

MINUTES OF THE REGULAR MEETING OF THE

**City of Carlsbad
Planning & Zoning Commission**

Monday, August 5, 2019, 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, August 5, 2019 at 5:00 PM
Municipal Annex 114 S. Halagueno Street
Council Chambers

1. Roll call of voting members and determination of quorum.
2. Approval of Agenda.
3. Approval of Minutes from the Meeting held July 1, 2019.
4. Remove from Table a Consideration for approval Temporary Use Permit for Temporary Housing at 3221 National Parks Hwy.
5. Consider approval of a Temporary Use Permit for Temporary Housing at 3221 National Parks Hwy.
6. Remove from Table a Consideration for Variance to allow a 0' side setback at 1602 W. Tansill St.
7. Consider approval of a Variance to allow a 0' side setback at 1602 W. Tansill St.
8. Remove from Table a Consideration for Recommendation to Council for a Zone Change request for approximately 0.11 acres located west of 701 W. Greene St., legally described as Lot B, Block 164, Woodards Subdivision Replat from "C-2" Commercial 2 District to "C-1" Commercial 1 District
9. Consider a recommendation to Council for a Zone Change request for approximately 0.11 acres located west of 701 W. Greene St., legally described as Lot B, Block 164, Woodards Subdivision Replat from "C-2" Commercial 2 District to "C-1" Commercial 1 District
10. Consider approval of a Preliminary Plat for Cielo Lindo Subdivision
11. Consider approval of a Conditional Use Permit to allow Home Occupation – Sales & Service – at 1105 W. Church St.

12. Consider approval of a Conditional Use Permit to allow Home Occupation – Sales & Service – at 1503 W. Tansill St.
13. Consider approval of a Variance to allow a 2' rear setback and a 2' side setback at 1822 Lanette Dr.
14. Consider approval of a Variance to allow a 0' side setback at 204 W. Riverside Dr.
15. Consider approval of a Variance to allow a 0' side setback at 1029 N. Edward St
16. Consider approval of a Variance to allow a 0' side setback at 1103 W. Riverside Dr.
17. Consider approval of a Variance to allow a 0' side setback at 2503 Spruill Dr.
18. Consider a recommendation to Council for a Zone Change request from "C-2" Commercial 2 District to "C-1" Commercial 1 District for approximately 0.43 acres located along the 500 block of Fox St and 206 S. Guadalupe, legally described as Subd: STEVENS Lot: 2 Block: 45 Quarter: SW S: 6 T: 22S R: 27E, Subd: STEVENS Lot: 4 Block: 45 LOT 4 LESS BEG SW COR LT 6 N 33.34' TO POB; E 65.2', N 60.7', W 18.07', N 2', W 47.13', S 62.7' TO POB, and Subd: STEVENS Lot: 6 Block: 45 LOT 6 LESS BEG SW COR LT 6 N 33.34' TO POB; E 65.2', N 60.7', W 18.07', N 2', W 47.13', S 62.7' TO POB
19. Consider a recommendation to Council for a Zone Change request from "C-2" Commercial 2 District to "R-2" Residential 2 District for approximately 0.275 acres located at 308 W. Rose St., legally described as Lot 5, Block 1, Murray Subdivision
20. Consider a recommendation to Council for a Zone Change request from "R-R" Rural Residential District to "C-1" Commercial 1 District for approximately 6.00 acres located at 301 W. Chapman, legally described as Tract B, Cox Tract 5
21. Report regarding Summary Review Subdivisions.
22. Adjourn.



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cityofcarlsbadnm.com

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PLANNING AND ZONING COMMISSION MEETING SCHEDULE

- Regular meeting – Monday, August 5, 2019 at 5:00 p.m.

**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 1, 2019, AT 5:00 P.M.**

VOTING MEMBERS PRESENT:

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

**CHAIRPERSON
COMMISSIONER
COMMISSIONER
COMMISSIONER
COMMISSIONER**

VOTING MEMBERS ABSENT:

NONE

EX-OFFICIO MEMBERS PRESENT:

**JEFF PATTERSON
TRYSHA CARRASCO**

**PLANNING DIRECTOR
DEPUTY PLANNING DIRECTOR**

SECRETARY PRESENT:

JENNIFER CAMPOS

**PLANNING AND REGULATION
DEPARTMENT EXECUTIVE SECRETARY**

OTHERS PRESENT:

**RICHARD MATTSON
SCOTT FUNDERBURK
LEIGHA GAINES
ALICIA BIXLER
SCOTT HICKS
KEVIN KIRBY
GEORGE BRANTLEY
NANCY BRANTLEY
RAUL L. QUINTANA
BETTY BLEA
JOE RAMIREZ
IDA FIERRO
COBY CROUCH
SHEILA WALTERSCHEID
RAY PETERS
JULIA HEATON
ZOLENE KNOTT
PATRICIA HODGE
WENDY GRIFFIN
THERESA CHISM
SHERRY NEATHERLIN
PHILLIP WALTERSCHEID
JOSH WALTERSCHEID
JORDAN ANDERSEN**

**1105 W. RIVERSIDE DR.
ORCHARD
1029 N. EDWARD
1822 LANETTE DR.
ROSWELL, NM
1504 JEFFERSON
1304 W. RIVERSIDE DR.
1304 W. RIVERSIDE DR.
1608 MISSION
1513 LIVE OAK
308 W. ROSE
1503 W. TANSILL ST.
3003 BOYD
5903 MILLIRON RD.
204 W. RIVERSIDE DR.
108 W. RIVERSIDE DR.
1102 W. RIVERSIDE DR.
1103 W. RIVERSIDE DR.
1614 REDWOOD LP.
1105 W. CHURCH
1501 STANDPIPE
6430 TIDWELL
4406 FERGUSON
701 W. GREENE ST.**

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

0:00:02 Start Recording [5:02:09 PM]

0:00:15 **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. Garcia, Mr. Barney, Mr. McCormick, Mr. Knott, Mr. Nesser**. Absent—None.

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

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

0:01:01 **3. Approval of Minutes from the Meeting held July 1, 2019.**

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

0:01:31 **4. Remove from Table a Consideration for approval Temporary Use Permit for Temporary Housing at 3221 National Parks Hwy.**

The applicant is not present.

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

0:03:37 **5. Consider approval of a Temporary Use Permit for Temporary Housing at 3221 National Parks Hwy.**

Ms. Carrasco confirmed that the applicant was not present and attempts made to contact **Mr. Carpenter** to provide the material that was needed for a complete application have not been answered. **Mr. McCormick** asked how many times this item has been brought before the board and tabled. **Ms. Carrasco** said that the item was originally brought before the board in June 2019 and asked to table the item. The item was brought again in July and tabled due to the applicant not being present.

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

0:03:50 **6. Remove from Table a Consideration for Variance to allow a 0' side setback at 1602 W. Tansill St.**

The applicant is not present.

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

0:05:06 **7. Consider approval of a Variance to allow a 0' side setback at 1602 W. Tansill St.**

Ms. Carrasco states the applicant was notified by phone and sent a letter, but did not pick up their packet. Mr. Patterson recommends denial of this request.

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

0:05:30 **8. Remove from Table a Consideration for Recommendation to Council for a Zone Change request for approximately 0.11 acres located west of 701 W. Greene St., legally described as Lot B, Block 164, Woodards Subdivision Replat from “C-2” Commercial 2 District to “C-1” Commercial 1 District**

Jordan Andersen is present for the meeting.

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

0:06:38 **9. Consider a recommendation to Council for a Zone Change request for approximately 0.11 acres located west of 701 W. Greene St., legally described as Lot B, Block 164, Woodards Subdivision Replat from “C-2” Commercial 2 District to “C-1” Commercial 1 District**

Jordan Andersen comes to the podium. Ms. Carrasco explains the request is to change the property from C-2 to C-1. The applicant plans to build a four-plex on the property. The Planning Staff recommends approval. Mr. Andersen states he has been working with City staff and a local architect and is aware of all regulations and setbacks. There was no public comment.

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

Ms. Carrasco tells the applicant this item will come before Council on September 10, 2019.

0:11:26 **10. Consider approval of a Preliminary Plat for Cielo Lindo Subdivision**

The applicant, Scott Hicks, on behalf of the owners, attended. Mr. Patterson explains the request, and that the ABM says 127 new single family residences, but there are actually 152 residences shown on the preliminary plat. The applicant has been working with City staff on draining and grading, as well as the Utilities Department, Public Works, Projects Department, Infrastructure and Building Departments. The Planning Department recommends approval of this request. Mr. Hicks reviews the steps he has already taken for this project. Mr. Patterson states Mr. Hicks has been asked to submit a traffic study for Lea and Standpipe Rd. There was no public comment.

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

0:18:30 11. Consider approval of a Conditional Use Permit to allow Home Occupation – Sales & Service – at 1105 W. Church St.

The applicant, **Theresa Chism**, comes to the podium. **Ms. Carrasco** explains the applicant is requesting a Conditional Use Permit to allow a dog grooming business. **Ms. Chism** explains this is a low profile business and would not bother the neighbors. She has insurance already and will do the construction necessary. Planning Staff recommends approval. No public comment.

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

Ms. Carrasco tells the applicant she will receive a letter stating the approval, and she can move forward with applying for the necessary permits.

0:22:05 12. Consider approval of a Conditional Use Permit to allow Home Occupation – Sales & Service – at 1503 W. Tansill St.

The applicant, **Ida Fierro**, comes to the podium. **Ms. Carrasco** explained this request. The applicant would like to provide order pick up services for her on-line products. **Ms. Carrasco** says the Planning Staff recommends approval as long as the applicant observes on-street parking and occupancy load; and does not operate a retail storefront. No public comment.

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

Ms. Carrasco tells the applicant that she will receive a letter of approval from the Planning Department.

0:25:16 13. Consider approval of a Variance to allow a 2' rear setback and a 2' side setback at 1822 Lanette Dr.

The applicant, **Alicia Bixler**, comes to the podium. **Mr. Patterson** explains this request. The applicant would like to place a 10' x 12' metal shed on the rear corner of the property. After review with City staff, the Planning Department recommends denial of this request because of setback regulations and input from other departments. The applicant explains many of her neighbors have sheds in their backyards, and she wants to do the maximum size shed that doesn't require a building permit and apply for the variance in accordance with the rules. Floor opened for public comment.

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

Mr. Patterson tells the applicant she will receive a letter of approval.

0:38:18 14. Consider approval of a Variance to allow a 0' side setback at 204 W. Riverside Dr.

Ray Peters comes to the podium. **Mr. Patterson** explains the request is so the applicant can place a multi-use structure on the west side of the property. The Planning Department, after talking with staff and Emergency Services, recommends denial. There is an apartment complex with a fence on the west side, and the house is on the east side. The new structure would be on the property line, but there would

be five feet between it and the house. **Mr. Peters** explains the access would be through the middle of the property. Floor opened for public comment. **Julia Heaton** comes to the podium to say that we have ordinances for a reason and she would like them to be obeyed. **Nancy Brantley** comes to the podium and states that she agrees with **Ms. Heaton**. A 0' setback looks like a public safety hazard to her, and if the Fire Department and other departments recommend denial, she feels the commission should deny it. **Mr. Patterson** states the ordinance contains a list of nine questions, which are used to determine if a variance is allowed. The ordinance allows for variances if there is a specific issue with the land that the builder can't build in a certain way.

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

Mr. Patterson tells the applicant he will receive a letter of denial and informs him of the appeal process.

0:53:42 **15. Consider approval of a Variance to allow a 0' side setback at 1029 N. Edward St**

Leigha Gaines comes to the podium. **Ms. Carrasco** explains the request. The Planning Department recommends approval with conditions that the applicant work with the Building official to obtain necessary permits and inspections, and shall install gutters to avoid water-shed onto the neighboring property. The carport shall not extend closer than five feet to the public sidewalk. **Ms. Gaines** explains the driveway is already been poured, and the water runs down the driveway. She explains she has observed the 5' sidewalk setback, and the carport is further from the sidewalk than that. Floor opened for public comment. **Ms. Brantley** comes to the podium and asks why would another 0' setback variance be approved. She notes that the Fire Department recommends denial. **Ms. Gaines** states the Fire Department has access that they need. **Ms. Brantley** notes how close the houses in that neighborhood are, and her own experience with her own neighbor having a fire which burned her tree and fence even though the setbacks were observed. She implores the commission to deny the request for the variance. **Ms. Gaines** states she has not had complaints from her neighbors about the carport.

Mr. Barney made a motion to approve. For lack of a second, floor was opened for discussion. **Mr. Nesser** made a motion to deny and **Mr. Garcia** seconded the motion. The vote was as follows: Yes– **Mr. Garcia, Mr. Nesser**; No– **Mr. Barney, Mr. Knott, Mr. McCormick**. None; Abstained–None; Absent–None. Motion failed to deny.

Mr. Barney made a second motion to approve. Lack of second. Motion failed.

Mr. Patterson tells the applicant she will be sent a letter stating the commission failed to pass or fail the item. She can start the appeal process and it will go to Council.

1:10:51 **16. Consider approval of a Variance to allow a 0' side setback at 1103 W. Riverside Dr.**

Patricia Hodge comes to the podium. **Mr. Patterson** explains this request to allow a patio cover on the west side of the property, and the applicant has already talked to the Building Department. The Planning Departments recommends approval with conditions. The applicant explains it is for a metal carport. **Mr. Patterson** tells the commission that his recommendation would then be for denial. Floor opened for public comment. **Mr. Mattson** comes to the podium. He lives next door and explains the 0' side setback would cause the carport to drain into his backyard. He has sheds that observe the setback and they do not drain onto the applicant's property. **Ms. Heaton** comes to the podium. She states other neighbors did not receive notification of the applicant's proposal. She agrees with **Mr. Mattson**. She states the City is

violating the covenants for her neighborhood. She is against any 0' setback and supports adherence to ordinances. **Ms. Gaines** comes to the podium and she supports the variance because **Ms. Hodge** is trying to improve her property. **Zolene Knott** comes to the podium, and supports denial. **Ms. Hodge** comes to the podium and rescinds her request.

1:35:02 **17. Consider approval of a Variance to allow a 0' side setback at 2503 Spruill Dr**

The application does not attend.

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

1:35:55 **18. Consider a recommendation to Council for a Zone Change request from “C-2” Commercial 2 District to “C-1” Commercial 1 District for approximately 0.43 acres located along the 500 block of Fox St and 206 S. Guadalupe, legally described as Subd: STEVENS Lot: 2 Block: 45 Quarter: SW S: 6 T: 22S R: 27E, Subd: STEVENS Lot: 4 Block: 45 LOT 4 LESS BEG SW COR LT 6 N 33.34' TO POB; E 65.2', N 60.7', W 18.07', N 2', W 47.13', S 62.7' TO POB, and Subd: STEVENS Lot: 6 Block: 45 LOT 6 LESS BEG SW COR LT 6 N 33.34' TO POB; E 65.2', N 60.7', W 18.07', N 2', W 47.13', S 62.7' TO POB**

Kevin Kirby comes to the podium. **Mr. Patterson** states that the properties currently have multi-family housing and that a zone change to Commercial 1 District would bring the properties into zoning compliance. **Mr. Patterson** notes the Planning staff recommends approval. Floor opened for public comment. No public comment.

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

Mr. Patterson tells the applicant he will receive a letter and this will go before City Council on September 10, 2019.

1:39:12 **19. Consider a recommendation to Council for a Zone Change request from “C-2” Commercial 2 District to “R-2” Residential 2 District for approximately 0.275 acres located at 308 W. Rose St., legally described as Lot 5, Block 1, Murray Subdivision**

Joseph Ramirez comes to the podium. **Ms. Carrasco** explains the applicant is requesting a zone change to allow him to build a home on the property. The surrounding properties are zoned Commercial 2 District but are residential in nature. The Planning staff recommends approval. **Mr. Ramirez** explains he would like to build a metal house. No public comment.

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

Ms. Carrasco tells the applicant he will receive a letter with approval, and this will appear before Council on September 10, 2019.

1:44:37 **20. Consider a recommendation to Council for a Zone Change request from “R-R” Rural Residential District to “C-1” Commercial 1 District for approximately 6.00 acres located at 301 W. Chapman, legally described as Tract B, Cox Tract 5**

Raul Quintana comes to the podium. **Mr. Patterson** explains this request, and the applicant would like to build an apartment complex on the property. The Planning staff recommends that the applicant change his request to “R-2” Residential 2 District zoning instead of “C-1” Commercial 1 District, which would allow the apartment complex and keep the residential nature of the neighborhood. **Mr. Patterson** states the Planning staff would recommend denial for the “C-1” Zoning, but would recommend approval for “R-2” Zoning. **Mr. Quintana** states the apartment complex would have 120 units and the company can start construction as soon as they get approval. He notes there is plenty of parking which was added after review. Floor opened for public comment. **Ms. Heaton** speaks in support of this project.

Mr. Garcia made a motion to approve with the recommended change to “R-2” Residential 2 District zoning, and **Mr. Nesser** seconded the motion. The vote was as follows: **Yes– Mr. Garcia, Mr. Barney, Mr. Knott, Mr. McCormick, Mr. Nesser**; No–None; Abstained–None; Absent–None. The motion carried.

Mr. Patterson tells the applicant this item will appear before City Council on September 10, 2019.

1:51:01 **21. Report regarding Summary Review Subdivisions**

Ms. Carrasco presented the Summary Review plats. Nothing unusual was noted.

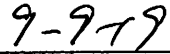
1:53:19 **22. Adjourn.**

There being no other business, the meeting was adjourned.

1:53:24 Stop Recording [6:55:33 PM]



Chairman



Date