

MINUTES OF THE REGULAR MEETING OF THE

**City of Carlsbad
Planning & Zoning Commission**

January 9, 2017, at 5:00 p.m.

**Meeting Held in the Annex Planning Room
114 S. Halagueno**

CITY OF CARLSBAD
CARLSBAD, NEW MEXICO

PLANNING AND ZONING COMMISSION

Monday, January 9, 2017, at 5:00 PM
Municipal Annex 114 S. Halagueno Street
Planning Room

1. Roll call of voting members and determination of quorum.
2. Approval of Agenda.
3. Approval of Minutes from Special Meeting held December 12, 2016.
4. Consider a recommendation for a Zone Change from "C-2" Commercial District/"R-R" Rural Residential to "C-2" Commercial District at 4100 & 4208 National Parks Hwy., legally described as Tract 2, Garringer Land Division and Tract A, Knittel Land Division.
5. Consider a Conditional Use Permit for a new Communications Tower at 5308 National Parks Hwy.
6. Consider an Appeal (Variance) for a fall radius less than the required 105% for a new Communications Tower located at 603 W. Cherry Ln.
7. Consider a Conditional Use Permit for a new Communications Tower at 603 W. Cherry Ln.
8. Consider a Conditional Use Permit at 4100 National Parks Hwy. for incidental welding as part of General Contracting, legally described as Tract 2, Garringer Land Division.
9. Consider Preliminary/Final subdivision plat for Hargiss Subdivision Replat #1, located at the corner of Elgin Rd. and Cowboy Country Rd. creating 6 new residential building lots.
10. Consider an Appeal (variance) for Hargiss Subdivision Replat #1 to allow no curb and gutter and no sidewalks to be installed along Elgin Rd. and Cowboy Country Rd. as part of the Hargiss Subdivision Replat #1 development.
11. Consider a final plat for Freedom Way Subdivision located at the corner of W. McKay St. and N. Elm Street.
12. Consider a recommendation to the Carlsbad City Council concerning a petition for Annexation of properties along Center Ave., approximately 15.59 acres.
13. Consider an application of Zoning (R-R Rural Residential) for Properties along Center Ave.
14. Consider a Final Plat regarding the donation of right-of-way along S. 14th St.
15. Consider an Appeal (variance) to allow a carport to be placed in the required front set-back at 3317 Kuykendall St.
16. Report regarding Summary Review Subdivisions.
17. Adjourn.

If you require hearing interpreters, language interpreters, auxiliary aids in order to attend and participate in the above meeting, please contact the City Administrator's offices at (575) 887-1191 at least 48 hours prior to the scheduled meeting.

MINUTES OF A REGULAR MEETING OF THE CITY OF CARLSBAD PLANNING & ZONING COMMISSION HELD IN THE MUNICIPAL ANNEX PLANNING ROOM, 114 S. HALAGUENO STREET, JANUARY 9, 2017, AT 5:00 P.M.

VOTING MEMBERS PRESENT:

**JAMES KNOTT
JAMES MCCORMICK
BRIGIDO GARCIA
WANDA DURHAM
LASON BARNEY**

**CHAIRPERSON
COMMISSION SECRETARY
COMMISSIONER
COMMISSIONER
COMMISSIONER**

VOTING MEMBERS ABSENT: NONE

EX-OFFICIO MEMBERS PRESENT:

**JEFF PATTERSON
GEORGIA GOAD
MICHAEL HERNANDEZ**

**PLANNING DIRECTOR
PLANNING DEPUTY DIRECTOR
DIRECTOR OF UTILITIES**

SECRETARY PRESENT:

PATTIE PISTOLE

**PLANNING, ENGINEERING
AND REGULATION DEPARTMENT
SECRETARY**

OTHERS PRESENT:

**ERIC ROBINSON
DAVID L. O'DELL
CHRIS ROBINSON
ANNE-MARIE (AMY) MCKENZIE
PHILIP D. MCCULLOUGH
NICOLE RAGAIN
EUGENE QUIONZON
MIKE MOE
GEORGE DUNAGAN
FRED TOOTHMAN
DON SCHLOSSER
JIMMIE KEENE
KENT THURSTON
RICK THURSTON
KEN THURSTON
DAN REDDY
JEFF MCLEAN
MARIA KNITTEL
GARY PROCTOR**

**3317 KUYKENDALL
LOS RANCHOS, NM
3317 KUYKENDALL
ALBUQUERQUE, NM
1016 CENTER
1001 ELGIN ROAD
1001 ELGIN ROAD
4100 NATIONAL PARKS HWY
212 W STEVENS
1713 SANDY LANE
2017 JASMINE STREET
2017 JASMINE STREET
LAS CRUCES
LAS CRUCES
LAS CRUCES
904 N GUADALUPE
1107 N SHORE DRIVE
1107 N SHORE DRIVE
3319 KUYKENDALL**

Time Stamps and headings below correspond to recording of meeting and the recording is hereby made a part of the official record.

0:00:00 Start Recording [5:00:25 PM]

0:00:03 **1. Roll call of Voting Members and Determination of Quorum.**

Roll was called, confirming the presence of a quorum of commission members. The following members were present—**Mr. McCormick, Ms. Durham, Mr. Knott, Mr. Garcia**; Absent—**Mr. Barney**. (**Mr. Barney arrived at 5:01 and was present for the remainder of the meeting.**)

0:00:28 **2. Approval of Agenda.**

Mr. McCormick made a motion to approve the Agenda, and **Ms. Durham** seconded the motion. The vote was as follows: **Yes—Mr. McCormick, Ms. Durham, Mr. Knott, Mr. Garcia**; No—None; Abstained—None; **Absent—Mr. Barney**. The motion carried. (**Mr. Barney arrived at 5:01 and was present for the remainder of the meeting.**)

0:01:04 **3. Approval of Minutes from Meeting held December 12, 2016.**

Ms. Durham made a motion to approve the Minutes, and **Mr. Barney** seconded the motion. The vote was as follows: **Yes—Mr. McCormick, Ms. Durham, Mr. Knott, Mr. Barney, Mr. Garcia**; No—None; Abstained—None; Absent—None. The motion carried.

0:02:01 **4. Consider a recommendation for a Zone Change from “C-2” Commercial District/“R-R” Rural Residential to “C-2” Commercial District at 4100 & 4208 National Parks Hwy., legally described as Tract 2, Garringer Land Division and Tract A, Knittel Land Division.**

Mr. McLean and **Ms. Knittel** were present to ask for the Zone Change. **Mr. Patterson** explained that part of the property is C-2 already, and that it fits with the area. Staff recommended approval. There was no public comment.

Ms. Durham made a motion to recommend approval of the Zone Change. **Mr. Garcia** seconded the motion. The vote was as follows: **Yes—Mr. McCormick, Ms. Durham, Mr. Knott, Mr. Barney, Mr. Garcia**; No—None; Abstained—None; Absent—None. The motion carried.

0:07:06 **5. Consider a Conditional Use Permit for a new Communications Tower at 5308 National Parks Hwy.**

Ms. McKenzie attended to represent Verizon. **Mr. Patterson** stated that there was documentation stating that there would be no hazard to air navigation at this location. Staff recommended approval. **Ms. McKenzie** explained that the tower is needed to improve coverage and capacity in the area. In answer to a question, she stated that other companies would be able to co-locate on this tower, so it would cut down on the number of towers needed in the area. There was no public comment.

Mr. McCormick made a motion to approve the Conditional Use. **Mr. Barney** seconded the motion. The vote was as follows: **Yes—Mr. McCormick, Ms. Durham, Mr. Knott, Mr. Barney, Mr. Garcia**; No—None; Abstained—None; Absent—None. The motion carried.

0:15:22 **6. Consider an Appeal (Variance) for a fall radius less than the required 105% for a new Communications Tower located at 603 W. Cherry Ln.**

Ms. McKenzie represented Verizon. **Mr. Patterson** stated that the tower has a 50' fall radius and is designed to be partially collapsible, so that it would collapse vertically. It would break at 45' and fall within the property line. Staff recommended approval. **Ms. McKenzie** added that it is designed to look like a pine tree for stealth coverage, which is more appealing for the area. There is spotty coverage in the area, and the tower will improve coverage and capacity.

During public comment, **Mr. Toothman** expressed his opposition to a tower being in a residential area. He did not think it would look like a pine tree. **Ms. Goad** explained that there is actually a safety factor involved. Many people are now using cell phones exclusively, and E911 is trying to find ways to extend coverage for emergency calls.

Ms. Durham made a motion to approve the Variance. **Mr. McCormick** seconded the motion. The vote was as follows: **Yes—Mr. McCormick, Ms. Durham, Mr. Knott; No—Mr. Barney, Mr. Garcia; Abstained – None; Absent –None.** The motion carried.

Mr. Patterson explained the appeal process to Mr. Toothman—he would need to send him a letter or e-mail within 15 days to be scheduled to appear before the City Council, if he wished to appeal the decision.

0:36:34 **7. Consider a Conditional Use Permit for a new Communications Tower at 603 W. Cherry Ln.**

This item regards the tower previously discussed in Item 6. There was no public comment.

Mr. Barney made a motion to approve the Conditional Use on the condition that the plat was approved. **Ms. Durham** seconded the motion. The vote was as follows: **Yes—Mr. McCormick, Ms. Durham, Mr. Knott, Mr. Barney; No—Mr. Garcia; Abstained—None; Absent—None.** The motion carried.

Mr. Patterson explained the appeal process again—sending a letter or e-mail within 15 days to be scheduled to appear before the City Council, if anyone wished to do so.

0:39:30 **8. Consider a Conditional Use Permit at 4100 National Parks Hwy. for incidental welding as part of General Contracting, legally described as Tract 2, Garringer Land Division.**

Mr. Dunagan and **Mr. Moe** came forward to discuss the Conditional Use. **Mr. Patterson** said the applicant wants to cover all his bases to make sure any incidental welding would be allowed. The property is zoned for commercial use, and Staff recommended approval with conditions. **Mr. Moe** explained that they only want to do maintenance welding and testing of welders; they have no intention of doing any fabrication. There was no public comment.

Mr. Garcia made a motion to approve the Conditional Use. **Mr. McCormick** seconded the motion. The vote was as follows: **Yes—Mr. McCormick, Ms. Durham, Mr. Knott, Mr. Barney, Mr. Garcia; No—None; Abstained—None; Absent—None.** The motion carried.

0:44:58 **9. Consider Preliminary/Final subdivision plat for Hargiss Subdivision Replat #1, located at the corner of Elgin Rd. and Cowboy Country Rd. creating 6 new residential building lots.**

Mr. Thurston attended to answer any questions regarding the application. **Mr. Patterson** explained that streets and sidewalks are normally required when property is split into this many lots. However, utility lines are already in place. Laterals will just need to be run to the lots created. Staff recommended approval, if all the requirements from Public Works and Engineering are addressed, and if the Variance for no sidewalks and gutters is approved. It was discussed that technically one of the lots already exists, so five lots are being created. **Mr. Thurston** wanted clarification regarding setbacks. He was in agreement with the recommendation. There was no public comment.

Mr. McCormick made a motion to approve the Preliminary/Final Plat with conditions stated and setbacks discussed (30 feet in the front, 5 feet on the sides). Also, plans for water and sewer must be provided. **Ms. Durham** seconded the motion. The vote was as follows: **Yes—Mr. McCormick, Ms. Durham, Mr. Knott, Mr. Barney, Mr. Garcia**; No—None; Abstained—None; Absent—None. The motion carried.

0:59:38 **10. Consider an Appeal (variance) for Hargiss Subdivision Replat #1 to allow no curb and gutter and no sidewalks to be installed along Elgin Rd. and Cowboy Country Rd. as part of the Hargiss Subdivision Replat #1 development.**

Mr. Patterson explained that there are no sidewalks in the entire area to tie onto. The developer has provided for ponding on each property, so not much water will go into the street. If sidewalks and curbs and gutters are installed, it would only be along the six lots, not all the way down the street. Planning Staff recommended approval. During public comment, **Mr. Quionzon** spoke in favor of the variance. He said he had no problem with it.

Ms. Durham expressed her feeling that it is a matter of public safety. It is more costly, but it is in the City Ordinance to put in curbs, gutters, and sidewalks in new subdivisions. Why not enforce it? This property is on the outskirts of town now, but what about in ten years? It wasn't a problem in her neighborhood when it was built, but now it is.

Mr. Knott made a motion to approve the Variance. **Mr. McCormick** seconded the motion. The vote was as follows: **Yes—Mr. McCormick, Mr. Knott, Mr. Garcia**; No—**Mr. Barney, Ms. Durham**; Abstained—None; Absent—None. The motion carried.

1:25:30 **11. Consider a final plat for Freedom Way Subdivision located at the corner of W. McKay St. and N. Elm Street.**

David O'Dell came forward to present the application. **Mr. Patterson** said that Planning Staff recommended approval, pending a walk-through. Utilities and Public Works need to approve it. **Mr. O'Dell** said he followed all the City requirements. There was no public comment.

Mr. McCormick made a motion to approve the Final Plat with recommendations listed in Staff comments and with proof of testing. **Ms. Durham** seconded the motion. The vote was as follows: **Yes—Mr. McCormick, Ms. Durham, Mr. Knott, Mr. Barney, Mr. Garcia**; No—None; Abstained—None; Absent—None. The motion carried.

1:34:04 **12. Consider a recommendation to the Carlsbad City Council concerning a petition for Annexation of properties along Center Ave., approximately 15.59 acres.**

Mr. McCullough and **Mr. Reddy** answered questions regarding the application. **Ms. Goad** explained that the applicant owns property on both sides of Center. His home is in the City limits, so he wants to annex the remainder of his property where he has a nursery. **Mr. McCullough** agreed that he wants to annex his property to get City water. During public comment, **Mr. Keene** wanted to know how it would affect his property. It was explained to him that this issue only pertained to the property owned by Mr. McCullough.

Mr. Barney made a motion to recommend approval of the Annexation. **Mr. Garcia** seconded the motion. The vote was as follows: **Yes–Mr. McCormick, Ms. Durham, Mr. Knott, Mr. Barney, Mr. Garcia**; No–None; Abstained–None; Absent–None. The motion carried.

1:51:22 **13. Consider an application of Zoning (R-R Rural Residential) for Properties along Center Ave.**

Because the property, which was discussed in the previous item, may be annexed into the City, zoning needed to be assigned.

Mr. McCormick made a motion to recommend approval of the Zone Change. **Mr. Garcia** seconded the motion. The vote was as follows: **Yes–Mr. McCormick, Ms. Durham, Mr. Knott, Mr. Barney, Mr. Garcia**; No–None; Abstained–None; Absent–None. The motion carried.

1:52:56 **14. Consider a Final Plat regarding the donation of right-of-way along S. 14th St.**

The City was the applicant for this issue. There was no public comment.

Ms. Durham made a motion to approve the Final Plat. **Mr. Barney** seconded the motion. The vote was as follows: **Yes–Mr. McCormick, Ms. Durham, Mr. Knott, Mr. Barney, Mr. Garcia**; No–None; Abstained–None; Absent–None. The motion carried.

1:58:32 **15. Consider an Appeal (variance) to allow a carport to be placed in the required front set-back at 3317 Kuykendall St.**

Mr. and Mrs. Robinson were the applicants for this request. **Mr. Patterson** explained that they want a setback of 5 ½ feet in the front, rather than 30 feet, because they have built a carport there without getting a building permit. Staff recommended denial. Since this is a corner lot, setbacks would be 30 feet on both sides facing streets. He said that amendments to the City Ordinance were submitted in October, which proposed carports be allowed in setbacks without having to get variances. The Council struck that part from the amendments to the Ordinance, so that variances are still required for carports in the setback. **Ms. Robinson** asked that they be allowed to keep the carport, since it cost over \$1,000, was not obstructing, and is not a safety factor. The **Robinsons** said that the installer put up the carport before they had a chance to get a permit. During public comment, their neighbor **Mr. Proctor** stated that he had no problem with it staying. He is in favor of a variance.

Mr. McCormick made a motion to approve the Variance, provided the sides stay open and all other Building Code requirements are followed. **The motion died for lack of a second.**

Mr. Barney made a motion to deny the Variance. **Mr. Garcia** seconded the motion. The vote to deny was as follows: **Yes—Ms. Durham, Mr. Barney, Mr. Garcia; No—Mr. McCormick, Mr. Knott; Abstained—None; Absent—None.** The motion carried to **deny** the Variance.

It was explained that to appeal the decision, the applicant needs to send a letter or e-mail to Mr. Patterson within 15 days. Then he would schedule the matter to go before City Council. He also suggested calling to talk to Mr. Cass.

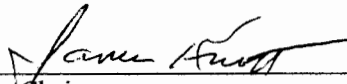
2:31:01 **16. Report Regarding Summary Review Subdivisions.**

There was brief discussion of the plats signed by the commission designees during the previous month.

2:32:20 **17. Adjourn.**

There being no further business, the meeting was adjourned.

2:32:21 Stop Recording [7:32:45 PM]



Chairman

Date