

1 Following are the verbatim minutes from the ETZC meeting of January 17, 2013 as
2 presented by Todd Taylor.

3 **CASE ETZS-12-017W:** A waiver request for a Replat proposal known as U.S.R.S. Tract
4 11-185A2A, Replat No. 3. The ETZ Subdivision Regulations, Article IV, Sections 4.2B,
5 4.2C and 4.2H require improvements to access and internal roads and require that
6 these roads meet Doña Ana County Design Standards. The applicant is requesting a
7 waiver from all improvements required for minimum access to the subdivision and the
8 internal private roads and a waiver from Doña Ana County design standards. The
9 subject subdivision is located on the west side of Highway 28, south of Union Avenue.
10 Submitted by Borderland Engineers and Surveyors, LLC on behalf of Martha V.
11 Gutierrez, property owner.

12

13 Villescascas: Tonight is January 17th. It's actually the County meeting but we do have a
14 City item. Just to explain: we had that horrible weather when, I think, the
15 Doña Ana closed at noon... at three? So did New Mexico State and,
16 therefore, their meeting was unable to be held. We have one item that
17 we're bringing forward tonight. (*Commission continued with regular*
18 *business until case came forward*) So that brings us to item number 7,
19 which is case number ETZS-12-017W, a waiver request for a replat
20 proposal. Staff?

21 Taylor: Good evening. Todd Taylor, Associate Planner with the City of Las
22 Cruces.

23 Acosta: Sir, could you raise your right hand for me, please? Do you swear and
24 affirm that the testimony you are about to give is the truth and nothing but
25 the truth under penalty of law?

26 Taylor: Yes.

27 Acosta: Thank you.

28 Taylor: This item is a request for a waiver from road improvements for a replat
29 known as U.S.R.S. Tract 11-185A2A, Replat No. 3. The subject property
30 shown here in the black cross-hatching is located south of Union Avenue
31 and west of Highway 28. It is 3.96 acres in size and is zoned ER3. This is
32 an aerial showing the subject property. The property is currently an
33 orchard and is undeveloped.

34 These are photos showing the current conditions of the subject
35 property, including the conditions of the road easements, which provide
36 access to the subdivision. These road easements vary in width from 25
37 feet for the portion closest to Highway 28, which is shown in image
38 number 4, to 30 feet, as shown in images 2 and 3; and then to 50 feet for
39 the portion fully within the subdivision, which created the lot that is being
40 proposed to be replated and that is shown in image 1.

1 As shown here on the most recent submission of the replat from the
2 applicant, the replat proposes to split the one lot into two lots and also, to
3 the right in the inset you can see how the access is provided from
4 Highway 28 to the subdivision: the 25 foot road easement and then the 30
5 foot road easement.

6 As proposed the replat is no longer exempt from providing the
7 required road improvements. The applicant is seeking a waiver from all
8 required road improvements and from meeting the Doña Ana County
9 Design Standards. These requirements are specifically per Sections 4.2D
10 and 4.2H, access to the subdivision is required to be provided by a 50 foot
11 wide right-of-way or road easement and a 24 foot wide double penetration
12 surface road over a prepared base; and per Sections 4.2C and 4.2G, full
13 improvements to the interior roadways are required with a minimum 1.5
14 inches of asphalt over a prepared base; and, finally, per Section 4.2B, all
15 roadways are required to meet the Doña Ana County Design Standards
16 because the property is zoned ER3.

17 On December 6, 2012 the ETZ Development Review Committee
18 met and unanimously voted to recommend denial of the waiver request.
19 Discussions during the meeting focused on the ability of the applicant to
20 meet the requirements and that the requested waiver was not due to an
21 exceptional topographic soil or other surface or sub-surface condition as
22 required by Section 6.1 of the ETZ Subdivision Code. Doña Ana County
23 Fire, who was not in attendance at the meeting but was able to review and
24 provide comments on the waiver request, recommended approval of the
25 waiver with conditions that the subdivision meets Fire Code
26 Requirements. Please note that tonight the item before you is a waiver
27 from ETZ Subdivision Regulations and not from the Doña Ana County Fire
28 Code. So whether the waiver is approved or not tonight, the applicant
29 would still need to meet with Fire and meet the requirements of the Doña
30 Ana County Fire Code.

31 With that, you have the option to: vote “yes” to approve the waiver
32 request; vote “yes” to approve the waiver request with conditions; vote
33 “no” to deny the waiver request, or; table or postpone the request. With
34 that, that concludes my presentation and I’m available for any questions.

35 Villescascas: I have one question: the EDRC, which in that previous slide said that there
36 was a unanimous vote for denial that, of course, would not include the Fire
37 Department, which recommended, but that it...and it would be possibly the
38 same way... it has to meet Fire Code. So it’s not quite a unanimous “no.”

39 Taylor: Mr. Chair, the unanimous “no” was from the attendees of the meeting.

40 Villescascas: Attendees. Okay. Thank you. Oh, while we’re over there on that subject,
41 do you happen to know if in those roadways some of them on your slides

1 were pretty narrow. Is there presently enough for a turnaround for the fire
2 equipment?

3 Taylor: I would defer that to Captain Herrera, who is here tonight and could
4 answer any questions.

5 Villescas: Fantastic! Thank you. Anyone else?

6 Hearn: Mr. Chairman?

7 Villescas: Go ahead, Mr. Hearn.

8 Hearn: Thanks. Could you get this slide like this, the one that shows the parcel
9 and the area? And could you indicate on there where the road that we're
10 talking about is?

11 Taylor: Well, first, there are two parts: one is the access to the subdivision, which
12 is from a road easement that travels along here at 25 feet in width, and
13 then switches to 30 feet in width along this portion.

14 Harrison-Rogers: We're having some technical difficulties. The audience can't
15 actually see anything. The screens went out. I apologize for any
16 confusion. County staff's trying to work on that.

17 Villescas: Were they working during the presentation?

18 Harrison-Rogers: They were.

19 Villescas: They were?

20 Hearn: You guys can come up and share our monitors. *(Laughing)*

21 Villescas: Anyway...are we waiting or

22 Hearn: Well, I can go ahead and ask my question. Is the situation as it stands
23 right now legal? Is it in conformance? Is it...

24 Taylor: It was in conformance with the requirements that were in place for the
25 previous subdivisions. The original subdivision was able to develop
26 without any road requirements due to the exemptions allowed in the ETZ
27 Subdivision Code. Now that they're coming in to split the subdivision even
28 further it kicks in all the requirements of the ETZ Subdivision Code.

29 Hearn: Okay. But as it stands now the entry is not in conformance; but there was
30 a variance to allow this to take place?

31 Taylor: No. It was allowed at the time...

32 Villescas: I guess a lot depends on how long ago it was...

33 Hearn: A hundred years ago?

1 Villescas: Yeah. There was, what, prior to 1987?

2 Taylor: Per Section 4.2M, Note 12 of the ETZ Subdivision Code, a subdivision
3 that creates two parcels and was not part of a public and a previously
4 approved and filed subdivision may access the lot by a 25 foot legal
5 access, and they can only utilize this exemption once. So now that they
6 are creating more lots it kicks in the requirements of Section 4.2H that
7 requires, "Minimum access to subdivisions shall be from a dedicated and
8 accepted right-of-way or a permanent road easement established of such
9 width as required by these regulations," which is a minimum of 50 feet.

10 Hearn: And paved?

11 Taylor: And then the paving, if it's unimproved, the paving is required to be a 24
12 foot wide double penetration surface over a properly prepared base.

13 Hearn: On that 50 foot easement.

14 Taylor: That's correct.

15 Villescas: Does that one-time exemption for one split, does that still exist?

16 Taylor: It is still in the Code. That is correct.

17 Villescas: Interesting. I would assume that that's for, like, a family that they're going
18 to give a chunk to...for the kids or something. It's just interesting. That's
19 all. Does anyone else on the panel have any questions? I have one more:
20 the ultimate use of the property after the split is exactly what?

21 Taylor: I would defer to the applicant to speak to that.

22 Villescas: Okay. Thank you very much. We may call you back up. Would the
23 applicant like to come up? Hi, how are you?

24 Scanlon: Good. Thank you.

25 Acosta: Mr. Scanlon, will you raise your right hand, please, and state your name
26 and address for the record?

27 Scanlon: My name is Ted Scanlon. My address is 2540 North Telshor Boulevard in
28 Las Cruces.

29 Acosta: Sir, do you swear that the testimony you are about to give is the truth and
30 nothing but the truth under penalty of law?

31 Scanlon: Yes.

32 Acosta: Thank you, sir.

33 Scanlon: Mr. Chairman, Members of the Commission, I'm going to be pretty brief
34 here. I do want to bring the replat up just so that I can kind of explain

1 what's going to happen. The only reason that we're replatting this property
2 is so that Ms. Gutierrez can build a house on this 1.1 acre tract that we're
3 creating. There was another split made that created another 1 acre tract
4 right across the road easement from that and that was what precipitated
5 the original subdivision; because her sister, I believe, or another family
6 member, wanted to build a house back here. She could build a house
7 today because it's an existing tract of land but what she doesn't want to do
8 is encumber the entire farm with a mortgage for the house because the
9 house will have to have a tract of land assigned to it in order to be able to
10 create the mortgage. So she wants to be able to mortgage separately the
11 one acre and not the entire farm. The farm kind of belongs to the family,
12 different members of the family together. That's the only reason we're
13 here.

14 The roadway that goes back to the existing house and it will also
15 serve the new house in the back is a driveway. It is not a county road. It is
16 never going to go anywhere else. If we have to improve it we're going to
17 want to dedicate it to the county and turn it over to them for maintenance.
18 But they would rather keep it as a Farm Road and as a driveway and keep
19 the rural character and keep it the way it is. We did meet at the site with...I
20 guess one of my employees met with Captain Herrera out there and he
21 determined that there was plenty of room to be able to maneuver the
22 apparatus and to turn it around and there were a couple of different place
23 where it was able to do that, and he's here, too, tonight and I'm going to
24 ask him to confirm that. But that's basically my presentation. We just want
25 to keep it as a driveway. We want to keep it the way it is. There's no
26 reason to pave it because it's not going to ever service the public. It's a
27 private easement just for those two houses in the back. I'd be happy to
28 answer any questions.

29 Villescascas: Any Members of the Committee have any questions for Mr. Scanlon?
30 Commissioner Hearn?

31 Hearn: Do I have to?

32 Villescascas: Yep.

33 Hearn: Okay. I'm curious now about the designation of the "whatever" it is...
34 as a driveway. Is that actually what it is? Because the driveway to my
35 house goes through an easement on somebody else's lot.

36 Scanlon: Correct.

37 Hearn: Is this the same thing?

38 Scanlon: Sort of, except I think that most of the property that goes through belongs
39 to the same family.

40

1 Villescas: But it's easements that have been established for the purposes of allowing
2 access back there but strictly on a private basis to the owners of that land.

3 Scanlon: And those easements are there.

4 Hearn: And if somebody...and maybe I should ask the Planners but and if
5 somebody'd be asking you or if the front property is sold the easements
6 remain part of the deed of that land.

7 Scanlon: Absolutely. They run with the land forever unless they're vacated by a
8 specific action.

9 Hearn: But it's not a road and it going to need a stop lights in there?

10 Scanlon: It's an access easement.

11 Hearn: Yeah. Okay.

12 Scanlon: Let me make one more stipulation: the only other requirement that Captain
13 Herrera asked us to do was make a note that required the owners of the
14 property on both sides of the easement to keep the limbs, the pecan tree
15 limbs, trimmed back to that they wouldn't interfere with apparatus if it had
16 to go in there and we agreed to do that and we're going to make a note on
17 the plan to that effect.

18 Villescas: Mr. Scanlon, was anything said also when you met out there in regards to
19 the access from Highway 28 to the land that we're talking about, that small
20 road?

21 Scanlon: I would defer to Captain Herrera since he was the one that was present at
22 the meeting out there. I was not. It was one of my employees.

23 Villescas: On the opposite side of the property off Valdez Road, that looks like a
24 subdivision, as opposed to a farming division. That looks, just by the
25 shape of it and I'm not familiar with the area; but in that circle in the center
26 that looks like it's intended for housing, especially that little strip there. Is
27 there housing there now?

28 Scanlon: That subdivision was developed by Mr. Philippou several years ago and it
29 was developed and it was, like, eight lots or something and it was
30 developed to County and the roads were built to County Standards and
31 dedicated to the County for maintenance.

32 Hearn: Okay. What about the road right in front of where that house would be
33 placed that goes through that subdivision that was built by Philippou? Is
34 that it? Is it number one?

35 Scanlon: Yes. That's the road that goes clear to the back. It stops at a ditch and
36 there's a wall and some stuff back there so it can't be extended...

1 Villescas: Can't cross...

2 Scanlon: ... across to the other road. It's physically impossible to do that. Well, it's
3 not impossible but we don't have access to the property to be able to do
4 that.

5 Villescas: I'm assuming that canal is for irrigation purposes?

6 Scanlon: Yes.

7 Villescas: Any other questions from the Commission? Thank you, Mr. Scanlon. We
8 may be calling you back up.

9 Scanlon: Thank you. Captain, are you going to be able to come on up? If you can
10 raise your right hand Ms. Acosta will swear you in.

11 Acosta: Captain, if you could state your name and your address for the record and
12 I'll continue with my swearing in.

13 Herrera: Captain Herrera, 845 North Motel Boulevard.

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

16 Herrera: Yes.

17 Acosta: Thank you.

18 Villescas: Go ahead, Captain.

19 Herrera: Okay. All that we are asking and requesting is that we're able to fire
20 apparatus in and out of this driveway, that's capable of holding 75,000
21 pounds of fire apparatus. That's what a fire apparatus weighs. As long as
22 we can get it in there and get it out without any problems we have no
23 problem approving it, and they're able to get turned around once they get
24 into the driveway. I did go out there and look at this piece of roadway and
25 right now there is some space to be able to get in and out of there, but my
26 understanding is that once they build they're going to knock some more
27 trees down on the opposite side of the farm that's going to allow us to
28 have a better turning radius once they do that.

29 The other thing that we looked at that he mentioned was the tree
30 branches that come from the driveway as you enter off of 28, that they
31 keep those trimmed and maintained in order for the apparatus to get in
32 and out of there.

33 Villescas: You probably don't know this, Captain, but that property up there on front
34 that's up there by 28 where the trees need to be trimmed back or kept
35 trimmed back?

36 Herrera: Yes.

1 Villescas: Is that property part of this family? In other words, this land is not part of
2 that land that's up by Highway 28 that we're now talking about. So how
3 can they go and cut somebody else's trees?

4 Herrera: Mr. Chair, Members, that's going to be what the property owner's going to
5 have to discuss with the residents that live in that area. I have no idea
6 whether they are family or not, but as long as they get the okay to do it
7 then we're okay for them to continue and move forward.

8 Villescas: Well, it definitely would benefit them to have coverage, you know, out
9 there. Can you show me or just describe where you would actually... I was
10 amazed when you had one of your representatives here at the last
11 meeting and when he told me the weight of the vehicles and stuff I was
12 just dumbfounded. But where would you turn a vehicle around in there, at
13 the corners of the property?

14 Herrera: If you look at the map where that house is currently at...

15 Villescas: Uh-huh.

16 Herrera: ...they have a pretty big front yard area that we're able to get an
17 apparatus in there. In the event that something happened between there
18 and where the road curves to go out to 28 we would have to continue to
19 make the turn up by the home. Like I said, once they build on the opposite
20 side of where that home is currently located they will knock down some
21 trees and they will be required to not fence in so we can have a big
22 enough turnaround to turn in and be able to get out.

23 Villescas: Okay...and you cannot get in through that property that was built by
24 Philippou off Valdez because of that ditch that Mr. Scanlon referred to,
25 correct? So the only access is from Highway 28?

26 Herrera: Yes, sir. That's correct.

27 Villescas: Okay. Any other members of the Commission have any questions?

28 Allin: One question for clarification.

29 Villescas: Commissioner Allin, go ahead.

30 Allin: The road immediately off of 28, the first leg of...can you get into that
31 subdivision? Does it have trees along it also?

32 Herrera: Yes, sir, Mr. Chair, Members, I believe it's on the north side of that
33 roadway that there's trees that run along that field until it hits that little
34 drain ditch and then on the opposite side is where the houses are from the
35 other residences. That's the only thing we ask: that those branches need
36 to be trimmed and maintained as well as the other driveway.

37 Allin: Okay. Thank you.

1 Villescas: Go ahead, please, Commissioner.

2 Sanders: Yes. Tim Sanders. Was that ...the access off of Highway 28, was that
3 picture number 4 on the previous picture? Can you go back to those...?

4 Villescas: There you go.

5 Sanders: Yes, sir. That's looking out to 28.

6 Sanders: That's from the easement looking east to 28? Okay?

7 Herrera: Yes.

8 Sanders: What options are there to expand that right-of-way to 50 feet? There's a
9 house on the...I guess that's the south side?

10 Herrera: Yes, sir. It would probably have to be on the side of the farm. That's why
11 we're saying that the branches and trees would have to be trimmed on
12 that end in order to make it capable for the fire apparatus to get in and out.

13 Sanders: And then picture number 1 is the 50 foot easement that runs along the
14 entire length of the property (inaudible) is that just some (inaudible). Is that
15 correct?

16 Taylor: That is correct it's looking towards the east from almost the end of that
17 road easement.

18 Sanders: Okay.

19 Villescas: And to continue along the same line of questioning picture number 3 is
20 that small bend that we can see there on our print map. Is that correct?
21 The road turns and so 3 and 4 would be the two components that are the
22 narrowest?

23 Taylor: That's correct. Number 2 is looking at the bend from the south to the north
24 and number 3 is looking at the bend from the north to the south.

25 Villescas: And that also goes over a small irrigation canal and that can support the
26 weight of one of those trucks?

27 Herrera: That I couldn't answer your question, sir. I don't know what the capability
28 of that bridge that goes over that canal there. We would have to get
29 informed on that.

30 Villescas: Okay. Thank you. Any other questions? Thank you, Captain, and thank
31 you for being here tonight.

32 Herrera: Thank you, Members. Thank you.

33 Villescas: I know Mr. Scanlon came up. Are there any other representatives of
34 ownership that would like to come forward and speak? If not, I would like

1 to open it up to the general public. Is there anyone here from the general
2 public that would like to make a statement on this case? If none, then we
3 will close it to the general public and open it up to the Commission. Any
4 discussion on the part of the Commission regarding what's in front of us
5 now?

6 Allin: Mr. Chair?

7 Villescas: Mr. Allin.

8 Allin: I don't feel comfortable with leaving the clearance of the trees on those
9 two short pieces of road up to the property owners because they're not the
10 ones that own the property; and even though we mentioned trimming the
11 trees on the plat that's not going to influence, as I see it, the owners of the
12 properties on either side of that road because they're not the owners of
13 the large tract that we're splitting. Now, I'm not sure we can accomplish
14 that on a permanent basis.

15 Villescas: Mr. Allin? I totally understand what you're saying. Would you object to the
16 unusual step of having Mr. Scanlon, because it looks like you have
17 something to say on that?

18 Allin: No problem.

19 Villescas: Mr. Scanlon?

20 Scanlon: Mr. Chairman, I'm not exactly sure but I was under the idea that the
21 property that is located on the north side of the easement immediately
22 west of Highway 28 was another family member of the Guiterrez's. That's
23 why it was deemed to be feasible to just go ahead and have those trees
24 trimmed.

25 Villescas: Okay. Or do it very late at night. Any other Members of the Commission?
26 Mr. Hearn.

27 Hearn: Mr. Chairman, a question for staff: would it be a way to implement this
28 idea to require that that condition be placed into the easement that's on
29 those front lots or something of that sort? Could it be made a legal
30 requirement?

31 Harrison-Rogers: Mr. Chairman, Members of the Commission, as the easement is
32 existing I am not sure what it would undertake because we haven't done
33 that research regarding who all the impacted owners are, ultimately, to
34 acquire that. There could be a signed agreement; however, again, it would
35 be the requirement of the applicant and then those land owners to work
36 together to get that. It's not guaranteed that that might occur.

37 Villescas: Or enforceable.

38 Harrison-Rogers: Or enforceable. That's correct.

1 Villescas: Are there any other comments from the Commission? Ms. Acosta.

2 Acosta: From what I understand, if we get these owners to sign an addendum or
3 such, then it's my understanding that this Commission would consider
4 granting the waiver if we could prove that that owner would maintain the
5 trees? Is that my understanding based on what Katherine Harrison is
6 stating that it would be suitable for a fire engine or emergency vehicles to
7 get through? Is that the only obstacle that I'm looking at right now in this
8 particular case?

9 Hearn: Mr. Chairman, my thinking is, as Commissioner Acosta has noted, we've
10 got the Fire Department is okay except for trimming the branches. This
11 looks like just a driveway. It's got easements. It's not a road. I'm inclined to
12 go along with the request. Just make sure we're not causing some kind of
13 problem with these branches or find a way to take care of that so that the
14 Fire Department is happy.

15 Acosta: Mr. Chairman, my thought is ...Oh, I'm sorry. Go ahead.

16 Villescas: No, go ahead. I was just going to ask if anybody else from the
17 Commission. Please go ahead.

18 Acosta: So, my understanding of this and you can correct me if I'm wrong: if the
19 applicant wants to proceed with getting additional information from these
20 landlord/owners, be whether they are relatives or not, and we would need
21 to postpone this in order to get the required information.

22 Taylor: Mr. Chair, could I just...

23 Villescas: Sure. Go ahead.

24 Taylor: The condition that could be applied to this if you are looking at granting a
25 waiver request would be a condition that the plat comply with the
26 requirements of Doña Ana County Fire and the Fire Code and leave it to
27 the applicant to work that out with the County Fire Department.

28 Villescas: Mr. Scanlon?

29 Scanlon: I would also point out...thank you, Mr. Chairman and Commissioners that
30 the easements for the roads are existing. By law you have to maintain
31 those for their intended purpose no matter who the ownership is. So the
32 people that are recipients of the easement, the people that are using the
33 easement, have the ability to cause another owner to clear branches out
34 of that easement already. They already have that ability to do that
35 because it's an easement. It's a road easement. It's intended for use as a
36 road or as access to a property and that access includes fire apparatus.
37 So they already have that ability.

1 Villescas: Any other Members of the Commission have any comments...and also for
2 the information of our new Members, years ago after a vote the Chair
3 would ask the Members of the Commission for their reason for their vote,
4 yea or nay, for the record. That no longer happens. Your reasoning is only
5 taken from the notes from this discussion. But anyway, does anyone else
6 have any comments or questions on this issue? I'd like to make my
7 statement as I see this: the only chance, the only opportunity we have, not
8 on just this property but on any property, to get these road improvements
9 is when someone is going to make a change like this so that the property
10 owners are the ones that pay for the improvements as opposed to the
11 taxpayer. If you look around the area here, Commissioners: Tapestry
12 Circle, that's obviously a home subdivision; the one I referred to earlier on
13 Valdez Road, it was done by Phillip Philippou, is obviously a home
14 subdivision and, in both those cases, they had to come up with the money
15 for those road improvements. Again, it's the only opportunity we have.

16 And my other point would be that I asked Mr. Scanlon, and I'm sure
17 he gave me an honest answer, is why we're doing this? Why is this even
18 before us and the answer was there's going to be a house built on the
19 western portion of the property and it's so that she doesn't have to get a
20 mortgage, so she doesn't have to mortgage the entire property and can
21 mortgage just that one parcel itself. That doesn't sound like a good reason
22 to me. So what if you...I mean, it's all family. So what if you mortgage the
23 entire piece until the house is paid for the entire mortgage is paid for and
24 releases the entire property; or if a sale takes place in the future and it's
25 subdivided again then that issue is dealt with at that time. I just don't see
26 why we're jumping through so many hoops based on that reason. I don't
27 think the reason is sufficient. Again, that's just my personal take on it.

28 Allin: Mr. Chair?

29 Villescas: Mr. Allin.

30 Allin: I think I've run into similar problems. I don't want to say there's a trend
31 here but the relatives are now across the street from each other and in a
32 few years they might across the property line from each other with another
33 subdivision or another subdivision for the whole block and we'll end up
34 with the same road problems we've got everywhere else. I realize that one
35 lot is a financial burden on a family to do roads but it's also, in the future, a
36 burden on whatever governmental body has control of that area at that
37 time, be it County or City or whatever. So in efforts to protect the
38 taxpayers now and in the future I have a problem with it also.

39 Villescas: Thank you, Mr. Allin.

40 Hearn: Mr. Chair? This is an interesting discussion. I think my view of just looking
41 over the past few days as thinking for the future that maybe sometime way
42 on down the road we might expect that this whole area surrounding the

1 property and the property itself might come to look like the area that is fully
2 subdivided and built out on the West Side along Valdez Road. But almost
3 without regard to what happens, if we force this one piece of road to be
4 paved it's going to end up probably not serving its purpose very well once
5 some other things begin to happen. It's going to be a chunk of pavement
6 in there that people are going to wonder why it's there and probably tear it
7 up. My thought is: let this go ahead as a driveway right now for this
8 particular piece of property and anticipate in the future that there's going to
9 be a very significant subdivision taking place and development taking
10 place in this area that will build the roads, build all that internal
11 infrastructure and have it all make sense.

12 Villescas: I have the same thoughts, Commissioner Hearn. I was, again, looking at
13 this property and looking at what's around it and you and I have served on
14 this Board for a number of years and seen the trend up until the financial
15 collapse, I mean, this was happening...every meeting was a new
16 subdivision. The financial collapse, of course, put a halt on all that but
17 we're starting to see it happening again. So I also envision this as a much
18 more housing subdivision and so my thoughts were also, "Well, then, at
19 that point then those developer pay for the improvements." But, again I
20 just don't...I think we're jumping through a lot of hoops here for not much
21 of a reason.

22 Hearn: What if we just say it's a lot split, a non-event? We call it a subdivision but
23 it's just a lot split.

24 Villescas: This is what it is! Right now. Mr. Scanlon.

25 Scanlon: Thank you, Mr. Chairman. Let me try to explain why it is important to split
26 this property off and mortgage it separately. That is in the event that there
27 had to be a foreclosure on the mortgage then only the property that the
28 house sits on would be foreclosed and the rest of the farm that's owned
29 jointly by other family members would not be taken by the bank. That's the
30 major reason that we want to split the property and, in cases like this,
31 every time so that it's a distinct property of its own and the entire farm then
32 wouldn't be foreclosed in the event that there was a foreclosure in the
33 future.

34 Villescas: Right. I understand that. Thank you, Mr. Scanlon.

35 Gomez: Mr. Chairman.

36 Villescas: Go ahead.

37 Gomez Having been a mortgage officer I agree Mr. Scanlon that because that
38 should the property go in foreclosure you don't want to take the whole, the
39 rest of the lots. I think, to me, it's pretty cut and dried: we need to split the
40 lot. To me the easements are fine and should there be development in the
41 future we'll worry about the roads then. I think this is pretty...there's going

1 to be a home, another home across the way, I think. I think to me it's
2 pretty cut and dried: we'll just cut that lot they're requesting and go from
3 there. But as far as the legality of putting a lien on the whole section, I
4 think we should cut it.

5 Villescas: Let me ask you a question with your experiences with a mortgage officer,
6 which is I'm glad to hear that as it's a great experience for this Board: if
7 there was some kind of financial problem like that would it not be possible
8 to just sell off a section of that farm specifically where the house is and get
9 out of your financial predicament in that manner?

10 Gomez: Well, when you build a home you are going to have the property and the
11 home together so...

12 Villescas: Correct.

13 Gomez: I mean, so, I mean, yeah, if a family wants to sell...

14 Villescas: If you came to me and said that, "Hey, if you don't give me a split I'm
15 going to lose my entire farm," that to me, is a no-brainer. You've got the
16 split. But that isn't the case right now. That's a "what if" and "maybe." Any
17 other comments? Please go ahead.

18 Sanders: Yes, I have one comment and then one question for City staff. I think my
19 comment is: that that remaining 2.8 acre parcel...I can see a situation
20 down the road where the family could decide they want to subdivide that
21 to another member and come back with the same situation two or three
22 times until that 2.8 acre lot is fully developed with houses. This is
23 subdivision number 2, I guess, of those parcels and so that's my concern
24 in the future. I guess one question I do have is: do we have the option of,
25 as a Commission being, do we have an option of requiring them to reserve
26 a 50 foot easement for the entire length without requiring it be paved?

27 Taylor: I guess that can be a condition of approval.

28 Sanders: Thank you. I guess the reason I ask that is because the paving, in this
29 situation, could be a burden; but setting aside the 50 foot easement to the
30 entire parcel at this time would leave that option in the future.

31 Villescas: At least it would cut the financial burden.

32 Sanders: Correct.

33 Villescas: Any other comments?

34 Gomez: I still have a question: does the same family own the property, the orchard,
35 north - no, east of the current home?

36 Taylor: As the proposed subdivision?

1 Allin: The other side of the road.

2 Gomez: The other side of the road.

3 Villescascas: Yeah, lot 1.

4 Gomez: I have, like, a satellite image that I'm looking at.

5 Taylor: Oh, are the two lots in the northern subdivision owned by the same
6 people?

7 Gomez: Right. Right. Very Good. I just had a general question on that.

8 Taylor: I can check the plat and confirm if you like.

9 Gomez: It was just a general question.

10 Taylor: The lot with the home on it to the north is owned by Roman and Sonya
11 Ramos and the part with the orchard is owned by the Ramirez family.

12 Gomez: Are they within the same family? Do you know?

13 Taylor: It has different ownership.

14 Gomez: Okay. Thank you.

15 Villescascas: At this time I would like to ask for somebody to come forward with a
16 motion and, again, since we have so many new people on the Board, all
17 motions are made in the positive; that is, even if you are planning against
18 it the motion would be, "I would like to make a motion that we subdivide
19 this property, blah, blah, blah." But anyway, we need a motion at this time.

20 Gomez: I move that we subdivide this property.

21 Villescascas: Do you have any conditions?

22 Harrison-Rogers: Chairman, point of clarification: the vote this evening is on the
23 waiver, not on the subdivision itself.

24 Villescascas: That's right. Let's see if there's a place where we can just read it off.

25 Gomez: So I move that we grant the waiver.

26 Villescascas: Okay, do you have any conditions.

27 Gomez: With no conditions for myself.

28 Villescascas: Do we have a second to the motion?

29 Allin: Second.

30 Villescascas: We have a proposal before us to grant the waiver and we have a second.
31 Do we have any further discussion? Staff, go ahead.

1 Harrison-Rogers: Excuse me, Mr. Chairman, Members of the Commission, if a
2 condition is to be added that should also be part of the motion; just a
3 reminder. I didn't know if you were entertaining a thought of a condition or
4 not.

5 Villescas: That's why I was asking the Commissioner who made the motion if he had
6 any conditions and he said he had none.

7 Hearn: But is it appropriate for an amendment? I was just going to try to get in the
8 deal with keeping the pecan trees trimmed.

9 Villescas: Commissioner Hearn, what you can do is you can make a motion for an
10 amendment to the main motion stating exactly what you just said about
11 the trimming of the pecan trees. We would have a second on that
12 discussion and vote on that and then we would have an amended main
13 motion.

14 Hearn: Mr. Chairman, I move that we amend the motion to include the
15 requirement that the plat show the Fire Department's requirement to keep
16 the pecan trees trimmed along the access road.

17 Villescas: Do we have a second?

18 Allin: Okay. It's open for discussion on the proposed amendment by
19 Commissioner Hearn to the main motion, which is adding a condition on
20 the trimming back of the pecan trees. Do we have any discussion? If
21 there's no discussion, Ms. Acosta, will you please call the roll? And, again,
22 this is just on the amendment to the main motion.

23 Acosta: Commissioner Allin.

24 Allin: Aye.

25 Acosta: Commissioner Gomez.

26 Gomez: Aye.

27 Acosta: Commissioner Townsend.

28 Townsend: Aye.

29 Acosta: Commissioner Sanders.

30 Sanders: Aye.

31 Acosta: Commissioner Hearn.

32 Hearn: Aye.

33 Acosta: Commissioner Acosta votes aye and Chairman Villescas?

1 Villescas: I vote aye. So now our main motion has been amended to grant the
2 waiver with a condition as suggested by the Fire Department, that is,
3 keeping the pecan trees trimmed back as per their recommendation. So,
4 do we have any discussion on the amended main motion?

5 Sanders: Yes.

6 Villescas: Go ahead.

7 Sanders: I would like to offer a motion that the applicants set aside a 50 foot
8 easement along the entire length without the requirement to pave the
9 easement.

10 Villescas: Okay, so what we have before us is a motion for a second amendment to
11 the main motion that a 50 foot easement be put aside by the owners. Do
12 we have a second to that motion?

13 Allin: I'll second it. Allin.

14 Villescas: Commissioner Allin has a second. Do we have any discussion on this
15 second amendment to the main motion? If not, Commissioner Acosta, will
16 you call the roll?

17 Acosta: Commissioner Allin.

18 Allin: No.

19 Acosta: Commissioner Gomez.

20 Gomez: Yes.

21 Acosta: Commissioner Townsend.

22 Townsend: No.

23 Acosta: Commissioner Sanders.

24 Sanders: Yes.

25 Acosta: Commissioner Hearn.

26 Hearn: No.

27 Acosta: Commissioner Acosta votes no. Chairman Villescas?

28 Villescas: I vote yes. What's our vote count there?

29 Acosta: Four "nos." Three "yeses."

30 Villescas: So the second amendment dies so we're back to the amended main
31 motion with just the one amendment that was made by Commissioner
32 Hearn. Do we have any discussion? If not, Commissioner Acosta, would

1 you please call the roll? And this is on the modified main motion to grant
2 the waiver with a condition as suggested by the Fire Department to
3 keeping the pecan trees trimmed back.

4 Acosta: Commissioner Allin.

5 Allin: No.

6 Acosta: Commissioner Gomez.

7 Gomez: Yes.

8 Acosta: Commissioner Townsend.

9 Townsend: Yes.

10 Acosta: Commissioner Sanders.

11 Sanders: No.

12 Acosta: Commissioner Hearn.

13 Hearn: Yes.

14 Acosta: Commissioner Acosta votes yes and Chairman Villescas?

15 Villescas: I vote no. What's our vote count?

16 Acosta: Four "yesses" and three "nos."

17 Villescas: So the rules are that you require four affirmative and the motion, therefore,
18 passes on a vote of 4 to 3. You have your waiver request, Mr. Scanlon,
19 with that condition as stated. Thank you.