

**MINUTES OF A REGULAR MEETING OF THE CITY OF CARLSBAD PLANNING &  
ZONING COMMISSION HELD IN THE MUNICIPAL BUILDING PLANNING ROOM,  
101 N. HALAGUENO STREET, OCTOBER 7, 2013, AT 5:00 P.M.**

**VOTING MEMBERS PRESENT:**

**JAMES KNOTT  
JAMES MCCORMICK  
WANDA DURHAM  
EDDIE RODRIGUEZ  
RICK BROWN**

**CHAIRPERSON  
COMMISSION SECRETARY  
COMMISSIONER  
COMMISSIONER  
COMMISSIONER**

**VOTING MEMBERS ABSENT:**

**NONE**

**EX-OFFICIO MEMBERS PRESENT:**

**STEPHANIE SHUMSKY**

**PLANNING DIRECTOR**

**EX-OFFICIO MEMBERS ABSENT:**

**DALE JANWAY  
ERIC NAVARRETE  
EILEEN RIORDAN  
LUIS CAMARO  
TOM CARLSON  
  
STEVE MCCUTCHEON  
K.C. CASS**

**MAYOR  
CITY ENGINEER  
CITY ATTORNEY  
UTILITIES DIRECTOR  
PUBLIC WORKS  
DIRECTOR  
CITY ADMINISTRATOR  
BUILDING OFFICIAL**

**BOARD SECRETARY PRESENT:**

**PATTIE PISTOLE**

**PLANNING, ENGINEERING  
AND REGULATION DEPT.  
SECRETARY**

**OTHERS PRESENT:**

**JON PUTMAN  
DAN R. REDDY  
GEORGE DUNAGAN  
ZOLENE VOIGT  
JO SCHEEL  
LANE MARTIN  
PRISCILLA DORADO  
PABLO DORADO  
HEATHER ELLYSON  
STEVE ELLYSON  
JOE BRININSTOOL  
YOLANDA MORAN  
FRED VALENZUELA  
BANIDA VALENZUELA  
CONNIE SPINKS  
LORRAINE ALLEN-MUNOZ  
CHARLIE GARCIA  
(and TWO OTHERS WHO DID NOT SIGN IN)**

**80 BALLARD RANCH RD.  
904 N. GUADALUPE  
212 W. STEVENS  
101 S. CANYON  
101 S. CANYON  
1303 DOEPP DR.  
1408 NORMANDY  
1408 NORMANDY  
2493 PECOS HWY.  
2493 PECOS HWY.  
502 E. CENTER AVE.  
2420 VIOLET  
918 COUNTRYSIDE  
918 COUNTRYSIDE  
916 COUNTRYSIDE  
702 W. RIVERSIDE  
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 [5:04:03 PM]

0:00:30 **1. Roll call of voting members and determination of quorum.**

**Mr. Knott** called roll. There was a quorum. Present: **Mr. McCormick, Ms. Durham, Mr. Knott, Mr. Rodriguez, Mr. Brown.** Absent: **None.**

0:00:47 **2. Approval of Agenda.**

Motion was made by **Mr. Brown** for approval of an amended Agenda. (Since the applicant withdrew his request, Item #9 was removed from the Agenda.) **Mr. McCormick** seconded the motion. The vote was as follows: **Yes – Mr. McCormick, Ms. Durham, Mr. Knott, Mr. Rodriguez, Mr. Brown;** No – None; Abstained – None; Absent – None. The motion carried.

0:01:34 **3. Approval of of Minutes from the Regular Meeting held September 9, 2013.**

Motion made by **Ms. Durham** and seconded by **Mr. Brown** for approval of the Minutes. The vote was as follows: **Yes – Mr. McCormick, Ms. Durham, Mr. Knott, Mr. Rodriguez, Mr. Brown;** No – None; Abstained – None; Absent – None. The motion carried.

0:1:56 **4. Review of a Sketch Plat for the proposed subdivision of Hagerman Acres Land Division, Tract A, to create 10 new lots for residential development, located at the southeast corner of Chapman Road and Forrest Drive, Zoned "R-R" Rural Residential, pursuant to Code of Ordinances Chapter-47.**

**George Dunagan** was present as the owner of the property, which is under a purchase agreement. **Joe Putman** was there as the applicant. **Ms. Shumsky** explained that normally sketch plats are just reviewed by staff, but the applicant wanted input from the commissioners. The plat is for ten new lots on Chapman Road. There is water to the site and sewer is available to several of the lots. **Mr. Putman** said five of the lots would require a septic or other sort of system, which would cause issues under the current subdivision rules. **Mr. Dunagan** mentioned that when the text amendment was considered on a later item on the Agenda, this issue might be taken care of. There was no public comment.

Motion made by **Mr. McCormick** and seconded by **Ms. Durham** for approval of the Sketch Plat. The vote was as follows: **Yes – Mr. McCormick, Ms. Durham, Mr. Knott, Mr. Rodriguez;** No – None; Abstained – **Mr. Brown;** Absent – None. The motion carried.

0:14:03        **5. Recommendation regarding a Zoning Change from “R-1” Residential District to “C-2” Commercial District for an approximately 1+/- acre site, located at 1412 N. Eighth St., legally described as Belva Subdivision, Block 35, Lot 35, pursuant to Section 3-21-1 et. Seq. NMSA 1978 and Sections 56-150(b) and 56-140(i), Carlsbad Code of Ordinances.**

Mr. Knott recused himself from leading the meeting on this issue. Mr. McCormick stepped in for this item only. Ms. Voigt and Ms. Scheel represented the applicant. Ms. Voigt said when her parents bought the property it was commercially zoned. There had been apartments and a mobile home park there. They always thought it was commercial. On three sides it is already commercially zoned. Ms. Shumsky indicated that Staff recommended approval. The matter will be heard by City Council after a recommendation from the Planning and Zoning Commission. There was no public comment.

Motion was made by Mr. Brown to recommend the Zone Change. Ms. Durham seconded the motion. The vote was as follows: Yes – Mr. McCormick, Ms. Durham, Mr. Rodriguez, Mr. Brown; No – None; Abstained – Mr. Knott; Absent – None. The motion carried.

0:18:17        **6. Recommendation regarding a Zoning Change from “R-1” Residential District to “C-2” Commercial District for an approximately 1+/- acre site, located at 607 S. Cypress St., legally described as Arcadia Subdivision, Block 13, Less the W 185’ of the N 178’, pursuant to Section 3-21-1 et. Seq. NMSA 1978 and Sections 56-150(b) and 56-140(i), Carlsbad Code of Ordinances.**

Ms. Shumsky explained that Mr. & Mrs. Dorado want to build a shop on an undeveloped piece of property. This is considered an accessory use. In order to construct an accessory building, you have to have a primary-use building (a living quarters) on the property. Mr. Dorado does not want to add living quarters to the structure. With a zone change, he could later have a business there, but he does not have plans to do that. There had been several calls from neighbors in opposition to the zone change. Staff recommendations were mixed. Ms. Shumsky suggested a Conditional Use, if the zone change was not granted. There was no public comment. After discussion of their options, the Dorados decided to amend their request from a zone change to a conditional use.

Mr. McCormick made a motion to approve a Conditional Use to allow an accessory building without a primary building on the lot, for a craftsman or artisan shop and storage for the Dorado family. The motion was seconded by Mr. Rodriguez. The vote was as follows: Yes – Mr. McCormick, Ms. Durham, Mr. Knott, Mr. Rodriguez, Mr. Brown; No – None; Abstained – None; Absent – None. The motion carried.

0:39:28        **7. Consider an Appeal (variance) from Section 56-90(b) to allow a front-yard setback variance of 20’5” resulting in a front-yard setback of 9’7”, instead of the required 30’, at 909 Valverde Street, Zoned R-1.**

Since the applicant was not present, the item was tabled until the next meeting.

0:40:24

**8. Recommendation regarding a text amendment to the City's Subdivision Ordinance, Chapter 47, Section 62(e)(2), regarding new septic systems within the city limits, pursuant to Section 47-8, Carlsbad Code of Ordinances.**

**Ms. Shumsky** explained that the City is the applicant for this issue, and it will go to City Council after Planning and Zoning review. The new subdivision regulations implemented about ten months ago prohibited new septic systems within the city limits. The City is unable to provide sewer service to parts of the City because of topography or distance to the sewer system. Sometimes the sewer is too far down or the angle of the existing sewer will not work. Areas such as the Hobbs Highway, by the River, the rocky part west of town, parts of Hagerman Acres, and a few lots on Tulip and Violet Street cannot be served by the City sewer system. The new subdivision rule did not apply to existing platted lots, only to new subdivisions. After discussion, it was agreed that the wording should be changed to "only in areas where connection is not feasible because of topography or connection, as recommended by the Utilities Director and City Engineer." All subdivision plans go to the Planning and Zoning Commission after they are reviewed by the Utilities Director and City Engineer anyway. During public comment, **Mr. Dunagan** came forward to express agreement with the text amendment as agreed upon. He said each case is different, and that many areas are vacant and undeveloped because it is not economically feasible to install sewer lines.

**Mr. Brown** made a motion to recommend approval, with the changes noted. **Ms. Durham** seconded the motion. The vote was as follows: **Yes – Mr. McCormick, Ms. Durham, Mr. Knott, Mr. Rodriguez, Mr. Brown**; No – None; Abstained – None; Absent – None. The motion carried.

1:06:46

**10. Consider the Vacation of Spring Street, a 60' right-of-way, located between Riverside Drive and the Pecos River, pursuant to 3-20-12 NMSA 1978. Deferred from 9/9/13.**

**Mr. & Mrs. Ellyson, Mr. Martin, and Ms. Lorraine Allen-Munoz** came forward as the interested parties for discussion of the Vacation. **Ms. Shumsky** explained that the request had been modified to a 20' easement for drainage and utility. After discussion of the conditions listed, it was decided that #4 needed to be changed to read, "No new permanent structures as defined by the building code or other City codes shall be constructed within the utilities and drainage easement." Residences and garages are considered permanent structures. Fences and portable buildings are not considered permanent structures. However, the drainage will be underground, and if it is necessary to dig it up, the property owner will be responsible for any repairs to landscaping or structures aboveground. **Ms. Allen** said she is not opposed to the Vacation, but she wants to be sure her property is not diminished in any way. After discussion, conditions of approval were changed to the following:

1. A vacation plat shall be prepared by the applicant and provided to the city for sign off.
2. A 20' drainage and utility easement (10' on either side of the centerline), shall be provided and documented on the vacation plat.
3. Deeds shall be prepared and filed by the city to transfer the property to the adjacent land owners.
4. No new permanent structures as defined by the Building Code, or other City code, shall be constructed within the drainage and utility easement.
5. The easement shall be maintained (weeded and mowed) by the property owners.

**Mr. Brown** made the motion to approve the Vacation with the amended conditions. **Mr. Rodriguez** seconded the motion. The vote was as follows: **Yes – Mr. McCormick, Ms. Durham, Mr. Knott, Mr. Rodriguez, Mr. Brown**; **No – None**; **Abstained – None**; **Absent – None**. The motion carried.

1:42:56      **11. Consider the Vacation of the north 60' of Montgomery Avenue, located between Iris Street and Algerita Street, pursuant to 3-20-12 NMSA 1978. Tabled from 9/9/13.**

**Ms. Shumsky** said that Staff recommended approval, because the dirt road has never been paved or used by the City. **Mr. Brininstool** wants a turning radius for trucks to get into his shop. He could possibly pave it to City standards. It is also possible the City already has plans to pave it later. After discussion of the matter, the applicant asked to have the item tabled until the next meeting, so that he can do further study.

2:02:24      **12. Consider allowing Temporary Housing as a Temporary Use in the C-2 and R-2 Zoning Districts in accordance with Sec. 56-80 and additional regulations.**

**Ms. Shumsky** explained that we are desperate for temporary housing in Carlsbad, and she had been asked to come up with a solution. She had discussed it with various people for ideas. Our Zoning Ordinance provides for temporary uses, which she can already sign off on. Perhaps temporary housing could be included as one of the allowed temporary uses. The concerns would be for trash cleanup, sanitation, and getting the area back to its original condition after the housing is removed. After discussion, it was decided that several items would be changed or deleted from the conditions. The temporary permits will be issued for up to five years, on a case by case basis. The permits may be revoked by the Planning and Zoning Commission if problems arise.

In addition to the existing Temporary Use Regulations provided in Code of Ordinances, Section 56-80 (see attached), the following requirements are recommended:

1. Temporary Housing is permitted only on land currently (as of the date of approval of these regulations) zoned "C-2" Commercial District and "R-R" Rural Residential District, with a minimum of two acres for the temporary housing area, and where primary access to the area of Temporary Housing is from an Arterial Street, as defined in the Code of Ordinances.
2. The land on which a Temporary Housing Use is permitted shall be properly addressed for 911 purposes.
3. Temporary Housing shall be completely self-contained or connected to City utilities, except for electrical service, which shall be obtained from the service provider. The use of generators is prohibited except in an emergency power outage situation.
4. A site plan shall be provided that identifies:
  - a. the location of all pre-fabricated modular units and/or RV spaces with required setbacks and spacing between units; and
  - b. ingress and egress locations (a minimum of 2 with a minimum width of 24' each); and
  - c. vehicular drive aisles - minimum width of 24' with no on-street parking, minimum chip-seal or gravel paving and graded to prevent ruts, muddy and dangerous

- d. driving surfaces; and
  - d. emergency access and turn around, if necessary, (minimum 80' diameter); and
  - e. parking spaces (1 - 9'x18' space per sleeping unit or recreational vehicle space); and
  - f. visitor parking spaces (1 - 9'x18' space for every 4 sleeping units) in designated visitor parking area; and
  - g. location of amenities such as park areas, swimming pool, picnic tables and/or recreational activity areas, if provided.
5. A minimum 4' tall perimeter fence shall surround the area of the site utilized for temporary housing. The purpose of this fence is to define the temporary housing area and to prevent litter and debris from blowing onto adjacent land.
  6. A 20' set back from this fence shall be maintained free of obstructions at all times.
  7. Access to the temporary housing location shall be controlled 24 hours a day either by a gate or security personnel.
  8. A minimum 10' clear separation between all RV spaces shall be maintained at all times.
  9. A minimum 30' set-back from the front property line shall be maintained. This area may be used for landscaping or parking but may not be used for temporary housing units or RV spaces.
  10. A copy of a Sanitation Plan shall be provided to the City. At a minimum, the Sanitation Plan shall indicate the sanitary service provider's name and contact information, type of sanitary services provided (grey water, black water, fresh water, litter control, trash collection), the schedule or frequency for such service provision, and the responsible party for immediate clean up if a spill occurs. All temporary housing units and/or RVs must be provided sanitary service on a regular basis, as needed, and identified in the Sanitation Plan.
  11. The Sanitation provider shall comply with all Federal, State, and Local regulations including obtaining a permit from the City Wastewater Department.
  12. Temporary Housing shall not be located within a floodway as delineated on the City's Flood Insurance Rate Maps.
  13. The land owner is required to provide the City with a performance bond in the amount of \$12,000 per acre (\$0.28/square foot) to cover the cost of removing any structures, debris, remediation of pollutants, or damage to city property caused by the Temporary Housing use.
  14. City Code Enforcement personnel may conduct unscheduled periodic inspections of the temporary housing use to ensure regulations and conditions are met.
  15. If all of the requirements are met, the Planning and Zoning Commission may issue a Temporary Use Permit for two-year renewable Temporary Housing permits not to exceed five years.
  16. A Temporary Use Permit for Temporary Housing may be revoked by the City Administrator upon finding that:
    - a. the temporary housing is unsafe
    - b. the housing or grounds are unsanitary
    - c. crime or safety issues are prevalent

**Mr. Rodriguez** made a motion to recommend approval of the item with changes to the conditions. **Ms. Durham** seconded the motion. The vote was as follows: **Yes – Mr. McCormick Ms. Durham, Mr. Knott, Mr. Rodriguez, Mr. Brown; No – None; Abstained – None; Absent – None.** The motion carried.

2:39:31      **13. Report regarding plats approved through Summary Review process.**

Ms. Shumsky reported about the two plats she had signed. There were no questions.

2:41:02      **14. Adjourn.**

There being no further business, the meeting was adjourned.

2:41:13      Stop Recording [7:56:17 PM]

  
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Chairman

11-4-13  
Date