

MINUTES OF THE REGULAR MEETING OF THE

**City of Carlsbad
Planning & Zoning Commission**

July 10, 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, July 10, 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 Meeting held June 6, 2017.
4. Consider an Appeal (Variance) for a cul-de-sac length of 850'.
5. Consider a preliminary plat for Fountain Hills Subdivision # 18, containing 17 lots.
6. Consider recommendation of a Temporary Use Application for employee housing located at 3303 Harvest Ln.
7. Consider approval of a Conditional Use Application for mechanic shop/auto repair located at 2112 Standpipe Rd.
8. Consider approval of a Conditional Use Application for mechanic shop/auto repair located at 2603 Legion St.
9. Consider a Zone Change for the James Knott Land Division, a 36.01 acre property located to the west of Boyd Dr. and south of Hidalgo Rd.
10. Vote to appoint a Planning & Zoning Commission Chairperson for the coming fiscal year.
11. Report regarding Summary Review Subdivisions.
12. Adjourn.

FOR INFORMATION ONLY

Agendas and Planning and Zoning Commission meeting minutes are available on the City web site:
cityofcarlsbadnm.com
or may be viewed in the Office of the City Clerk or at the Carlsbad Public Library during normal and regular business hours

13. PLANNING AND ZONING COMMISSION MEETING SCHEDULE

14. • Regular meeting – Monday, August 7, 2017 at 5:00 p.m.

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

MINUTES OF A REGULAR MEETING OF THE CITY OF CARLSBAD PLANNING & ZONING COMMISSION HELD IN THE MUNICIPAL ANNEX PLANNING ROOM, 114 S. HALAGUENO STREET, JULY 10, 2017, AT 5:00 P.M.

VOTING MEMBERS PRESENT:

**JAMES KNOTT
BRIGIDO GARCIA
JAMES MCCORMICK
LASON BARNEY
BRAD NESSER**

**CHAIRPERSON
COMMISSIONER
COMMISSION SECRETARY
COMMISSIONER
COMMISSIONER**

VOTING MEMBERS ABSENT:

NONE

EX-OFFICIO MEMBERS PRESENT:

**JEFF PATTERSON
GEORGIA GOAD**

**PLANNING DIRECTOR
PLANNING DEPUTY DIRECTOR**

EXECUTIVE SECRETARY PRESENT:

JENNIFER CAMPOS

**PLANNING, ENGINEERING
AND REGULATION DEPARTMENT
EXECUTIVE SECRETARY**

OTHERS PRESENT:

**KEN THURSTON
TJ EVANS
MELISSA JOHNSON
GARY WADDELL
KIMBERLY MCKENNA
WES KINCAID
JESUS DEAVILA
LANETTE GIESE
JERRY GALLOWAY
THEODORE POPE
MICHAEL FLORES
BRANDY SEXTON
GENE KINCAID
EMILY WESTON
JULIA NEATHERLON
ANDE LEA MILLER
VAE LYNN MCCARTY
TINA KINCAID
JAY YOAKUM
CHARLIE GARCIA**

**1880 E. LOHMAN AVE.
2703 LEGION ST.
2706 LEGION ST.
4203 BOYD ST.
526 COLEMAN RD.
1015 BIRCH
2603 LEGION
2611 WESTERNWAY
2605 WESTERNWAY
6005 GRANDI
2112 TURNER
PO BOX 653
2802 LEGION
2702 MONTE VISTA
2601 MONTE VISTA
5311 OLD CAVERN HWY
5311 OLD CAVERN HWY
2802 LEGION
PO BOX 653
101 N. HALAGUENO**

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 [5:04:16 PM]

0:00:02 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. Knott, Mr. Barney, Mr. McCormick, and Mr. Nesser.** Absent– **Mr. Garcia.**

0:00:30 **2. Approval of Agenda.**

Ms. Goad clarifies that on Mr. Thurston’s item #4 is asking for 850’ length instead what the requirements request. The cul-de-sac length is 800 he’s asking for 50’ variance. (*Mr. Garcia arrived at the meeting*) **Mr. Patterson** said you’ll see the illustration on page 17. **Ms. Goad** also clarifies on the same item that the Planning Staff recommended approval based on the application materials; however the X was in the denial column. **Mr. Patterson** said you’ll see that on page 11. **Ms. Goad** handed out a letter before the meeting that was not included in the packet. **Mr. Patterson** said it’s for item #8.

Mr. Barney made a motion to approve the Agenda, and **Mr. McCormick** seconded the motion based on the clarifications. The vote was as follows: **Yes–Mr. Garcia, Mr. Barney, Mr. Knott, Mr. McCormick, and Mr. Nesser.** No–None; Abstained–None; Absent– None. The motion carried.

0:03:44 **3. Approval of Minutes from Meeting held June 6, 2017.**

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

0:04:39 **4. Consider an Appeal (Variance) for a cul-de-sac length of 850’.**

Mr. Patterson explained that the applicant is requesting a variance from Sec. 47-42(c)(4) of the City’s Subdivision Ordinance requiring that all cul-de-sacs installed to City specifications should have a maximum length of 800’. The applicant wishes to build his street cul-de-sac to a length of 850’. There will be 15 residential lots installed along this cul-de-sac. The applicants plat on page 16 shows the design to be located West Church Street where it meets Happy Valley Road. Staff recommends approval. **Mr. Thurston** said there are no explanations they just decided to ask for 50’ variance instead of trying to bring the road back out to Happy Valley. **Mr. Knott** asked the logic behind limiting to the 800’ instead of 850’. **Mr. Patterson** answered that it was probably for emergency services point of view. It was to limit the length of the street to limit the number of lots that could be on a dead end street. **Ms. Goad** said the number of lots is standard according to state statute. **Mr. Barney** asked hadn’t they already approved for this plat before. **Mr. Patterson** said “yes”, but it was a different design before. **Mr. Knott** asked if it was 17 or 15 lots. **Mr. Thurston** said its 15 lots in the cul-de-sac and 2 lots off of Church Street for a total of 17 lots.

Mr. McCormick made a motion to recommend approval of the Appeal (Variance) for a cul-de-sac length of 850’. **Mr. Nesser** seconded the motion. The vote was as follows: **Yes– Mr. Garcia, Mr. Barney, Mr. Knott, Mr. McCormick, and Mr. Nesser.** No–None; Abstained–None; Absent– None. The motion carried.

0:11:20

5. Consider a Preliminary Plat for Fountain Hills Subdivision # 18, containing 17 lots.

Mr. Patterson explained Preliminary Plat for Fountain Hills Subdivision - Phase 18, creating 17 new lots, zoned Rural Residential District "R-R" and located on the west side of Miehl's Drive at the corner of W. Church St. and Happy Valley Road. To address Commissioner Barney's assessment "yes" this location was approved in 2015 for Annie Oakley Subdivision which would've created 53 residential lots; however when Mr. Thurston did the cost analysis he decided he would be cost effective to extend sewer services to the subdivision. He is seeking to install septic services on site and needs larger lot sizes. When he redesigned the development they were able to maximize to 17 lots. There will be 2 lots along West Church Street and 15 lots will be in the cul-de-sac. He will stick to the right-of-way design with Annie Oakley's plat. Based on review of the application and staff comments, planning staff recommends approval with the following conditions being addressed prior to sign off of the final plat: A letter of acceptance from the Infrastructure Construction Inspector and City Engineer shall be obtained by the applicant and provided to planning staff, which indicates that the infrastructure issues have been completed to the satisfaction of the City. **Mr. Thurston** said when he came to the Planning and Zoning Board with Annie Oakley Subdivision for the 53 lots and got preliminary approval. Then meeting with the City for the sewer requirements for the quarter acre lots he found a sanitary lift station would need to be placed to pump up to Fountain Hills but it became non cost effective. The City said to as an alternative run down towards Lea Street, which would require Annexation and just didn't work. They decided to bring it back to the board in the form of Fountain Hills #18 Subdivisions with 17 lots with septic tanks, City water, paved road, and the right-of-way of 60' that is required from the City going from 53 lots down to 17 lots with this New Subdivision. **Mr. Patterson** said looking on page 44 in your packet Mr. Thurston's plan profile meet all the infrastructure requirements. **Mr. Knott** asked about the 4' sidewalks because there indicating a 6" thick ADA. The City requirements are 4' so there exceeding the minimum, thinking that driveways are 6' and sidewalks are 4'. **Mr. Thurston** said that Mr. Knott was correct if your just putting sidewalk it's 4' if you're driving into a driveway it's 6', this one here there just doing 6' for the entire sidewalk is above the requirement. **Mr. Knott** said you have the option to put the sidewalk before or after the lots are sold. **Mr. Patterson** said you can do either way. **Mr. Thurston** said he wants to put them in all at one time.

Mr. Nesser made a motion to recommend approval to consider a preliminary plat for Fountain Hills Subdivision # 18, containing 17 lots. **Mr. Garcia** seconded the motion. The vote was as follows: **Yes—Mr. Garcia, Mr. Barney, Mr. Knott, Mr. McCormick, and Mr. Nesser.** No—None; Abstained—None; Absent—None. The motion carried.

0:20:39

6. Consider recommendation of a Temporary Use Application for employee housing located at 3303 Harvest Ln.

Applicant has not arrived so this item will be heard at the end of the agenda or it will be tabled until the next regular scheduled meeting.

Mr. Barney made a motion to move the item to the end of the agenda or tabled until the next regular scheduled meeting. **Mr. McCormick** seconded the motion. The vote was as follows: **Yes— Mr. Garcia, Mr. Barney, Mr. Knott, Mr. McCormick, and Mr. Nesser.** No—None; Abstained—None; Absent—None. The motion carried.

0:22:13

7. Consider approval of a Conditional Use Application for mechanic shop/auto repair located at 2112 Standpipe Rd.

Mr. Patterson explained this is a request for a Conditional Use Permit to allow an auto repair business in “R-R” Rural Residential on 2112 Standpipe Road, legally as Lot C, Block 6, Hoose Acres Subdivision, in accordance with Section 56-41, Table 3 Commercial Uses, (7)(a). As you can see the applicant has cleaned that property Planning recommends approval with the understanding that the applicant shall adhere to all specifications and requirements found in the City’s Zoning Ordinance. **Ms. Goad** said there are before and after pictures of the property. **Mr. Patterson** said on page 69 it shows what it used to look like and on pages 70-72 shows that the applicant has cleaned it up. **Mr. Knott** asked if the business is in operation. **Mr. Pope** said “Yes” it’s been commercial for over 50 years and he had put up a privacy fence for the neighbors.

Mr. Garcia made a motion to recommend approval to consider a Conditional Use Application for mechanic shop/auto repair located at 2112 Standpipe Rd. **Mr. Nesser** seconded the motion. The vote was as follows: **Yes— Mr. Garcia, Mr. Barney, Mr. Knott, Mr. McCormick, and Mr. Nesser. No— None; Abstained—None; Absent—None.** The motion carried.

0:28:17 **8. Consider approval of a Conditional Use Application for mechanic shop/auto repair located at 2603 Legion St.**

Mr. Patterson explained the request for a Conditional Use Permit to allow an auto repair business in “R-R” Rural Residential at 2603 Legion St.. The applicant has begun to do business at this location. The zoning ordinance is a bit contradictory in this case as this use is allowed with the approval of a Conditional Use Permit request in “R-R” Residential Zoning, however this use is prohibited as a home occupation. City Staff has taken pictures of the property as of today. **Mr. DeAvila** explained that he’s asking for a temporary permit not a permanent location because this is his house. He moved from a Texas St. location to 2603 Legion St.. He could no longer function there. A lot of the things you see on Legion St. were brought from the old shop. He’s also been taking some cars to his brother in laws property out in the county. He’s looking to find another location to do his work. **Mr. Knott** asked **Mr. DeAvila** to give an estimate for how long he plans to operate at the Legion St. location. **Mr. DeAvila** said no more than a year and that he all basically does there now is diagnostics. **Mr. Knott** asked for the location of the previous business. **Mr. DeAvila** said at 1823 W. Texas. **Mr. Knott** asked how long he has had his business. **Mr. DeAvila** said 20 years. **Mr. Knott** asked if he’s received any citations on either location. **Mr. DeAvila** said “no” just letters to clean up the place. **Mr. Knott** asked if he owned the property on Texas Street. **Mr. DeAvila** said “no” and there was a conflict with the property owner, family, and himself. The reason he was moving was because the building was falling apart.

Mr. Kincaid said he lives at 2802 Legion at the end of the dead end street. He said **Mr. DeAvila** is a nice guy, but the business is unsuitable. Customers come to 2603 Legion St. when he’s closed, there are several cars parked along the street. It does bring their property value down and traffic has doubled. **Mr. Knott** asked if he operates his business out of his residence. **Mr. Kincaid** said he has no business, but then he said he does have a business but it is all ranch land that he doesn’t do business in the city. He’s against the business being there and wants it somewhere else. **Mr. DeAvila** asked **Mr. Kincaid** about the vehicles going to the dead end street where he lives and said he’s put an end to the customers making a turn into his property.

Mr. Galloway said he lives at 2605 Westernway St., to the north, and he looks out his back door he can see the business and vehicles at 2603 Legion St. He’s fully opposed of having a business on a residential street. **Mr. DeAvila** said he has asked the city if he could put a privacy fence there he already has an American fence so no one can see anything. He’s been moving his stuff from the Texas St. location to the subject property and a lot of it is antiques that he keeps. **Mr. Galloway** said he wants the people to go and look at the old business and then go look at where the new business is and see what it looks like as of

today. **Ms. Giese** said she lives at 2611 Westernway and she's not objecting to **Mr. DeAvila** living there she's objecting to the business being inside residential zone. There are businesses along 8th Street that are not zoned in a residential zone. **Mrs. Kincaid** said her husband has made most of the comments saying that **Mr. DeAvila** is a good guy they would like to have him as a neighbor, but the traffic has increased and there are small children around. There are cars parked on both sides of the streets and it's hazardous. The property values are affected. If everything was kept behind a privacy fence so nobody could see it, it would be one thing. But in all honestly she would prefer it not to be there. **Mr. Galloway** said he doesn't have anything against **Mr. DeAvila**. **Mr. Patterson** mentions that there are letters inside the packet on page 84 in addition to one that was handed out before the meeting that were sent by individuals unable to attend this meeting. **Mr. Barney** asked if he owned the property. **Mr. DeAvila** said "yes". **Mr. Barney** asked who **Mr. Jerry Sessom** was. **Mr. DeAvila** said it was his neighbor across the street. For the record **Mr. Sessom** wrote a letter of support for the Conditional Use Permit which was included in the packet.

Mr. McCormick made the motion to approve the Conditional Use Permit be granted contingent on a privacy fence be completed quickly, not a year from now. The motion died for a lack of being seconded. **Mr. DeAvila** said he's been looking for properties to rent, he's got half of one side of the property with enough panels, but he needs to continue to work to get more funds to finish the rest of the privacy fence around his property. **Mr. Patterson** said that our ordinance contradicts itself in Rural Residential property. The applicant is allowed to ask for a Conditional Use Permit to do automotive repair; however this being his home, vehicle repairs is strictly prohibited for home occupation. **Mr. Barney** said approving this would go against our ordinance. **Mr. Patterson** said "yes".

Mr. Barney made a motion for denial. **Mr. Garcia** seconded the motion. The vote was as follows: Yes— **Mr. Garcia, Mr. Barney, and Mr. Nesser**. No— **Mr. Knott and Mr. McCormick**. Abstained— None; Absent—None. The motion carried.

1:01:57

6. Consider recommendation of a Temporary Use Application for employee housing located at 3303 Harvest Ln.

Mr. Patterson explained this is to consider allowing Temporary Housing as a Temporary Use at 3303 Harvest Ln., legally described as Lot 9B, Four Winn's Subdivision, Zoned "R-R" Rural Residential Zoning District. The applicant has sufficient amount of area, 8.5 acres, we require 2 acres. Based on review of the application materials and other staff comments, planning staff recommends approval based on the following condition: As a condition for approval, the applicant will need to produce a site plan that indicates their plan to meet all the requirements for Temporary Housing listed in the Zoning Ordinance. There are no sewer lines in the area therefore the applicant will have to have septic tanks, trash pickup and water lines hook ups. He is required to have NMED provide a sanitation plan. **Mr. Knott** said he didn't see a site plan that identifies the location of all pre-fabricated modular units and/or RV spaces with required setbacks. **Ms. Goad** said she doesn't recall a maximum dimension being temporary use verbiage; each lot is 40x40 they have a setback from the fence of 30' from this drawing. **Mr. Knott** said he didn't see a utility plan that shows the location size and details of all lines located on the site as well as connections to temporary housing and any connections to city utilities. **Mr. Patterson** said the Commission should make a recommendation for the applicant to produce all that's called for on the site plan. **Mr. Knott** said what the Planning Staff recommendation for approval was that the applicant will need to produce a site plan that indicates their plan to meet all the requirements for Temporary Housing listed in the Zoning ordinance. **Mr. Patterson** said he thinks the applicant will need to, prior to forwarding to Counsel, produce a more in-depth plan.

Mr. Yoakum said approval is contingent on purchase of the property, if it's not going to get approved then he's not going to buy the property. He needs employees to have somewhere to stay, he has problems when employees come down and there's a waiting list to park their RV's, therefore his drivers don't have anywhere to stay. This property is being used as a dump site and he's wanting for it to be an asset. He's willing to do things correctly and beautify the city. There is a water line that comes off of Standpipe Road; sanitation trash pickup is also on Standpipe Road. Mr. Knott asked what size would the RV's he would be placing there be. Mr. Yoakum said 35'- 40' that's why it's a 40 x 40 lot size. **Mr. Patterson** said on the GIS it shows the west of Standpipe is where the water line placed. **Mr. Yoakum** said he's done his research. **Mr. Waddle** says he's with Clayton Homes and he was not aware of this petition and he's purchased property on Standpipe & Harvest Road and he's putting residences with Modular and Manufactured homes on foundation. He was not aware of a man camp to be there. With the dumpsters going at the end of the road that changes his ideas. Is the man camp going to be your company? Are you going to rent to the public? **Mr. Yoakum** said it was not a man camp it's going to be RV's and just his employees. **Mr. Waddle** said he does not want to put residence next a man camp. **Mr. Knott** asked what the value of the homes was. **Mr. Waddle** said the land and homes about \$150,000.00. **Mr. Knott** asked Mr. Patterson if the temporary use is approved they can't limit this to employee housing. **Mr. Patterson** said if the Temporary Use is approved for Temporary Housing he would be able to rent to the general public, they do have the option of employee housing which is allowed use in Rural Residential, but he would have to double check to make sure RV's would be allowed as employee housing. With Employee Housing you could not rent to the general public. **Mr. Yoakum** said anything is subject to change. **Mr. Patterson** said this is not meant to be permanent man camp or RV Park. **Mr. Yoakum** said he tends to make it nicer than what you see on the drawing and around town. **Mr. Waddle** asked what the maximum space is and how long is a temporary use. **Mr. Patterson** said it's a 5 year period once the first RV moves in that's when the clock starts ticking. **Mr. Yoakum** said he has an electric pole that's on his 50' easement that's his private property.

Mr. McCormick made a motion to recommend approval limited to 10 spaces for Temporary Use Application for employee housing located at 3303 Harvest Ln. **Mr. Barney** seconded the motion. The vote was as follows: **Yes— Mr. Garcia, Mr. Barney, Mr. McCormick, and Mr. Nesser. No—Mr. Knott; Abstained—None; Absent—None.** The motion carried.

1:33:52 **9. Consider a Zone Change for the James Knott Land Division, a 36.01 acre property located to the west of Boyd Dr. and south of Hidalgo Rd.**

Mr. Patterson explained this is a Zoning Change from "R-R" Rural Residential District to "R-1" Residential District for Units 2, 4, and 6, Knott Land Division #3 that is illustrated on page 96 of your packet. The applicant has desired to develop single family housing to allow higher density of lots. Planning recommends approval based on the following findings you see on page 87 on your packet. **Mr. Knott** explained that he had purchase the property several years ago. The surrounding lots along Boyd and Hidalgo are 1/3 acre lots with the subdivision cost he was not able to develop because the infrastructure cost was just too high so he needed to make smaller lots. He's requesting the zone change with smaller lots at a reasonable price to put affordable housing, so with "R-1" it would allow modular, site built, manufacture homes to comply with City requirements. **Mr. McCormick** asked if we were only addressing the zone change looking on page 109 what's squared in black only, but this is what you want to develop in the future. **Mr. Patterson** said the surrounding is already "R-R" this would be a spot zone according to Planning Department. "R-1" Residential is a more restrictive residential zoning and the density is higher. Mr. Knott could also change the layout of his plans. The minimum lots size for "R-1" is 6,000 square feet. "R-R" Rural Residential has a minimum of 3/4 acre without sewer to meet state requirements. **Mr. McCormick** asked if there were City Utilities. **Mr. Patterson** said "yes" when he decides to start development. He's already meet with the Utilities Department to discuss the preliminary

plat on what he wants to develop. **Mr. Waddle** said he lives on 4203 Boyd St., he's supporting the zone change.

Mr. Garcia made the motion to consider a Zone Change for the James Knott Land Division, a 36.01 acre property located to the west of Boyd Dr. and south of Hidalgo Rd. **Mr. Barney** seconded the motion. The vote was as follows: **Yes**— **Mr. Garcia, Mr. Barney, Mr. McCormick, and Mr. Nesser.** **No**—None; **Abstained**—**Mr. Knott**; **Absent**—None. The motion carried.

2:02:00 **10. Vote to appoint a Planning & Zoning Commission Chairperson for the coming fiscal year.**

Mr. McCormick made a motion to have Mr. Knott continue to be the chairperson. **Mr. Garcia** seconded the motion. The vote was as follows: **Yes** **Mr. Garcia, Mr. Barney, Mr. Knott, Mr. McCormick, and Mr. Nesser.** **No**—None. The motion carried.

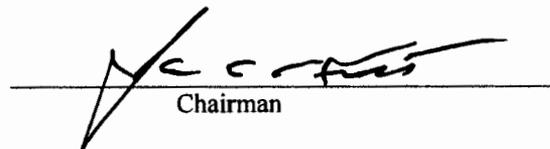
2:04:29 **11. Report Regarding Summary Review Subdivisions.**

There were no questions regarding the plats signed by the commission designees during the previous month.

2:08:46 **12. Adjourn.**

There being no further business, the meeting was adjourned.

2:08:52 Stop Recording [7:13:07 PM]



Chairman

8-7-17
Date