

**LINKED MINUTES OF A SPECIAL MEETING OF THE CITY COUNCIL OF THE
CITY OF CARLSBAD, NEW MEXICO, HELD IN THE MUNICIPAL ANNEX
BUILDING ON DECEMBER 19, 2020 AT 4:00 P.M.**

Present:	Dale Janway	Mayor
	Lisa A. Anaya Flores	Councilor
	Edward T. Rodriguez	Councilor
	Leo B. Estrada	Councilor
	Jason O. Chavez	Councilor
	Jason Shirley	Councilor
	Judith E. Waters	Councilor
	Wesley A. Carter	Councilor
	Mark C. Walterscheid	Councilor

Absent:

Also Present:	Michael Hernandez	City Administrator
	John Lowe	Deputy City Administrator
	Eileen P. Riordan	City Attorney
	Nadine Mireles	City Clerk
	Ken Britt	Community Dev. Director
	Angie Barrios-Testa	Director of Municipal Services
	KC Cass	Director of Projects
	Ron Myers	Director of Utilities
	Wayne Hatfield	IT Director
	Brent Griffith	IT Technician
	Wendy Austin	Finance Director
	Richard Lopez	Fire Chief
	Jeff Patterson	Planning Director
	Trysha Ortiz	Deputy Planning Director
	Shane Skinner	Police Chief
	Patrick Cass	Public Works Director

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 **Call Meeting to Order**

0:00:04 Invocation - Pledge of Allegiance

0:00:34 **1. APPROVAL OF AGENDA**

0:00:41 **Motion**

The motion was made by Councilor Carter and seconded by Councilor Estrada to approve the Agenda

0:00:45 **Vote**

The vote was as follows: Yes - Rodriguez, Shirley, Waters, Walterscheid, Anaya Flores, Chavez, Carter, Estrada; No - None; Absent - None; The motion carried.

0:01:04 **Mayor Janway** gave a brief update regarding the items on the Council Agenda. He explained that on December 2, 2019 the Planning and Zoning Commission denied the three requests made by CoMac, LLC. He explained all three requests were related to the proposed La Huerta Townhomes Development, located at the SE corner of the intersection of E. Cherry Lane and N. Canal Street. He explained that CoMac has exercised its legal right to appeal the decision to City Council. **Mayor Janway** said per municipal rules the vote will take a 6 to 2 vote by Council to override each denial by the Planning and Zoning Commission for the first two items and a majority vote for the third item. **Mayor Janway** explained that each item would be overviewed by Mr. Patterson, followed by CoMac, LLC and then anyone who wishes to speak in support of the proposal. He stated to give everyone an opportunity to speak we ask that CoMac keep responses to under 10 minutes and all other speakers in support to limit comments to 2 minutes. He said next those in opposition will have the opportunity to speak, with the spokesperson speaking first and keeping their comments under 10 minutes and anyone else wishing to speak in opposition to keep their comments to 2 minutes.

0:03:39 **2. CONSIDER APPROVAL OF APPEAL OF THE DECISION BY THE PLANNING AND ZONING COMMISSION TO DENY APPROVAL OF A REQUEST FOR A VARIANCE TO REDUCE THE MINIMUM LOT SIZE FROM 6,000 SQ. FT. TO A MINIMUM OF 1,967 SQ. FT. FOR THE LA HUERTA TOWNHOMES DEVELOPMENT, LOCATED AT THE SE CORNER OF THE INTERSECTION OF E. CHERRY LN. AND N. CANAL ST. ZONED "R-1" RESIDENTIAL 1 DISTRICT APPELLANT: COMAC, LLC**

Mr. Patterson explained this item is an appeal of the decision by the Planning and Zoning Commission to deny approval to reduce the minimum lot size from 6,000 sq. ft. to a minimum 1,967 sq. ft. for the La Huerta Townhomes Development. He explained the developers are proposing a townhome development, and plan to split the properties along the common walls of each townhome installed.

0:07:25 **Mr. Steve McCutcheon Jr.**, CoMac representative, said he reviewed the city's Master Plan Map and the subject property on the map calls for this property to be high density residential, which is a need in the community. He explained that the proposed townhome subdivision is 10 units per acre. He stated the townhomes in this development would come in around \$200,000 and cost approximately \$1200 per month which would include homeowners insurance and property taxes. He said there is a large need for affordable housing and these townhomes would be more affordable for

people coming into Carlsbad. **Mr. McCutcheon** stated if our community would like to move from our small town politics and do the best for the greater good of the community, he urges the Council to vote in favor of the variances.

0:16:57 **Mr. Trent Cornum**, CoMac, LLC, explained that they have looked at several properties and this property is the only one that fits the need having water and sewer availability. He urged the Council to keep in mind, if not here, where? He added that since 2015 the Current Argus has wrote 12 different articles regarding the shortage of housing in our community and CoMac would like to assist with that need.

0:18:17 **Mayor Janways asked if anyone would like to speak in favor of the development.**

Mr. John Waters, Executive Director of the Carlsbad Department of Development, said housing has been a regular topic on a regular basis for over 10 years. He said this is the type of workforce housing we need in our community. He said the decisions made today will reverberate throughout the industry and throughout the economy for the next 10 to 15 years.

Mr. Allan Davis, County Manager, stated he has served on the Blue Ribbon Housing Committee and one of the key elements was affordable housing. He said this is the opportunity for the city to walk the talk. He added the city has said we need this, the community has said we need this and this is Council's opportunity to do what it has said the city needs.

Mr. Michael Zant said this proposal is in line with Carlsbad City Code to encourage more efficient use of the land, reduce sprawling development and to encourage the development of lots within the city to support efficient use of the land. He said this proposal is efficient use of the land and is obviously a necessity for the growth that is happening here. He said as stated by CoMac, if not here, then where.

Mr. Jason Burns, Eddy County Public Works Director, said he is in support of the project. He said this type of development is what the county and city have talked about needing for some time. He said this is a good plan, a good project that will be progressive for the city.

0:27:42 **Mayor Janway asked if anyone else would like to speak in favor of the development. No one appeared and the Mayor asked for those who would like to speak in opposition of the development.**

Mr. Leroy Bostick, spokesperson for opposition, said he recognizes the need for housing but would like to focus on the facts. He passed out the ABM provided in the agenda packet and said that the applicant did not meet all requirements for an appeal outlined in the ABM. He said Mr. Cornum has stated that the city came to them with a need for this project and there are several issues that seem to support this claim. He said the Council's decision to grant or deny this appeal should only relate to the

required criteria. He said the Council must set the example for all other departments and follow all required regulations and uphold the decision of the Planning and Zoning Commission and uphold the appeal.

0:41:40 **Mayor Janway** asked if anyone else would like to speak in opposition of the development.

Ms. Rachelle Thompson reviewed P & Z minutes from last November when the property was originally annexed into the city. She said the minutes state they requested "R-1" zoning and that the applicant would like to build custom homes on one-third, one-half, and one-quarter acre lots. She said based on the original request and annexation she asks Council to deny the appeal.

Mr. Dick Blenden said this is a residential neighborhood and this project will create a disaster for traffic and a disaster in what the project does to the community. He stated, he does not object to the project, he feels it is a great project, it just needs to be someplace else.

Mr. Henry Chiou, provided the Council with a list of reasons that he is opposed to the project. He stated the reasons as the relationship of the zoning code to the Comprehensive Plan, is this project allowed in R-1 zoning, are the variance requests appropriate with the zoning, and is there a hardship suffered by the developer.

Mr. Allan Wood explained that the property was annexed into the city as R-1 zoning which is a minimum of 6000 square feet per lot. He said he is in support of homes that meet that minimum square feet.

Ms. Amanda Mashaw stated that she lives in the area. She said she would like to share some information about her real estate experience and her firsthand experience with sales in an extremely slowly progressing La Huerta Townhome subdivision located at Cherry Lane and Callaway Drive. She said the developers planned to build 16 townhomes in the subdivision, yet only completed one building which consists of 4, 3, and 2 bedroom townhomes. She stated only one of the townhomes was sold and the other three units are rentals. She shared pictures with Council of the parking situations that are problematic at the La Huerta Townhome subdivision. She urged Council to uphold the decision of the Planning and Zoning Commission.

Mr. Ken Dugan, Attorney, stated that approving this variance is illegal and added that there is only one outcome. He said the variance will be denied, with the question being is Council going to adhere to law or will this go to District Court to have the decision reversed.

Ms. Trysha Bannister said she is aware of the need for housing in Carlsbad. She said she is not against housing being built on the property but it needs to follow the zoning guidelines of "R-1" residential. She said the "R-1" zoning is in place to protect the area

and conform to the surrounding properties. She submitted a petition with over 260 signatures from the community who oppose the development.

Mr. Don George voiced his opposition and said Council has heard all the rules and regulations and he urges Council to uphold the decision by the Planning and Zoning Commission.

1:05:21 **Mayor Janway asked if anyone else would like to speak in opposition of the development, no one appeared.**

1:05:45 **Ms. Riordan** explained to overturn the decision by the Planning and Zoning Commission it would take a vote of six members of Council in favor of overturning the denial. She said anything less than six would fail to grant the appeal or change the decision of the Planning and Zoning Commission.

1:06:09 **Motion**

The motion was made by Councilor Chavez and seconded by Councilor Estrada to uphold the decision by the Planning and Zoning Commission to deny approval of a request for a Variance to reduce the minimum lot size from 6,000 square feet to a minimum of 1,967 square feet for the La Huerta Townhomes Development, located at the SE corner of the intersection of E. Cherry Ln, and N. Canal St. zoned "R-1" Residential 1 District; Appellant: CoMac, LLC

1:06:22 **Vote**

The vote was as follows: Yes - Anaya Flores, Chavez, Carter, Estrada; No - Rodriguez, Shirley, Waters, Walterscheid; Absent - None; There being a tie, Mayor Janway voted "No"; The applicants failed to obtain the minimum six votes necessary to overturn the Planning and Zoning Commission's denial of their request for a variance

1:08:02 **3. CONSIDER APPROVAL OF APPEAL OF THE DECISION BY THE PLANNING AND ZONING COMMISSION TO DENY APPROVAL OF A REQUEST FOR A VARIANCE TO REDUCE THE MINIMUM REQUIRED FRONT SETBACK FROM 30' TO 20' AND REDUCE THE REQUIRED SIDE SETBACK FROM 5' TO 0' FOR THE LA HUERTA TOWNHOMES DEVELOPMENT, LOCATED AT THE SE CORNER OF THE INTERSECTION OF E. CHERRY LN. AND N. CANAL ST., ZONED "R-1" RESIDENTIAL 1 DISTRICT APPELLANT: COMAC, LLC**

Mr. McCutcheon and **Mr. Cornum** reiterated that the project is in line with the plan and explained the average lot size will be 2843. It was clarified that CoMac, LLC was never told by the city that this is the development they needed to do and that they are in support of it. He added Townhomes have been seen as a way to solve some of the problems in the community for affordable housing. They mentioned they are currently looking at other options at this time, such as modular homes.

1:16:54 **Mayor Janway asked if anyone else would like to speak in favor of the development**

Mr. John Waters and **Mr. Jason Crockett** both spoke in favor of the development. They both said we need more affordable housing and this development will add value to the community. The community needs to be moving forward and this decision will set a precedence for all developers who want to come to Carlsbad that our community is not business friendly.

1:21:36 **Mayor Janway asked if anyone would like to speak against the development**

Ms. Rachele Thompson, Mr. Leroy Bostick, Mr. Ken Dugan, Mr. Scott Balzioni, Ms. Robin Bostick, Ms. Nan Clayton, Mr. Don George, Ms. Helen Chiou, Ms. Wanda Welch, Mr. Hung Chiou, Ms. Amanda Mashaw, Mr. Randy Heine and **Mr. Allan Wood** all spoke in opposition of the development and are asking Council to uphold the variance. The main speaking points of the group were that the variance does not fit the definition of "R-1" Residential 1 zoning, applicants failing to abide by the criteria of the zoning code, parking issues, illegal to ignore the law, traffic issues, property values decreasing, rules should be enforced equally, and the concern for the utilities and the water pressure in the area.

1:52:05 **Mayor Janway asked if anyone else would like to speak in opposition of the Variance, no one appeared.**

1:52:40 **Motion**

The motion was made by Councilor Chavez and seconded by Councilor Anaya Flores to uphold the Appeal of the decision by the Planning and Zoning Commission to deny approval of a request for a Variance to reduce the minimum required front setback from 30' to 20' and reduce the required side setback from 5' to 0' for the La Huerta Townhomes Development, located at the SE corner of the intersection of E. Cherry Ln., and N. Canal St., zoned "R-1" Residential 1 District; Appellant: CoMac, LLC

1:52:53 **Vote**

The vote was as follows: Yes - Walterscheid, Anaya Flores, Chavez, Carter, Estrada; No - Rodriguez, Shirley, Waters; Absent - None; The motion carried to uphold the denial

1:53:34 **4. CONSIDER APPROVAL OF APPEAL OF THE DECISION BY THE PLANNING AND ZONING COMMISSION TO DENY APPROVAL FOR A PRELIMINARY PLAT FOR THE LA HUERTA TOWNHOMES DEVELOPMENT, LOCATED AT THE SE CORNER OF THE INTERSECTION OF E. CHERRY LN. AND N. CANAL ST. ZONED "R-1" RESIDENTIAL DISTRICT. APPELLANT: COMAC, LLC**

1:54:32 **Motion**

The motion was made by Councilor Chavez and seconded by Councilor Estrada to uphold the decision by the Planning and Zoning Commission to deny approval for a preliminary plat for the La Huerta Townhomes Development, located at the SE corner of the intersection of E. Cherry Ln, and N. Canal St., zoned "R-1" Residential District; Appellant: CoMac, LLC

1:54:42 **Vote**

The vote was as follows: Yes - Walterscheid, Anaya Flores, Chavez, Carter, Estrada; No - Rodriguez, Shirley, Waters; Absent - None; The motion carried to uphold the denial

1:55:20 **5. ADJOURN**

1:55:28 **Motion**

The motion was made by Councilor Anaya Flores and seconded by Councilor Estrada to Adjourn

1:55:35 **Vote**

The vote was as follows: Yes - Rodriguez, Shirley, Waters, Walterscheid, Anaya Flores, Chavez, Carter, Estrada; No - None; Absent - None; The motion carried.

1:56:05 **Adjourn**

There being no further business, the meeting was adjourned at 5:57 p.m.

_____/s/Dale Janway_____
Dale Janway, Mayor

ATTEST:

_____/s/Nadine Mireles_____
Nadine Mireles, City Clerk