

**Lea County Planning & Zoning Board**  
**Regular Meeting**  
**Tuesday, August 11, 2015 9:30A.M.**  
**Lea County Commission Chambers, 100 N. Main, Lovington, NM**

**ITEM 01: CALL TO ORDER** - Chairman Kallie Windsor called the meeting to order at 9:37A.M. at the Lea County Commission Chambers. Members present were Kallie Windsor, Kay Hardin, Johnnie Hopper and Daniel Johncox. Guy Kesner arrived after the meeting began. Members absent were Gary Eidson and Robbie Robinson. Also present were Lea County Planner Bruce Reid, Lea County Attorney John Caldwell, Lea County Public Works Director Corey Needham, Gary Jones and Lea County Administrative Coordinator Monica Russell.

**ITEM 02: Comments from the Public**

There were no comments from the public.

**ITEM 03: Consideration of Approval of the July 14, 2015, Minutes**

Mr. Johncox motioned to approve the minutes of the July 14, 2015, meeting. Motion seconded by Mr. Hopper and carried unanimously.

**ITEM 04: Consideration of Approval of Mendoza Subdivision, Southeast Quarter of Section 35, Township 17 South, Range 38 East, Lea County, New Mexico, N.M.P.M., Horizon Estates**

Mr. Reid stated that the area in question is 8.85 acres and to the east of Casa Bonita. There are four separate applications from four women who received this single property from the seller. They would like to divide the land into four 2.27-acre tracts, with two of the lots being flagpole tracts that give access to the back lots from Kansas.

Mr. Hopper that utility easements will have to be granted.

Mr. Kesner stated that as long as other houses aren't added to the back lots, then the private driveways don't need to be improved as long as the entrance is treated to keep mud from getting on the public access roadway and creating a hazard. He also stated that the City of Hobbs Planning Board also reviewed and approved this.

Mr. Reid stated that the City of Hobbs suggested that the Mendozas dedicate a fifty-foot strip along Kansas. Although this isn't required in a county ordinance, it has been a best practice for the county to accept those dedications. Mr. Gary Jones stated that the south forty-eight feet of La Paloma Subdivision is dedicated to public use, but a half mile going east and half a mile going west there is no dedication. Ms. Hardin stated that there doesn't appear to be of record access to Tract 2. Mr. Jones stated that his plat reserves the south 48' for a road easement to match La Paloma. Ms. Hardin asked Mr. Jones if the Mendozas would have an issue with dedicating



access to the county. Mr. Jones stated that if this land is dedicated to Lea County, then it must go before the commissioners and be accepted by them. He also stated that the City of Hobbs has been requiring dedication to public use, but that Hobbs hasn't been accepting the dedications on behalf of the public, which he believes has resulted in clouding the title on the land. Mr. Kesner stated that because of this, the city has been deferring to the county and asking for a utility easement instead. He stated that the county needs to give clear direction on what it wants in these situations.

Mr. Needham stated that Kansas street is currently under county maintenance, running under a prescriptive easement instead of a fee simple easement. It benefits the county as property taxes are being paid on it and the county uses it. However, in the future, the county needs to clean up the right of ways

Mr. Caldwell stated that accepting a dedication for public use and accepting one for maintenance are two different acts and that the county accepting a road for public use doesn't automatically obligate the county to maintain it. He also stated that road easements doesn't necessarily cloud title, but instead puts the owner on notice that if something is constructed in that easement, they are at risk of being told to remove it if it prevents a road from being built. Mr. Jones stated that his point is that if the easement is dedicated but not accepted, the dedicated land will still belong to owners of the rest of the parcel.

Mr. Kesner asked if the LCPZB has been granted the authority to accept dedications on behalf of the board of commissioners and stated that the board needs guidance from the commissioners on this issue. He also stated that he believes that in this case, he believes that Kansas should be dedicated as it is a major thoroughfare. Ms. Hardin agreed that the road should be dedicated.

Ms. Windsor asked what the complications would be should a by-pass come to be built on this road in the future. Mr. Jones stated that he has been involved in other similar processes in which the City of Hobbs has purchased land at fair market value to build roads.

Mr. Hopper stated that he believes that the flagpole lots should have the roads to the back lots dedicated. Mr. Kesner disagreed, stating that flagpole lots make the most sense, otherwise, the property would need to be subdivided carefully so that it's still functional.

Mr. Reid clarified that one of the questions to be brought to commissioners for discussion is if all county-maintained roads should be dedicated. Mr. Needham stated that this will provide a lot of clean up for his department. He also stated that there is no clear meaning for "prescriptive right of way," but a "fee simple right of way" clearly states how many feet the right of way is, and that there might be problems with building set-backs.

Mr. Hopper asked if the 48 feet are for an easement or if it is a reservation. Mr.



Jones replied that the legal description states that the south 48 feet is for a county road easement. Mr. Hopper stated that with that verbiage it would have to be accepted by the county commission and not by the LCPZB. Mr. Jones replied that he can remove the word "county" and just make it a road easement. Mr. Caldwell stated that the county doesn't accept easements but that there is a conflict in the subdivision regulations. According to the summary process section, the LCPZB can approve this plat as a Type 3A since authority has been delegated by the county commission to do so, but in Paragraph 6.1, it states that the board of commissioners has to accept dedication of land and easements. Mr. Caldwell stated that dedicated easement can be noted on a plat stating that an easement exists where utility companies, etc., can come through and lay line, without anyone having to accept that easement. Mr. Hopper stated that unless the county accepts the easement, the previous owner can still claim ownership of the easement. Ms. Hardin stated that she believe that the easement must specify that it's a road easement, otherwise, the property could be landlocked.

Mr. Kesner asked Mr. Needham what he would prefer happen with easements. Mr. Needham replied that he county road department prefers a fee simple right of way. Mr. Caldwell agreed that a fee simple right of way is much clearer.

Mr. Johncox motioned to approve the Mendoza Subdivision, to include a fee simple right of way to be granted to Lea County for the south forty-eight (48) feet. Motion seconded by Ms. Hardin and carried unanimously.

**ITEM 05: Consideration of Approval of a Subdivision of Tract 4 of Van Buren Estates, Block 1, Section 2, Township 16 South, Range 36 East, Lea County, New Mexico, N.M.P.M.**

Mr. Reid stated that the buyer wants to purchase the south half of Tract 4, which is 4.4 acres, so the property will be divided into Tract 4A (2.3 acres) and Tract 4B (2.1 acres). There is access to utilities and road access.

Mr. Kesner motioned to approve the subdivision of Tract 4 of Van Buren Estates, Block 1, Section 2, Township 16 South, Range 36 East, Lea County, New Mexico, N.M.P.M. Motion seconded by Mr. Johncox and carried unanimously.

**ITEM 06: Discussion of Planning & Zoning Board Responsibility in Approving Subdivisions Without County Approved Access Roads.**

Ms Windsor asked Mr. Needham if the county now requires chip sealing in a full subdivision. He stated that the county will no longer accept maintenance of new caliche roads, as stated in Section 16.2.1., Paragraph C, and that the county has adopted the 2009 National Fire Code, which states that there must be an all-surface treatment (concrete, asphalt or chip seal) within 150 feet of any residence. Ms. Windsor stated that this needs to be in the Subdivision Regulations.

Mr. Kesner asked what happens when someone wants to build a house on an unchipsealed parcel of land. Mr. Needham stated that this is where the City of Hobbs



addressing policy comes in the ETZ. He stated that in the past this has been discussed several times and there has never been an answer.

Mr. Caldwell stated that the Board of County Commissioners will have to be convinced to adopt a more concise subdivision ordinance that requires more extensive growth development and addresses how first responders will reach residences.

Mr. Needham stated that it is fifty percent (50%) more cost effective for the county to have chip sealed roads than to have blade crews running on caliche roads.

Mr. Needham and Mr. Caldwell will attend the next subdivision regulations work session, which will address roads.

**ITEM 07: Set Date for Work Session on Revision of Lea County Subdivision Regulations.**  
**ITEM 08: Set/Confirm Next Meeting(s)**

The next meeting was confirmed for September 8, 2015, at the Lea County Commission chambers. The following meeting/Subdivision Regulations work session was set for October 11, 2015.

**ITEM 10: Adjourn**

Mr. Johncox motioned to adjourn. Motion seconded by Mr. Kesner and carried unanimously. Meeting adjourned at 11:37A.M

**Lea County Planning & Zoning Board**

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**Kallie Windsor, Chairman, Lovington Extraterritorial  
Zoning Board**

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**Guy Kesner, Vice-Chairman, Hobbs Extraterritorial  
Zoning Board**

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**Kay Hardin, Member, District 1**

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**Gary Eidson, Member, District 2**

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**Johnnie Hopper, Member, District 3**

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**Robbie Robinson, Member, District 4**

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**Daniel Johncox, Member, District 5**