there that she's pointing to.

PERSON IN THE AUDIENCE SPEAKING, NOT AT THE MICROPHONE.

Sanders: Yeah. Okay.

Gonzales: *(Inaudible).*

Villescas: Oh, that Wind Dancer.

Sanders: Yeah I was looking up here.

Villescas: I was looking at the other Wind Dancer, yeah. Thank you.

Smidt: I'm sorry.

Villescas: That's okay. Any other questions? Thank you very much. Appreciate it.

Smidt: Thank you.

Villescas: Are there any other members of the public that would like to come forward? If not, at this time we'll close it off to the public and open it up to the Commission. Is there any discussion from the Commission?

Best: Mr. Chair.

Villescas: Please go ahead.

Best: I'm just going to throw out that I think a, a requirement of $228,000 to pave these roads is a lot to expect of the applicant. But I also think it's unfair that the rest of the residents on Wind Dancer will benefit from the expenses paid by the applicant. But I guess that's the law.

Hearn: Mr. Chairman.

Villescas: Commissioner Hearn.

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Hearn: Just by, by way of continuing the discussion, it sounds to me like, like we all know and we can see we, there's a, a situation with roads out in the Talavera area which we all wish were better. Well maybe not because it has its own effects on, on the way development goes. But everybody's doing a pretty good job of living by the rules and, and following the rules and to me this looks like a situation where continuing to follow the rules is probably a good idea.

Sanders: Is what?

Hearn: A good idea.

Sanders: Oh.

Villescas: From, just from, from my perspective it just, you know from the comments we got from the public it appears that others have not subdivided due to the constraints that are out there, have not approached for waivers because they knew the expense that would be involved. That's just my two cents.

Sanders: Yeah. I'm just guessing here but those all the way west on Wind Dancer, there's subdivisions there. There's one that, right next to it that has a four-plex. I bet you'd find waivers in the files for most of those roads going all the way down to Achenbach, whatever that road is. Probably like, just like we find everywhere else, it's one waiver after another.

Hearn: Mr. Chairman.

Villescas: Commissioner Hearn.

Hearn: I'll move to approve Case 65519W consistent with the findings and recommendations of staff.

Villescas: Do we have a second?

Sanders: I second.

Villescas: Okay. We have a motion from Mr. Hearn for approval of Case 65519W: Soledad Vista Subdivision Replat Number 13 Waiver Request, and a second. Do we have any discussion from the Commission?

Hearn: Mr. Chairman.

Villescas: Mr. Hearn.

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

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

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

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

Hearn: Thank you.

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

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

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

Villescas: Please go ahead.

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

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

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

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

Villescas: Yeah.

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

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

Hearn: Commissioner Best.

Best: No.

Hearn: Commissioner Sanders.

Sanders: Yes.

Hearn: Commissioner Hearn votes no. Chairman Villescas.

Villescas: I vote no.

MOTION DENIED.

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

VI. STAFF INPUT

1. Monthly Subdivision Report

DRAFT

Villescas: So on to the next item, item four: Staff Input.

Hearn: Mr. Chairman.

Villescas: Yes sir.

Hearn: Can I intercede for just a second?

Villescas: Sure.

Hearn: From you folks from the public before you leave, please understand that you had a very important effect on the outcome of this case tonight and public attendance at these meetings really matters. We appreciate you being here.

PERSON IN THE AUDIENCE SPEAKING, NOT AT THE MICROPHONE.

Hearn: Even if we voted the other way it would've been important for you to be here.

Villescas: Okay. Item number, I'm sorry I have it backwards, item number six: Staff Input, Monthly Subdivision Report. Ms. Gonzales.

Gonzales: We haven't met in a while so we do have a ...

Villescas: Quite a bit.

Gonzales: I know. We have a minor subdivision that came in which was Old Time Subdivision. From the time that we haven't met till now the subdivision is already ready to file.

Villescas: Wow.

Gonzales: I know. And then we haven't had any minor or large subdivisions come in as of May yet. We did receive one this month, in June so I won't see you maybe, who knows. That's it for now.

Villescas: Wow.

Hearn: That's, that's, is that for the City or just for the ETZ?

Gonzales: Just for ETZ.

Hearn: Yeah.

DRAFT

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

Villescas: Great. That's good.

Gonzales: Development is good.

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

Gonzales: Nothing yet.

Villescas: No. Okay.

VII. COMMISSION INPUT

Villescas: Item number seven: Commission Input.

Sanders: *(Inaudible).*

Baum: Your microphone.

Villescas: Your mic.

Sander: I'm sorry.

Villescas: Microphone.

Baum: You're not on your microphone.

Sanders: Oh, I'm sorry.

Villescas: Go ahead. What'd you say?

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

DRAFT

Gonzales: Okay.

Sanders: I just thought I'd let you know.

Villescas: I, just a little history, Commissioner Hearn I believe you were on the Commission at the time when we rewrote our bylaws, I want to say it was three years ago. We actually changed that in the bylaws to "majority." For instance in the case of five where three "yea" votes would pass and so we changed it and then it got reversed based on some State statute or State law. So it was reversed on us. I don't know the legalities or the, or the whys but we did change it and then it was changed back on us.

Gonzales: Okay.

Hearn: But we have an ETZ down in the south county that doesn't do that. So who knows.

Villescas: They, they have simple majority.

Hearn: Yeah.

Villescas: So ...

Sanders: Yeah and it's becoming more and more difficult to get commissioners here so we're having, I mean we have trouble every time we have to ask them, you know do you want to roll the dice or postpone you know so, so I don't know I, I guess, I guess our request is to come back to the next meeting and let us know what the attorneys say or whoever is the decider on that issue so.

Villescas: Yeah, I would ...

Gonzales: Okay.

Villescas: I would certainly enjoy having a simple majority especially when we have five but I don't, I don't know the legalities behind that. Any other Commission input?

Sanders: Figure you guys have to earn your pay tonight so, not that you don't but.

Gonzales: Don't worry, we're going to be back, we're going to be back next month.

Villescas: Are, are you really?

Gonzales: Well we'll have ...

DRAFT

Hearn: We, we just …

Gonzales: The other two cases.

Hearn: Created it tonight. Yeah.

Gonzales: We have the two cases …

Villescas: Oh that's right.

Gonzales: So we will be returning next month.

Villescas: That's right.

Gonzales: To make sure we do have those cases because they are all pending on their subdivisions that they provided.

Villescas: Okay. Yeah I forgot about that.

Hearn: That's another neat reason for doing that. We can create future business.

VIII. PUBLIC INPUT

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

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

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

Hearn: Yep.

Sanders: Second.

Villescas: All in favor.

MOTION PASSES UNANIMOUSLY.

Villescas: All opposed. We stand adjourned. Thank you.

_____

Chairperson

DRAFT

ATTACHMENT #3

City of Las Cruces
PEOPLE HELPING PEOPLE

CITY OFFICES
Community Development Department
City Hall, 700 N. Main Street
P.O. Box 20000
Las Cruces, NM 88004
Phone: (575) 528-3043
Fax: (575) 528-3155

COUNTY OFFICES
County Planning Department
Doña Ana County Government Center
845 North Motel Blvd.
Las Cruces, NM 88007
Phone: (575) 647-7350
Fax: (575) 525-6131

ETZ Commission Staff Report

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

CASE #	65519W	**PROJECT NAME:**	Soledad Vista Subdivision Replat No. 13 Waiver Request
APPLICANT/ REPRESENTATIVE:	Borderland Engineers and Surveyors, LLC	**PROPERTY OWNER:**	Richard and Linda Jacobs
LOCATION:	Located on the northeast corner of Alma Road and Wind Dancer Trail	**SIZE:**	10.045 ± acres
EXISTING ZONING:	ER2		
REQUEST/ APPLICATION TYPE:	Waiver request from roadway improvements		
EXISTING USE(S):	Vacant/undeveloped		
PROPOSED USE(S):	Two (2) Single-family residential lots		
STAFF RECOMMENDATION:	Denial based on findings		

TABLE 1: CASE CHRONOLOGY

Date	Action
April 11, 2016	Application submitted to Development Services
April 11, 2016	Case sent out for review to all reviewing departments
April 19, 2016	All comments returned by all reviewing departments
May 5, 2016	EDRC reviews and recommends denial of the waiver request
May 13, 2016	Public notice letter mailed to neighboring property owners
May 15, 2016	Newspaper advertisement
May 20, 2016	Sign posted on property
June 02, 2016	ETZ Commission public hearing

SECTION 1: SYNOPSIS OF PROPOSAL

The applicant is requesting a waiver from the required roadway improvements from the Extra-Territorial Zone (ETZ) Subdivision Ordinance for a subdivision proposal known as Soledad Vista Subdivision Replat No. 13. The subdivision proposes to split one (1) existing 10.045 ± acre tract into two (2) new single-family lots, which is considered a replat and will be processed administratively. The applicant requests that the improvements to the adjacent roadways for the subdivision access to be waived.

TABLE 2: DEVELOPMENT STANDARDS & SITE CHARACTERISTICS

Standard	Existing	Proposed	ER2 Code Requirement
Min. Lot Area	10.045 ± acres	Lot 5A: 4.58 ± acre Lot 5B: 5.01 ± acre	2 acre minimum
Min. Lot Width	661 ± feet	Lot 5A: 661 ± feet Lot 5B: 661 ± feet	120 feet minimum
Min. Lot Depth	662 ± feet	Lot 5A: 341 ± feet Lot 5B: 319 ± feet	100 feet minimum
Min. Building Height	N/A	Lot 5A: N/A Lot 5B: N/A	35 feet maximum
Road Improvements	Wind Dancer Trail • 60-foot-wide graveled road easement Alma Road • 50-foot-wide graveled road and utility easement	No improvements proposed	Sec. 4.2 requires adherence to Dona Ana County Design Standards

TABLE 3: SPECIAL CHARACTERISTICS

Characteristic	Yes or No	Description
EBID Facilities	N/A	
Other	N/A	

TABLE 4: ADJACENT ZONING AND LAND USE INFORMATION

Location	Existing Use	Zoning Designation
Subject Property	Vacant/undeveloped	ER2
North	Single-family dwelling	ER2
South	Single-family dwelling	ER2
East	Vacant/undeveloped	ER2
West	Single-family dwelling	ER2

TABLE 5: PARCEL HISTORY

Type	Purpose
SUP	N/A
Variance	N/A
Zone Change	N/A

SECTION 2: REVIEWING DEPARTMENT/AGENCY RECOMMENDATIONS

For specific comments and/or conditions, see attached

Department Name	Approval (Yes/ No)	Conditions (Yes/No)
CLC Development Services	No	No
Metropolitan Planning Organization (MPO)	No	No
CLC CD Engineering Services	No	No
CLC Utilities	Yes	No
DAC Community Development (Planning)	Yes	No
DAC Engineering	No	No
DAC Fire	Declined Comments	No
DAC Flood Commission	Yes	No

SECTION 3: STAFF ANALYSIS AND CONCLUSIONS

The applicants are proposing a waiver from road improvements that are associated with the subdivision of one (1) existing 10.045 ± acre single-family residential tract zoned ER2 into two (2) new single-family residential lots that meet all development standards of the ER2 zoning district. The Extra-Terrestrial Zone Subdivision Ordinance and Design Standards require all subdividers to provide the necessary amount of road improvements to all streets adjacent to the proposed subdivision. Those requirements are outlined below:

Alma Road

The proposed subdivision is located on the northeast corner of Alma Road, a private roadway. Alma Road is currently made up of a 50-foot road and utility easement and a 24 ± foot wide rock and graveled road. Alma Road does not currently comply with Dona Ana County Design Standards. The applicant is responsible for providing road improvements which entails constructing the 24-foot wide double penetration surfaced road with a properly prepared base from the proposed subdivision to the nearest paved roadway. The nearest paved roadway is to the west identified as Soledad Canyon Road located 2598 ± feet from the intersection of the proposed subdivision. The proposed subdivision is approximately 661 ± feet in depth along Alma Road. The applicant is requesting to waive 100% of the required road improvements. Gravel surfacing for any type of road shall be deemed an unacceptable standard.

Wind Dancer Trail

The proposed subdivision is located on the northeast corner of Wind Dancer Trail, a private roadway. Wind Dancer Trail is currently made up of a 60-foot road easement and a 24 ± foot wide rock and graveled road. Wind Dancer Trail does not currently comply with Dona Ana County Design Standards. The applicant is responsible for providing road improvements which entails constructing the 24-foot wide double penetration surfaced road with a properly prepared base from the proposed subdivision to the nearest paved roadway. The nearest paved roadway is to the west identified as Soledad Canyon Road located 2598 ± feet from the intersection of the proposed subdivision. The proposed subdivision is approximately 661 ± feet in width along Wind Dancer Trail. The applicant is requesting to waive 100% of the required road improvements. Gravel surfacing for any type of road shall be deemed an unacceptable standard.

Pursuant to Section 6.1 of the ETZ Subdivision Ordinance the Extra-Territorial Zoning Commission (ETZC) has the ability to vary, modify or waive requirements of the ETZ Subdivision Ordinance when strict compliance with the requirements would result in a substantial hardship to the subdivider because of exceptional topographic, soil or other surface or sub-surface conditions, or that these conditions would result in inhibiting the achievement of the objectives of the ETZ Subdivision Ordinance. The applicant has not demonstrated the waiver is warranted due to any of the provisions specified by Section 6.1 of the ETZ Subdivision Ordinance.

EDRC RECOMMENDATION

On May 5, 2016, the Extra-Territorial Development Review Committee (EDRC) reviewed the proposed waiver request. Discussion was limited, but it focused on the required roadway improvements required of the applicant and a brief history as to how the roads ended up the way they are now by the Dona Ana County Engineering Department. Furthermore, as areas throughout the County have been developed and waivers to road improvements granted, the proliferation of roads that are not improved to County standards has created access issues that have the potential for safety hazards as well as a monetary burden to the Citizens of Las Cruces for the future improvement to these roadways to rectify their inadequacies. After the discussion, the EDRC voted to recommended denial of the waiver request.

STAFF RECOMMENDATION

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

FINDINGS FOR DENIAL

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

DECISION

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

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

1. Approve a 100% waiver from constructing the required road improvements as specified by Dona Ana County Design Standards for the adjacent access road known as Alma Road and to allow the current conditions to remain.
2. Approve a 100% waiver from constructing the required road improvements as specified by Dona Ana County Design Standards for the adjacent access road known Wind Dancer Trail and to allow the current conditions to remain.

ATTACHMENTS

1. Vicinity Map
2. Aerial Map
3. Notification Map and List
4. Waiver Request Letter/ Applicant's Narrative
5. Proposed Soledad Vista Subdivision Replat No. 13
6. EDRC Minutes from the May 5, 2016 Meeting

ATTACHMENT #1

VICINITY MAP

ZONING: ER2
OWNER: RICHARD AND LINDA JACOBS

PARCEL: 03-10444
DATE: 5/3/16

Community Development Department
700 N Main St
Las Cruces, NM 88001
(575) 528-3222

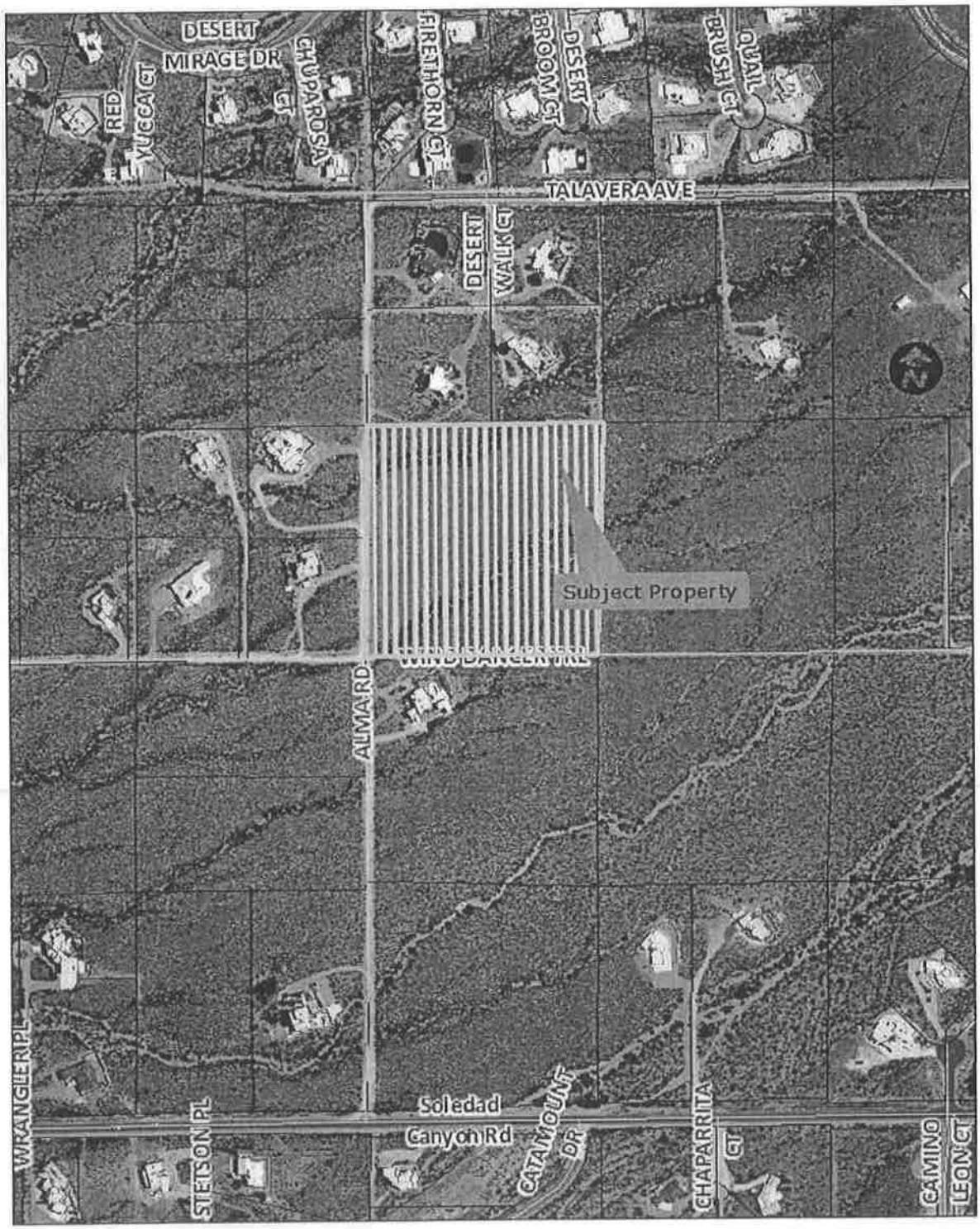
This map was created by Community Development to assist in the administration of local zoning regulations. Neither the City of Las Cruces or the Community Development Department assumes any legal responsibilities for the information contained in this map. Users noting errors or omissions are encouraged to contact the City (575) 528-3043.

ATTACHMENT #2

AERIAL MAP

ZONING: ER2
OWNER: RICHARD AND LINDA JACOBS

PARCEL: 03-10444
DATE: 5/3/16



150 75 0 150 300 450 600
Feet

Community Development Department
700 N Main St
Las Cruces, NM 88001
(575) 528-3222

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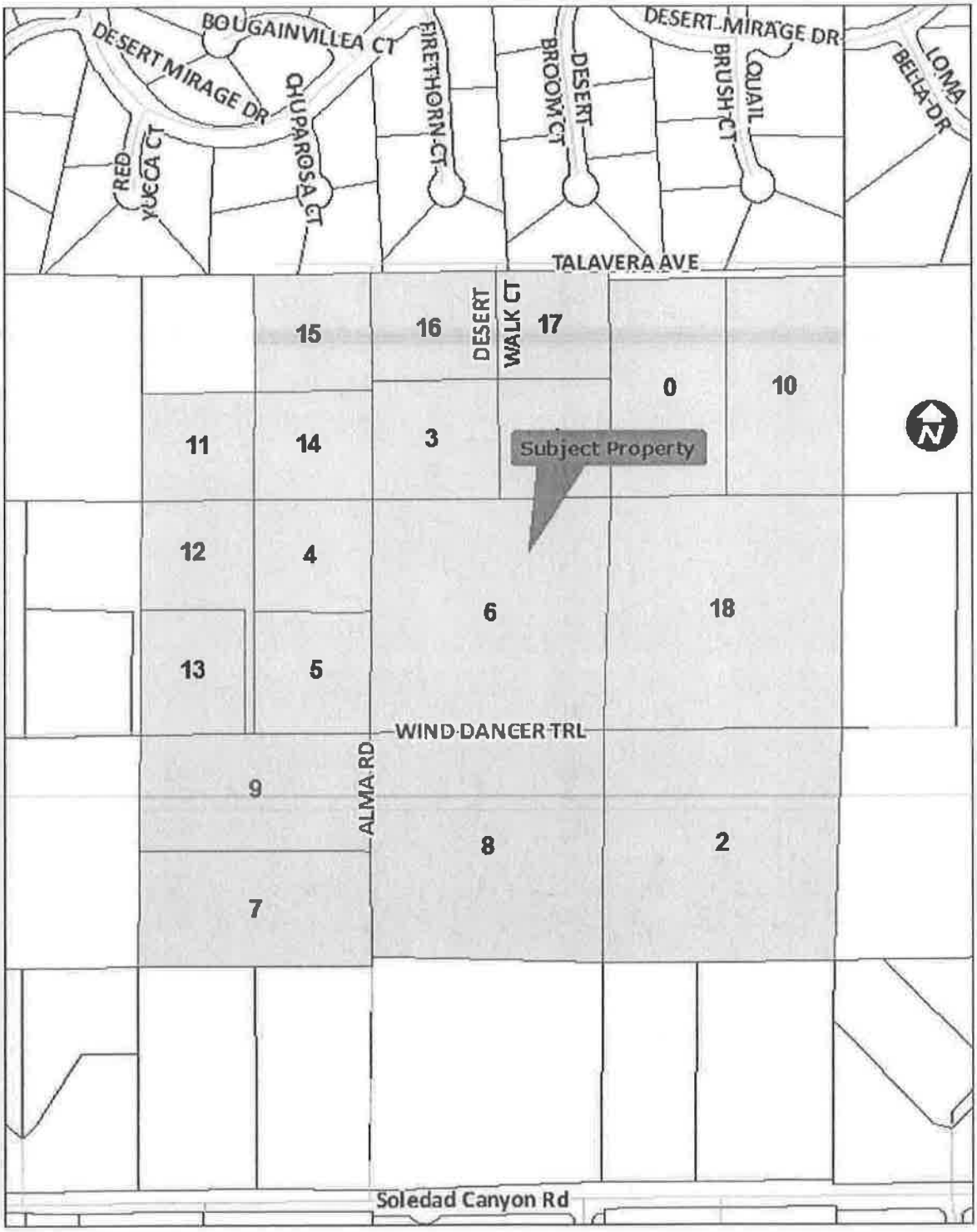
ATTACHMENT #3

NOTIFICATION MAP



150 75 0 150 300 450 600

Feet

Community Development Department
700 N Main St
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ATTACHMENT #3

NUMBER	NAME	ADDRESS1	CITY	STATE	ZIP
0	CONNELL SCOTT & NANCY	1033 KINGS VIEW CT	HENDERSON	NV	89015
1	WOFFORD ROBERT C	4915 DESERT WALK CT	LAS CRUCES	NM	88011
2	BEFEKADU BRUKTAWIT A	5358 E 129TH AVE	THORNTON	CO	80241
3	RAMEL MICHEL	4920 DESERT WALK CT	LAS CRUCES	NM	88011-9330
4	GLAZE JOSEPH E & MARCIA ELENA	4900 ALMA RD	LAS CRUCES	NM	88011
5	FOSTER WALLACE K & HELEN M	4920 ALMA RD	LAS CRUCES	NM	88011
6	JACOBS RICHARD E & LINDA H	4972 BLACK QUARTZ RD	LAS CRUCES	NM	88011
7	LOPEZ ERIC JOSEPH	PO BOX 241393	SAN ANTONIO	TX	78224
8	VAZQUEZ LUIS A & ENEDINA G	4935 ALMA RD	LAS CRUCES	NM	88011-9387
9	SMITH WILLIAM L & ANGELA M	PO BOX 8714	LAS CRUCES	NM	88006
10	MCCANNON ROGER	4748 W BANFF LN	GLENDALE	AZ	85306
11	SELLS JIMMY W & BETH E CO-TRSTES	4583 ORGAN MESA LP	LAS CRUCES	NM	88011
12	ROMAN LOUIS A & MARY HELEN	8949 WIND DANCER TRL	LAS CRUCES	NM	88011
13	JAKE A REDFEARN & JODI A REDFEARN	8945 WIND DANCER TRL	LAS CRUCES	NM	88011
14	SANDOVAL CAROL	15828 4TH AVE SW APT D	SEATTLE	WA	98166-3042
15	HENSLEY MARGET & PAUL HENSLEY	4796 BANDERA PL	PARKER	CO	80134
16	BUSCH RYAN C & CARRIE L	4900 DESERT WALK CT	LAS CRUCES	NM	88011-9330
17	CURTIS CARROLL A & RONALD E GRANNIS	4905 DESERT WALK CT	LAS CRUCES	NM	88011
18	DEARHOLT WILLIAM R &	919 TEWA LP	LOS ALAMOS	NM	87544

ATTACHMENT #4

BORDERLAND
ENGINEERS AND SURVEYORS LLC
2340 N. TELSHOR BLVD. STE B
Las Cruces, New Mexico 88011
Phone: (575) 522-1113
Fax: (575) 522-0950

City of Las Cruces
PO Box 20000
Las Cruces, NM 88004

April 8, 2016

Atten: Dona Ana County/City of Las Cruces
Planning Department,

Re: Alma Road, Wind Dancer trail, Road Improvements
App # 62131
Soledad Vista Subdivision – Replat No.13

Waiver Request

To Whom It May Concern:

On behalf of our Client, Richard & Linda Jacobs, please accept this request for a waiver to the Doña Ana County and City of Las Cruces Subdivision Requirements for Roadway Improvements and any Pro-Rata share cost associated with any road improvements.

The subject property (parcel #03-10444) is located at 9505 Wind Dance Trail. Being a 10.045 Acre Tract of Land, Located in Section 20, T.23S., R.3E., N.M.P.M.. Alma Road is an Existing Dirt/Gravel graded Road in good condition which located on Private land within a 50' Road and Utility Easement, located West of and adjacent to the West boundary of the subject property. Wind Dancer Trail ends at Alma Road and along the subject property does not exist at all, not even a jeep trail and is all natural desert terrain.

The property is located in the Talavera area East of the City of Las Cruces in primarily vacant desert and sees very little growth. The Talavera area consists of graded dirt roads with only the principal roads being paved, such as Dripping Springs Road. Dirt Roads are the norm within this area and fits the neighborhood environment well. The E.T.Z. code requires a 24' wide double penetration paved road meeting all required construction standards along the frontage of the subject property, approximately 662 feet along both Alma & Wind Dancer, these would be the only paved roads in the area. The proposed lot split will be using Alma Road for access. Wind Dancer Trail is not used for access by anyone and serves no purpose in the property frontage area where improvements are required by code. It should be noted that Alma Road is a well established graded dirt and gravel road and is located within an easement on private property not owned by the applicant making construction difficult and intrusive upon existing neighbors.

Alma Road is within Soledad Vista No. 2, Replat No. 9, which is adjacent to the West boundary of the applicants property. Soledad Vista No. 2, Replat No. 9 was approved in 1999 and did not warrant any improvements along Alma Road or Wind Dancer Trail either. Being an easement on private land, any improvement along Alma Road & the South half of Wind Dance Trail would pose maintenance issues for the County.

In accordance with the Doña Ana County and City of Las Cruces Subdivision Code, we request a waiver to forego any payments or any and all road improvements as listed above to Alma Road & Wind Dancer Trail for this simple Lot Split. The property owner is a private entity and is not in the subdivision or development business, so as representatives of our client, Richard & Linda Jacobs, we feel that a financial hardship exists in this case and should be considered, essentially, if the waiver is not granted, the property owner would not be able to afford to do this simple lot split. Due to the isolated location and the fact it is not technically feasible to build any improvements along the subject property frontage or required area, we respectfully request a waiver to forego any payments or road improvements.

Thank you for your consideration and as always, if you should have any questions, please don't hesitate to call.

Sincerely,

Steve Peale
Borderland Engineers and Surveyors, LLC.

ATTACHMENT #5

3

SOLEDAD VISTA SUBDIVISION - REPLAT NO. 13

A 10.045 ACRES BEING LOCATED WITHIN THE E.T.Z., LOCATED IN SECTION 20, T.23S., R.3E., N.M.P.M. BEING A REPLAT OF TRACT 5, SOLEDAD VISTA SUBDIVISION, AS FILED APRIL 3, 1974, IN PLAT BOOK 11 PAGE 85, OF THE DONA ANA COUNTY RECORDS, JANUARY, 2016

THIS PLAT HAS BEEN APPROVED FOR EASEMENT PURPOSES ONLY. THE SIGNING OF THIS PLAT DOES NOT IN ANY WAY GUARANTEE UTILITY SERVICE BY THE UNDERSIGNED COMPANIES TO THE SUBDIVISION.

UTILITY APPROVALS

EASEMENTS SHOWN HEREON, COPIES OF WHICH HAVE BEEN PRESENTED TO COMCAST, ARE SATISFACTORY TO MEET THE NEEDS FOR THE INSTALLATION AND MAINTENANCE OF UNDERGROUND, OVERHEAD, AND FEEDER CABLE/TELEVISION/INTERNET UTILITIES AS APPLICABLE.

COMCAST

BY: _____ DATE: _____

EASEMENTS SHOWN HEREON, COPIES OF WHICH HAVE BEEN PRESENTED TO EL PASO ELECTRIC COMPANY, ARE SATISFACTORY TO MEET THE NEEDS FOR THE INSTALLATION AND MAINTENANCE OF UNDERGROUND, OVERHEAD, AND FEEDER ELECTRICAL FACILITIES AS APPLICABLE.

EL PASO ELECTRIC COMPANY

BY: _____ DATE: _____

EASEMENTS SHOWN HEREON, COPIES OF WHICH HAVE BEEN PRESENTED TO QWEST CORPORATION, D/B/A/ CENTURY LINK QC ARE SATISFACTORY TO MEET THE NEEDS FOR INSTALLATION AND MAINTENANCE OF UNDERGROUND OVERHEAD, AND FEEDER TELEPHONE FACILITIES AS APPLICABLE.

QWEST CORPORATION, D/B/A/ CENTURY LINK QC

BY: _____ DATE: _____

EASEMENTS SHOWN HEREON, COPIES OF WHICH HAVE BEEN PRESENTED TO MOONGATE WATER COMPANY, ARE SATISFACTORY TO MEET THE NEEDS FOR THE INSTALLATION AND MAINTENANCE OF UNDERGROUND WATER UTILITIES.

MOONGATE WATER COMPANY

BY: _____ DATE: _____

CITY OF LAS CRUCES APPROVAL

EASEMENTS SHOWN HEREON, COPIES OF WHICH HAVE BEEN PRESENTED TO CITY OF LAS CRUCES UTILITIES DEPARTMENT, ARE SATISFACTORY TO MEET THE NEEDS FOR THE INSTALLATION AND MAINTENANCE OF NATURAL GAS FACILITIES AS APPLICABLE.

CITY OF LAS CRUCES UTILITIES DEPARTMENT

BY: _____ DATE: _____

EXTRA-TERRITORIAL ZONING COMMISSION APPROVAL

THIS PLAT HAS BEEN SUBMITTED TO AND CHECKED BY THE EXTRA-TERRITORIAL ZONE COMMISSION. IT CONCURS WITH THE EXPANSION OF EXISTING THOROUGHFARES AND IS IN ACCORDANCE WITH GENERAL EXTRA TERRITORIAL ZONE REGULATIONS. IT IS APPROVED FOR FILING AND RECORDING WITH THE COUNTY CLERK.

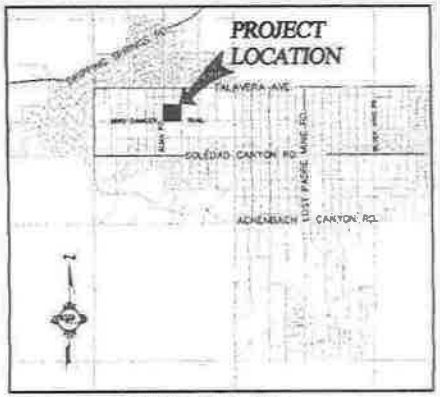
_____ DATE _____ DATE
CHAIR SECRETARY

PLAT NO. _____ RECEPTION NO. _____

STATE OF NEW MEXICO)
) SS
COUNTY OF DONA ANA)

I HEREBY CERTIFY THAT THIS INSTRUMENT WAS FILED FOR RECORD ON THIS _____ DAY OF _____ 20 , AT _____ AM/PM AND DULY RECORDED IN PLAT BOOK NO. _____, PAGE(S) _____ AND FILED IN THE RECORDS OF THE COUNTY CLERK, DONA ANA COUNTY, NEW MEXICO.

_____ _____
DEPUTY CLERK COUNTY CLERK



VICINITY MAP
N.T.S.

DEDICATION:

ALL RIGHTS OF WAY SHOWN HEREON ARE DEDICATED TO THE PUBLIC. UTILITY EASEMENTS ARE GRANTED FOR THE USE OF THE UTILITY COMPANIES THAT ARE SIGNATORY TO THIS PLAT AND TO DONA ANA COUNTY. ALL RULES AND REGULATIONS OF DONA ANA COUNTY AND SAID UTILITY COMPANIES WILL APPLY TO THESE EASEMENTS. ALL OTHER EASEMENTS SHOWN HEREON ARE GRANTED FOR THE USE INDICATED. NO ENCROACHMENT THAT WILL INTERFERE WITH THE USE OF EASEMENTS AS SHOWN ON THIS PLAT WILL BE ALLOWED.

THE SUBDIVISION HAS BEEN DEDICATED IN ACCORDANCE WITH THE WISHES OF THE UNDERSIGNED OWNER(S) OF THE LAND SHOWN HEREON.

OWNERS OF RECORD:
JACOBS, RICHARD E. & LINDA M.
4972 BLACK QUARTZ ROAD
LAS CRUCES, NM 88001

OWNERS OF RECORD:
INSTRUMENT #0416483, WARRANTY DEED (JOINT TENANTS)
FILED MAY 20, 2004
BOOK 322 PAGE 202
OF THE DONA ANA COUNTY RECORDS

I THE UNDERSIGNED OWNER HEREBY SET OUR HANDS AND SEAL THIS

_____ DAY OF _____ 20

_____ _____
JACOBS, RICHARD E. JACOBS, LINDA M.

THE FOREGOING INSTRUMENT WAS ACKNOWLEDGED BEFORE ME THIS _____
DAY OF _____ 20 BY _____

MY COMMISSION EXPIRES _____

STATE OF NEW MEXICO)
) SS
COUNTY OF DONA ANA)

_____

SURVEYOR'S CERTIFICATE

THIS IS TO CERTIFY THAT I AM A REGISTERED LAND SURVEYOR, THAT THIS PLAT WAS PREPARED FROM FIELD NOTES OF AN ACTUAL SURVEY MADE BY ME OR UNDER MY DIRECTION AND THAT IT IS TRUE AND CORRECT, MEETING THE MINIMUM REQUIREMENTS OF THE STANDARDS FOR LAND SURVEYS IN NEW MEXICO AS ADOPTED BY THE NEW MEXICO STATE BOARD OF REGISTRATION FOR PROFESSIONAL ENGINEERS AND LAND SURVEYORS, TO THE BEST OF MY KNOWLEDGE AND BELIEF.

_____ _____
DATE OF SURVEY TERENCE D. SCANLON - PS NO. 9433
2989 N. MAIN STREET, STE. 3C, LAS CRUCES, NEW MEXICO 88001

NOTES:
1. BEARINGS AND DISTANCES MATCH THAT OF RECORD UNLESS OTHERWISE NOTED AS SHOWN ON THE ORIGINAL SUBDIVISION PLAT OF RECORD, SOLEDAD VISTA SUBDIVISION, AS FILED APRIL 3, 1974, IN PLAT BOOK 11 PAGE 85, DONA ANA COUNTY RECORDS
2. SUBDIVIDER IS RESPONSIBLE FOR UTILITY STUB-OUTS AND FOR PROVIDING ANY AND ALL EASEMENTS NECESSARY TO PROVIDE UTILITY SERVICE TO LOTS CONTAINED HEREIN.
3. (P) DENOTES ON LOT PONDING REQUIRED, EXCESS RUNOFF TO BE RETAINED WITHIN EACH LOT. PONDING TO BE MAINTAINED BY LOT OWNER.
4. PROPERTY IS IN AN "X" (OUTSIDE 500 YEAR FLOOD) DESIGNATED ZONE AS SHOWN ON THE FLOOD INSURANCE RATE MAP COMMUNITY PANEL NO. 350130 0675 E, EFFECTIVE SEPTEMBER 27, 1991
5. NO ENCROACHMENT THAT WILL INTERFERE WITH THE USE OF EASEMENTS SHOWN ON THIS PLAT IS ALLOWED.
6. 1/2" IRON RODS WITH A 1" dia. PLASTIC CAP STAMPED WITH #9433 TO BE SET AT ALL LOT CORNERS NOT FOUND UPON FILING OF THIS PLAT.
7. THE BASIS OF BEARING FOR THIS PLAT ARE THE TWO 1/2" IRON RODS FOUND ALONG THE WEST PROPERTY LINE, AS SHOWN ON SOLEDAD VISTA #2 REPLAT #1, AS FILED MARCH 2, 1998, IN PLAT BOOK 18 PAGE 247, DONA ANA COUNTY RECORDS.
8. (S) LOT OWNER IS RESPONSIBLE FOR SEPTIC SERVICE AND TANK INSTALLATION. ALL SEPTIC SYSTEMS SHALL REQUIRE A PERMIT UPON INSTALLATION.
9. NO PERMANENT STRUCTURES OR ANYTHING BLOCKING HISTORIC DRAINAGE FLOWS ARE ALLOWED WITHIN THE 20' DRAINAGE EASEMENTS SHOWN HEREON.

BORDERLAND
ENGINEERS AND SURVEYORS, LLC
2989 N. MAIN STREET, STE. 3C
Las Cruces, New Mexico 88001
Phone: (575) 323-1443
Fax: (575) 521-9996

Sara Gonzales

From: Michel Ramel <michelramel@ymail.com>
Sent: Monday, May 23, 2016 6:55 PM
To: Sara Gonzales
Subject: Public Notice Case 65519W

Michel Ramel
4920 Desert Walk Court
Las Cruces, NM 88011

Phone: (575) 521-1615
E-Mail: michelramel@ymail.com

May 21, 2016

Sara Gonzales, Planner
Community Development Department
P.O.Box 20000
Las Cruces, NM 88004

Re: Public Notice Case 65519W

Dear Miss Gonzales

I have received notice of the waiver request for the property on Alma Road in the Soledad Vista Subdivision.

I did purchase the adjacent lot back in 1999 and have lived in the house I had built for me since 20(

I was offered the 10 acre property in question by the former owner shortly after and was interested subdividing it so family members could build there and move closer to me.
In contacting the county I was informed that subdividing the property would entail road improvemer which turned out to be too expensive. That was the reason I did not purchase that parcel. At no poin was I told that a waiver request for road improvement was an option.

I personally know of two people who bought large parcels with the intention of subdividing and maki a profit selling the lots. The required road improvements put a halt to their plans.

The roads in this neighborhood are fragile and subject to flooding and erosion each time rain, hail or snow hit in sufficient quantities. My foster children and I have worked hundreds of hours over the years clearing arroyos and keeping the road passable. Often only four wheel drive SUV/trucks are al to get through. A few times I arranged the roads to be leveled getting all the neighbors to share the cost.

Increased traffic due to construction and multiple dwellings will only add stress to these dirt roads a I therefore oppose granting the requested waiver. It would set a precedent for other property owners asking for equal treatment. These roads could not handle the resulting increase in traffic.

I thank you for including my comments in your hearing.

Sincerely yours,

Michel Ramel

ETZ DEVELOPMENT REVIEW COMMITTEE (EDRC)

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

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

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

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

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

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

II. APPROVAL OF MINUTES - October 8, 2015

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

Dominguez: I move to approve the minutes as written.

H-Rogers: Is there a second?

Duran: Second.

H-Rogers: All those in favor.

MOTION PASSES UNANIMOUSLY.

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

III. NEW BUSINESS

1. **Case 65519: Soledad Vista Subdivision Replat No. 13 Waiver Request**
   - A waiver request from right-of-way improvements associated with a proposed replat known as Soledad Vista Subdivision Replat No. 13.

DRAFT

- The subject property is currently vacant/undeveloped, encompasses 10.045 acres, is zoned ER2, and is located on the northeast corner of Alma Road and Wind Dancer Trail; a.k.a. 9505 Wind Dancer Trail.
- The proposed replat requires the applicant to provide road improvements to Wind Dancer Trail and Alma Road.
- The applicant is requesting a 100% waiver to the required road improvements and is not offering alternatives to the full improvements.
- Submitted by Borderland Engineers and Surveyors, LLC on behalf of Richard and Linda Jacobs, property owners.

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

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

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

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

H-Rogers: This one is per County standards.

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

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

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

H-Rogers: Okay. MPO.

Wray: We do not support the waiver.

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

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

H-Rogers: Okay.

Peale: That's it.

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

Dominguez: I move to approve the waiver.

H-Rogers: Is there a second on that?

Gonzales: I second it.

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

MOTION DOES NOT PASS, UNANIMOUSLY.

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

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

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

H-Rogers: Okay.

2. **Case 64783W: Replat of Lot 21, Subdivision "C" EBL&T Waiver Request**
   - A waiver request from right-of-way improvements associated with a proposed replat known as EBL&T Replat lot 21.
   - The
   - The subject property is currently vacant/undeveloped, encompasses 4.848 acres, is zoned ER5, and is located north of Webb Road, 974 +/- feet east of White Thorn road; a.k.a. 2595 Webb Road.
   - The proposed replat requires the applicant to provide road improvements to Webb Road to bring it up to City standards and the road and utility easement within the proposed subdivision.

- The applicant is requesting a 100% waiver to the required road improvements and is not offering alternatives to the full improvements.
- Submitted by Moy Surveying, Inc. on behalf of Tommy and Sandra Brown, property owners.

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

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

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

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

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

Duran: Deny.

H-Rogers: And Andrew.

Wray: MPO does not support the waiver.

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

Dominguez: I move to approve the waiver.

H-Rogers: Is there a second?

Duran: Second.

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

MOTION DOES NOT PASS, UNANIMOUSLY.

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H-Rogers: And the Chair votes no on this as well. So this particular case also fails.

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

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

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

H-Rogers: Not even internally?

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

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

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

H-Rogers: All right. County Engineering.

Duran: Deny.

H-Rogers: MPO.

Wray: We do not support the waiver.

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

Dominguez: I move to approve the, the waiver.

Duran: Second.

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

MOTION DOES NOT PASS, UNANIMOUSLY.

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

IV. OLD BUSINESS - NONE

H-Rogers: There is no old business.

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

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

Wray: So moved.

Dominguez: I second it.

Duran: Second.

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

_____

Chairperson

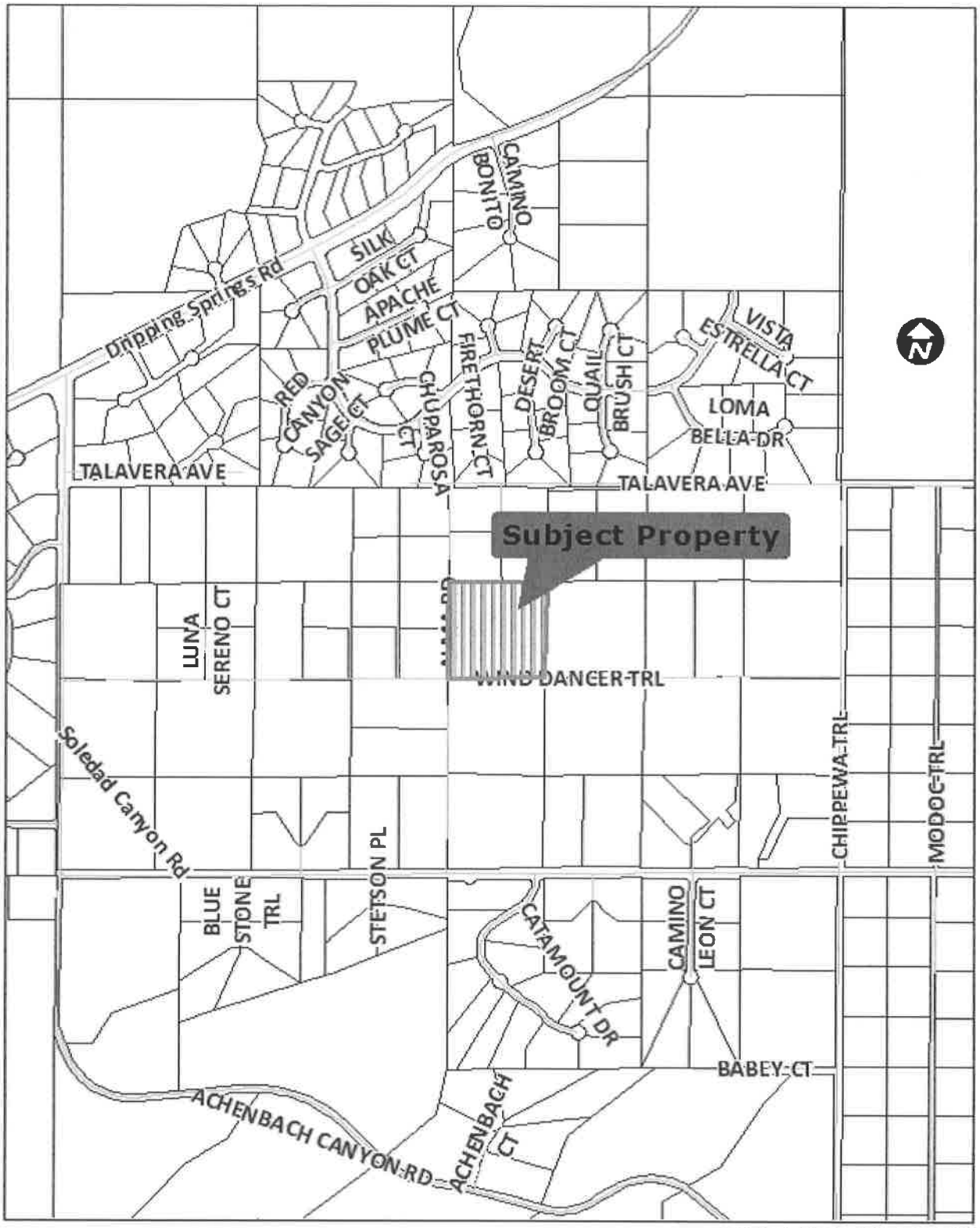
DRAFT

ATTACHMENT #4

VICINITY MAP

ZONING: ER2 **PARCEL: 03-10444**

OWNER: RICHARD AND LINDA JACOBS **DATE: 6/20/16**



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Feet

Community Development Department
700 N Main St
Las Cruces, NM 88001
(575) 528-3222

This map was created by Community Development to assist in the administration of local zoning regulations. Neither the City of Las Cruces or the Community Development Department assumes any legal responsibilities for the information contained in this map. Users noting errors or omissions are encouraged to contact the City (575) 528-3043.