

**MINUTES OF A REGULAR MEETING OF THE CITY OF CARLSBAD PLANNING &
ZONING COMMISSION HELD IN THE MUNICIPAL BUILDING PLANNING ROOM,
101 N. HALAGUENO STREET, SEPTEMBER 9, 2013, AT 5:00 P.M.**

VOTING MEMBERS PRESENT:

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

**CHAIRPERSON
COMMISSIONER
COMMISSIONER
COMMISSIONER**

VOTING MEMBERS ABSENT:

JAMES MCCORMICK

COMMISSION SECRETARY

EX-OFFICIO MEMBERS PRESENT:

**STEPHANIE SHUMSKY
ERIC NAVARRETE
EILEEN RIORDAN
LUIS CAMARO
TOM CARLSON**

**PLANNING DIRECTOR
CITY ENGINEER
CITY ATTORNEY
UTILITIES DIRECTOR
PUBLIC WORKS
DIRECTOR
CITY ADMINISTRATOR**

STEVE MCCUTCHEON

EX-OFFICIO MEMBERS ABSENT:

**DALE JANWAY
K.C. CASS**

**MAYOR
BUILDING OFFICIAL**

BOARD SECRETARY PRESENT:

PATTIE PISTOLE

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

OTHERS PRESENT:

**JOE EPSTEIN
CYNTHIA SHARIF
FAROK SHARIF
JACK BALDWIN
REBECCA BALDWIN
CHARLIE BLOODWORTH
JUANELL BLOODWORTH
BEVERLY HARDAWAY
SANDRA COSAND
CONNIE SPINKS
VALDA TAFOYA
GIBSON TAFOYA
FRED VALENZUELA
TOBY BYERS
JOHN CHUMBLEY
BRETT SMITH
JIM HAUSER
BARBRA DALTON**

**1312 W. RIVERSIDE DRIVE
1535 ARBOR COURT
1535 ARBOR COURT
1003 CENTER AVENUE
1003 CENTER AVENUE
2007 CONNIE ROAD
2007 CONNIE ROAD
2006 CONNIE ROAD
803 DENNIS WAY
914 & 916 COUNTRYSIDE
922 COUNTRYSIDE PLACE
922 COUNTRYSIDE PLACE
918 COUNTRYSIDE PLACE
513 N. MESQUITE
2424 W. CHURCH
924 COUNTRYSIDE PLACE
1220 MIEHLS DRIVE
811 DENNIS WAY**

JOHN BRAZEAL, JR.	1912 CONNIE ROAD & 301 ROSEDALE
BEVERLY BRAZEAL	1912 CONNIE ROAD
JIMMY HOOD	1903 CONNIE ROAD
LYNN STAFFORD	1915 CONNIE ROAD
KENNETH WADE	1911 CONNIE ROAD
LONNA WADE	1911 CONNIE ROAD
YOLANDA MORAN	2420 VIOLET
BOBBIE BLACK	2005 CONNIE ROAD
CALVIN BROWN	2005 CONNIE ROAD
LORRAINE ALLEN-MUNOZ	702 W. RIVERSIDE
LANE MARTIN	PO BOX 21108
STEVE ELLYSON	610 W. RIVERSIDE
HEATHER ELLYSON	610 W. RIVERSIDE
EARL LLOYD	1410 N. CANAL
CHARLIE GARCIA	101 N. HALAGUENO
KENNETH R. THURSTON	LAS CRUCES, NM
DAVID B. CHURCH	LAS CRUCES, NM
KENT THURSTON	LAS CRUCES, NM
BOB LONDON	1212 MIEHLS
DOUG TINDALL	

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 [5:01:48 PM]

0:00:22 **1. Roll call of voting members and determination of quorum.**

Mr. Knott called roll. There was a quorum. Present: Ms. Durham, Mr. Knott, Mr. Rodriguez, Mr. Brown. Absent: Mr. McCormick.

0:00:41 **2. Approval of Agenda.**

Motion was made by Ms. Durham for approval of the Agenda, amended to include a vote for the Minutes from the July 1, 2013, meeting as item #3, and renumbering all other items. Mr. Brown seconded the motion. The vote was as follows: Yes – Ms. Durham, Mr. Knott, Mr. Rodriguez, Mr. Brown; No – None; Abstained – None; Absent – Mr. McCormick. The motion carried.

0:02:34 **3A. Approval of Minutes from the Regular Meeting held July 1, 2013.**

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

0:03:13 **3B. Approval of Minutes from the Regular Meeting held August 5, 2013.**

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

0:3:42 **4. Consider an Appeal (variance) from Section 47-62(e)(2) to allow the subdivision of land, located on E. Greene St., without the required extension and connection to the City sewer line.**

Ms. Shumsky stated that Staff recommended approval for these 19 acres along the frontage, because the criteria for a variance were met, the action would not adversely affect development of adjacent property and the closest sewer line is approximately 4 miles away. **Ms. Murrill** explained that the property is in the city limits, but the connection for sewer is a long distance from the property. During public comment, **Mr. Kevin Brown** came forward to ask questions about usage for the zone. He was neither in favor, nor against, the proposed variance.

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

0:14:42 **5. Consider an Appeal (variance) from Section 47-44(a) to allow the subdivision (creation) of new lots without the required frontage and access to a platted street, located south of 1003 Center Street, pursuant to Section 47-7.**

Ms. Shumsky noted that Staff recommended denial of the Variance, because access to the area is already troublesome. In 2001, the City allowed the property to be replatted from one to four lots under the subdivision regulations in effect at that time. Putting more lots in the area, with no access to a public street, would make the situation more difficult. There is only a 20' private easement for the benefit of the owners. The public cannot use a private easement without permission from the owner. She also noted that addressing would be a problem, since the City cannot address with "1/2" or letters of the alphabet, as they occasionally did in the past. This is in conformance with the State 911 requirements to facilitate emergency calls. **Mr. Epstein** explained that the applicants want to build a large storage shed on the south end and build a house north of the shed. The house would need sewer. **Ms. Moran** stated that the only sewer is her private line, and no one can connect to it. She said she is both in favor and against the proposal. **Mr. Camaro** noted that the sewer line is private and very small, and the water line is on Violet Street. He suggested opening the alley halfway and making a cul-de-sac. He stated that alleys are not made for access. The applicants were not in agreement to any change in their original request. **Ms. Spinks** explained that she was against it, because there wasn't a sewer line and everyone has to drive through the alley to get to their houses. She said you can't fit two cars, let alone emergency vehicles. Several members of the public mentioned the manufactured home that had been placed where it shouldn't have been. **Ms. Baldwin** said she approves of the request, because there is room for three houses, there is a fire hydrant on each end of the alley, and there is just as much room to drive in the alley as there is on Center Street. **Mr. Knott** explained that some of the 20' will be taken up with power poles and dumpsters, which will narrow the access. **Mr. Valenzuela, Ms. Tafoya, and Mr. Smith** also opposed the request. Increased traffic and not enough room were mentioned several times.

Motion was made by **Ms. Durham** to deny the Variance. **Mr. Knott** seconded the motion. The vote for denial was as follows: **Yes – Ms. Durham, Mr. Knott**; No – **Mr. Rodriguez, Mr.**

Brown; Abstained – None; Absent – **Mr. McCormick**. Since there was a tie between Denial and Approval, the item was tabled until all five commissioners are there to vote.

1:12:55 **6. Consider the Vacation of the east 30' of Spring Street, located between Riverside Drive and the Pecos River, pursuant to 3-20-12 NMSA 1978.**

Mr. Martin and **Mr. and Mrs. Ellyson** were there to answer any questions about the application. They want to build a home on the lot, but need more room, so they are requesting the City vacate 30' right-of-way along the western edge of their property. **Ms. Shumsky** said that Staff recommends denial, because the City is in the process of creating a citywide drainage master plan. A major area of study will be along Riverside Drive, because drainage improvements are needed along the Pecos River. It would probably benefit the City to have the drainage underground, but until the study we need to keep our options open. The City normally requires 20' for drainage easements. **Mr. Martin** said that there is another 30' of right-of-way (not at issue in this request) adjoining this one. He said there is a dispute regarding ownership of that property. **Mr. Knott** reminded everyone that the issue is only concerning the 30' right-of-way in the Ellyson's request. **Ms. Allen-Munoz**, said that she has a deed that says the property Mr. Martin was talking about being in dispute (702 W. Riverside) is hers, not a right-of-way, and has been fenced and utilized by the owner for many decades. She wants to make sure her boundary is maintained and respected. Her utilities are on her property, there are no utilities on the adjoining right-of-way, and she is not willing to put drainage on her property. She is against the vacation, because new development will impact her property, since she lives right next to it. Regarding the issue at hand, **Mr. Brown** asked about the elevation of the new construction. **Mr. Knott** reminded the applicant that they would have to build higher than the floodplain, but any runoff would have to stay on their own property. It might be difficult, since they would have to build higher than their neighbors. The applicant said they understood.

Mr. Knott made a motion to approve the vacation of 30' with the condition that a 20' easement for drainage be provided by the applicant. He asked if that would be agreeable to the applicant. It was then brought up by **Mr. Martin** that with a vacation, property owners on either side would receive half the property, and **Ms. Allen-Munoz** was asked if she was willing not to take the 15'. She said she couldn't make a decision like that so quickly and would have to think about it. The applicant and their attorney were not in agreement with the motion, and it died for lack of a second. It was discussed that maybe the issue with the other property needed to be settled before the vacation was decided. The issue was tabled until the next meeting.

2:19:27 **7. Consider the Vacation of the north 60' of Montgomery Avenue, located between Iris Street and Algerita Street, pursuant to 3-20-12 NMSA 1978.**

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

2:20:08 **8. Recommendation regarding the Annexation and Establishment of C-1 zoning for the lot located at 1410 N. Canal Street, pursuant to the petition method as provided for in Section 3-7-1 et. Seq. NMSA 1978.**

Ms. Shumsky said that most of the Staff recommended approval. **Mr. Lloyd** feels they will have more opportunity to lease the property if it is in the city limits. There won't be a liquor establishment there, as some people thought. He said that Mr. White and Mr. Dugger are just

trying to move their liquor license from White's City into the city limits, so they can sell it. In the lease they have signed, it specifies that they will not open one. The property is on a septic tank now, but City water and sewer are available at the property line. **Ms. Shumsky** explained that the C-1 zoning was chosen so that the applicant could reside and have a business there, together. **Mr. Knott** added that in C-1 zoning, a liquor establishment is allowed.

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

2:28:11 **9. Recommendation regarding a Zoning Change from C-1 zoning to C-2 zoning for the lots located at 102 E. Greene Street pursuant to Section 3-21-1 et. Seq. NMSA 1978 and Sections 56-150(b) and 56-140(i), Carlsbad Code of Ordinances.**

Mr. Byers and Mr. Chumbley came forward to answer any questions about the application. They want to open a car wash/dog wash combination, which is popular in larger cities. They need a zone change to allow the auto-related use. **Ms. Shumsky** indicated that Staff had recommended approval and that the area is surrounded by similar uses. She said that Eddy County is the adjacent property owner, and they sent a letter of support.

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

2:35:19 **10. Recommendation regarding a Zoning Change from R-R zoning to C-2 zoning for an approximately 4.75 acre parcel, located on the west side of Happy Valley Road north of the Church Street intersection, pursuant to Section 3-21-1 et. Seq. NMSA 1978 and Sections 56-150(b) and 56-140(i), Carlsbad Code of Ordinances.**

Mr. Thurston and Mr. Church were on hand to present their application. **Ms. Shumsky** said that Staff recommended approval, because it was a good location for commercial property in a growing area. **Mr. Church** said they had looked at the land to see what would be the best use for the 4.7 acre flat tract. There is water nearby at the Hackberry Draw, and electricity is available on site. The land is in the city limits, and would be good for many commercial uses.

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

2:39:55 **11. Consider an Appeal (variance) from Section 56-90(b) to allow a front-yard setback variance of 10' from the front property line, which would result in 20' front-yard setbacks for the future Fountain Hills Subdivision – Unit 10, located on the west side of Miehl Drive, Zoned R-R.**

Mr. Thurston and Mr. Church came forward to present their application. **Ms. Shumsky** explained that they had presented this request and the following ones last month, for discussion

only, so that they could get feedback from the neighbors and City. The applicant has since modified a couple of their applications based on the feedback. This particular request was not changed following feedback. The proximity of houses along the street is misleading, because the ones already there, on the east side, are built along one side of the right-of-way line while the street paving is constructed on the other side of the right-of-way. The existing houses seem farther away from the street paving because of that. This request is for the houses to be only 10' closer to their property line than the houses across the street. **Ms. Shumsky** said that she recommended against the Variance because the justification does not meet the criteria for a variance. **Mr. Knott** clarified that the applicant would not be restricted to 20' if the application is approved. They can build further away, if they want. They just can't build any closer than the approved distance. **Mr. Thurston** said it depends on the topography as to how close they will need to build and that only some homes will need to be that close. The applicant wants flexibility in designing the homes, depending on the slope. He also noted that the 20' is from the property line, not the pavement. The right-of-way is 80'. During public comment, **Mr. Hauser, Ms. Cosand, and Mr. London** expressed opposition to the Variance. They are concerned about a decrease in their property values, lower valued houses on smaller lots in their neighborhood of "elite" houses, and the safety of being closer to the road. **Mr. Church** said they had sent a letter to the Staff and City regarding some of the concerns expressed at the last meeting. He said that they cannot address issues such as speeding, vagrancy, and drinking at the Lookout. Those may need to be addressed by law enforcement. He said as far as the value of the homes, they are planning to build homes in the \$280,000-and-up range. He thinks it will actually enhance the value and interest in the area. They are going to be custom-built homes. He also addressed the issue some brought up about people walking along the street and the safety issue there. They want to participate in providing a 6' wide walking trail, a paved path which will be great for the neighborhood.

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

3:02:33 12. Consider an Appeal (variance) from Section 47-42(c)(2) to allow the right-of-way of a future collector street, located partially within Fountain Hills Subdivision – Unit 10, to be 42' in width rather than the required 60'.

Mr. Thurston and Mr. Church were present to answer questions about the application. They had changed their original plan from 40' to 42', in response to input at the last meeting. Staff recommended approval. The Variance is not detrimental to the public health or to the topography of the area. **Mr. Church** explained that there would be a total of 60', because the roadway would be 42', and there would be 9' on either side for the utility easements. **Mr. Camaro** said that **Mr. Carlson** had some concerns with the utilities at first, but he was ok with the 9' easements on either side of the right-of-way. **Ms. Dalton** spoke in opposition to the Variance. She was concerned about room for school busses--special needs busses pick up their children at the house, rather than at a centralized bus stop. **Ms. Shumsky** noted that 28' of paved roadway is the typical width of streets in the City. **Ms. Cosand** was also opposed, because of more traffic and the safety issue. **Mr. Thurston** noted that if the road is lengthened more than 800', which it may be in future development, they will be required by City Ordinance to tie in to another road to the west. He agreed there will be additional traffic, but in the future that will be alleviated by having access from two streets, rather than one cul-de-sac.

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

3:25:04 **13. Consider an Appeal (variance) from Section 47-62(d) to allow the pavement width of a future collector street, located partially within Fountain Hills Subdivision – Unit 10, to be 26' in width rather than the required 28' and to allow the construction of the street without the required curb and gutter.**

Mr. Thurston and Mr. Church, in response to input, had changed their request to 26', rather than the original 24'. They do still intend to put sidewalks on either side and do not want a variance on that issue. **Ms. Shumsky** stated that Staff recommended approval of the request. She recommended "No Parking" signs on one side of the street. Staff recommended denial on the curb and gutter issue. **Ms. Shumsky** said she felt the curbs and gutters would be safer, so that people would not park on the sidewalk or drive off the pavement. **Mr. Church** expressed their opinion that because of the rocky terrain, curbs and gutters would hinder the natural flow of drainage down the hill. They are trying to avoid collection of the water on the streets by leaving it as natural as possible. They feel that the 6" thick, 4' sidewalks on both sides of the street, with the color variation between dark pavement and light-colored sidewalk, will help differentiate the driving surface and keep drivers from getting off the road. **Mr. Navarrete** said he was in agreement that the natural sheet flow across the sidewalks would be best. **Mr. Camaro** agreed that without the curb the water will flow naturally. **Ms. Dalton** opposed the Variance, and said without curbs the pavement will crumble. **Mr. Church** explained that the 6" thick, 4' wide sidewalk at the edge would prevent the pavement from crumbling.

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

3:40:25 **14. Consider request for a Preliminary Plat for Fountain Hills Subdivision – Unit 10, Zoned R-R, creating 13 new lots for residential development pursuant to Code of Ordinances, Chapter 47.**

Ms. Shumsky stated that Staff recommended approval, with conditions. She explained that many of the proposed conditions had already been addressed but, at the time the report was printed, she hadn't had confirmation on it. Most issues were for Public Works and Engineering. The proposed sewer system was of the most concern. **Mr. Church** explained that they have talked with **Mr. Camaro** regarding the proposed sewer system, which is a low-pressure, force main system. Each property will have its own grinder pump system that would go into a force main that will go into an existing gravity sewer. They have responded to some of his comments. They will change to a PVC pipe and increase the lines from 3" to 4" and the main going down Miehl's Drive from 1 1/4" to 2" at the end. They also added a lot of cleanout details. They are responding in any way they can to provide a good system to the City. They realize this is a new type of system for the area and want to get everything squared away so the City can maintain the sewer and be satisfied with the product. They know they will have to resolve everything with **Mr. Camaro** and the Utility Department before they can get a permit for construction. Since **Mr. Navarrete** asked for changes on the storm drainage, they modified their plans and are discussing how to open up the Hackberry Draw regional drainage system. **Mr. Navarrete** said he does agree with the drainage proposal and a regional pond to address the whole development. He

thinks the new type of sewer system needs to be looked at a little more. Mr. Camaro said he is looking into the maintenance of this type of system. **Mr. Church** explained that they found out the location they had intended to check out, Paa-Ko Ridge, does not have the exact same type of system, so he and Mr. Camaro are going to travel to Las Lunas to see that system. **Ms. Cosand** had a question about whether the utilities would be underground and about the water pressure. **Mr. Camaro** said they have been checking the pressures at the various residences in the neighborhood and cited the numbers they had found. He said some of them are low and need to be addressed. They may need to boost the pressure. Down the hill, they will need to have lower pressure, because it will be more than they need. **Mr. London** said he was opposed, because he doesn't want ½ acre lots next to 4 acre lots.

Ms. Durham made a motion, which **Mr. Brown** seconded, to approve the Preliminary Plat with conditions as follows:

1. Prior to submittal of a final plat, the plat and supporting documentation shall be amended to reflect the approved setbacks, right-of-way width, street paving width and curb and gutter for Fountain Ridge Road.
2. The developer shall restrict access to Fountain Ridge Road until the future phase is developed.
3. The plans have a water service meter detail that is outdated. The City currently uses a polypipe connection and meter setter installation. The water service meter detail shall be updated and resubmitted prior to approval of a final plat.
4. Since the City will maintain the force main, we need to know exactly where city/resident responsibility changes. The developer shall indicate this on the utility plans.
5. Details regarding the drain culvert under the road shall be placed on the plans.
6. The sewer calculations sheet is unreadable and shall be replaced with a legible copy.
7. The operations and maintenance of the 3 inch main forcemain agreement should be developed by the Developer and the City of Carlsbad before preliminary plat approval. This would allow the City of Carlsbad to address any concerns with operating and maintaining a small 3" forcemain and conduit issues related to HDPE.
8. It is agreed that in general concept, the EC soil designation for this hilly area does have moderate infiltration and higher runoff coefficients and curve numbers than flat and sandy areas. However, the site has a good percentage of native vegetative cover that should reduce the currently calculated runoff coefficients and curve numbers. Therefore, the drainage report should show a pre and post development analysis utilizing more accurate runoff coefficients and curve numbers. The difference between pre and post should be stored onsite per City of Carlsbad regulations. The drainage report should also show analysis of flow for the validation of the roadway and the drainage easements. The channeling of runoff will occur adjacent to the Miehl's Roadway once areas are cleared away, house pads built, landscaping and perimeter walls are constructed. As a result, some type of grading and rip-rap should be recommended adjacent to Miehl's roadway to channel runoff into the proposed drainage easements.

The vote was as follows: **Yes – Ms. Durham, Mr. Knott, Mr. Rodriguez, Mr. Brown**; No – None; Abstained – None; Absent – **Mr. McCormick**. The motion carried.

Ms. Shumsky reported that she had spoken with the County about what they considered to be a platted street. They said most are just easements in the county. She said she is okay with signing those kinds of plats, if they have a dedicated 60' roadway easement for public access, if the commission wants her to. The commissioners agreed that they want her to use her judgment, and that it is not necessary to bring these types of plats to them. There were no questions on the plats she had signed during the month of August.

4:06:36 **16. Adjourn.**

There being no further business, the meeting was adjourned.

4:06:45 Stop Recording [9:15:04 PM]

Chairman

Date

DRAFT