

**MINUTES OF THE REGULAR MEETING OF THE**

**City of Carlsbad  
Planning & Zoning Commission**

**Monday, November 4, 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, November 4, 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 October 7, 2019.
4. Consider approval of a Variance to allow a reduction in required lot size from 6,000 sq. ft. to 1,967 sq. ft. for the Carlsbad Townhouse Subdivision development, zoned "R-1" Residential 1 District
5. Consider approval of a Variance to allow a 0' side setback and a 20' front setback for the Carlsbad Townhouse Subdivision development, zoned "R-1" Residential 1 District
6. Consider approval of a Preliminary Plat for the Carlsbad Townhouse Subdivision
7. Consider approval of a Variance to allow an increase in fence height to exceed 7' at 604 Riviera Ct, zoned "PUD" Planned Unit Development District
8. Consider approval of a request for a Conditional Use Permit to allow Employee Housing at 807 Del Rio St., zoned "C-2" Commercial 2 District
9. Consider approval of a Temporary Use Permit for Temporary Housing to be located at 5302 National Parks Hwy., zoned "C-2" Commercial 2 District and "I" Industrial District
10. Consider approval of a request for a Conditional Use Permit to allow a Residential Accessory Unit at 1011 N. Halagueno St., zoned "R-1" Residential 1 District
11. Consider approval of a Variance to allow the parking and storage of a Recreational Vehicle in the front setback at 122 S. Fourth, zoned "R-1" Residential 1 District
12. Consider approval of a Variance to allow a 5' rear setback at 4010 Pat Garrett Rd, zoned "R-R" Rural Residential District
13. Report regarding Summary Review Subdivisions.
14. Adjourn.



**FOR INFORMATION ONLY**

Agendas and Planning and Zoning Commission meeting minutes are available on the City web site:

*[cityofcarlsbadnm.com](http://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

**PLANNING AND ZONING COMMISSION MEETING SCHEDULE**

- Regular meeting – Monday, December 2, 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, NOVEMBER 4, 2019, AT 5:00 P.M.**

**VOTING MEMBERS PRESENT:**

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

**CHAIRPERSON  
COMMISSIONER  
COMMISSIONER  
COMMISSIONER**

**VOTING MEMBERS ABSENT:**

**JAMES McCORMICK**

**EX-OFFICIO MEMBERS PRESENT:**

**JEFF PATTERSON  
TRYSHA ORTIZ**

**PLANNING DIRECTOR  
DEPUTY PLANNING DIRECTOR**

**SECRETARY PRESENT:**

**JENNIFER CAMPOS**

**PLANNING AND REGULATION  
DEPARTMENT EXECUTIVE SECRETARY**

**OTHERS PRESENT:**

**EILEEN RIORDAN  
RON MYERS  
K.C. CASS  
SHANE SKINNER  
MARK CAGE  
BILLY MASSINGILL  
STEVEN McCUTCHEON  
LEA CRAWFORD  
LARSEN CRAWFORD  
DUSTIN DENTON  
TONK CHESTER  
AMANDA MASHAW  
RAY MASHAW  
ORAN MEANS  
GEORGE DUNAGAN  
JULIE DUNCAN  
JOHN WATERS  
JEREMY ZINNO  
MANUEL AVILA  
CHERYL STATHAM  
TED CORDOVA  
GLENN BAILEY  
JUDY PITTMAN  
CAROLYN GOMEZ  
KACEY CORNUM  
TRICIA BANISTER  
RACHELLE THOMPSON  
ALAN WOOD  
HUYEN NGUYEN  
JANE PATCHET  
STAN PATCHET  
STACEY BRITAIN**

**CITY ATTORNEY  
DIRECTOR OF UTILITIES  
DIRECTOR OF PROJECTS  
CHIEF OF POLICE  
802 ELMA  
2119 TAGWOOD  
1715 N. CANAL  
4010 PAT GARRETT  
4010 PAT GARRETT  
1011 N. HALAGUENO  
310 N. ALAMEDA  
1703 N. CANAL ST.  
1703 N. CANAL ST.  
1514 FARRELL  
212 W. STEVENS  
207 E. PEACH LANE  
400-2 CASCADES STE 201  
1504 CONCORD AVE.  
314 E. CHERRY LN.  
218 E. CHERRY LN.  
603 SPYGLASS DR.  
1613 N. CANAL ST.  
ROSWELL, NM  
3312 MEADOWLARK  
106 DOPORTO CT.  
2118 E. PEACH  
310 E. CHERRY LN.  
210 E. CHERRY LN.  
5302 NATIONAL PARKS HWY.  
306 E. PEACH LN.  
306 E. PEACH LN.  
1710 GUADALUPE ST.**

LEROY BOSTICK  
SHANE BOSTICK  
DON FISHER  
HELEN ROGERS  
ROBIN BOSTICK  
MICHAEL GOMEZ  
KEN YEAGER  
LINDA YEAGER  
ELSA FRANCO  
SETH JENKINS  
TRENT CORNUM  
LANETTE AVILA  
HUNG CHENG CHIOU  
J.R. DOPORTO  
WILLIAM W. SMITH  
ELIZABETH LICKLITER  
MARISSA RYAN  
TRACE RYAN  
JEANNIE WATSON  
KENNETH LICKLITER  
DON GEORGE  
TERRY STATHAM  
EVELYN CORDOVA  
GERRY WASHBURN  
CHRIS HAMILL  
DEBBIE DOSS  
RAMON VALENZUELA  
BEVERLY ALLEN  
MARK AGUILAR

1512 CONCORD AVE.  
1303 S. COUNTRY CLUB  
1632 CONCORD AVE.  
1633 CONCORD AVE.  
1512 CONCORD AVE.  
P.O. BOX 1044  
305 E. PEACH LN.  
305 E. PEACH LN.  
205 GRAPEVINE CT.  
212 GOIN HOME  
106 DOPORTO CT.  
314 E. CHERRY LN.  
1623 CONCORD AVE.  
112 DOPORTO CT.  
122 S. 4<sup>TH</sup> ST.  
1910 SANDY LN.  
308 DICKSON LN.  
308 DICKSON LN.  
306 CIMARRON TRL.  
1910 SANDY LN.  
1725 MISSION AVE.  
218 E. CHERRY LN.  
603 SPYGLASS DR.  
1106 NORTH SHORE DR.  
604 RIVIERA CT.  
1613 N. CANAL ST.  
2015 GWENDA  
1621 N. CANAL ST.  
103 N. 1<sup>ST</sup> 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 [5:00:31 PM]

0:00:23 **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. Knott, Mr. Nesser.** Absent- **Mr. McCormick.**

0:00:44 **2. Approval of Agenda.**

**Mr. Nesser** 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. Nesser.** No—None; Abstained—None; Absent- **Mr. McCormick.** The motion carried.

0:01:07 **3. Approval of Minutes from the Meeting held October 7, 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. Nesser; No—None; Abstained—None; Absent—Mr. McCormick. The motion carried.

0:01:38      **4. Consider approval of a Variance to allow a reduction in required lot size from 6,000 sq. ft. to 1,967 sq. ft. for the Carlsbad Townhouse Subdivision development, zoned "R-1" Residential 1 District**

Mr. Patterson explains the request, noting this development is located at the southeast corner of North Canal St. and Cherry Lane. This development would be townhomes, and the property lines would be along the common walls. The Planning Staff recommends approval of this request. Trent Cornum and Steven McCutcheon come to the podium. Mr. Cornum states that he has heard many times there is a need for affordable workforce housing in Carlsbad. This development would have restrictive covenants and an HOA. Mr. McCutcheon feels this development would help with housing for teachers, for example, who earn about \$48,000 a year, and for people just out of college to get established. Floor opened for public comment. Mr. Knott explains this is a public hearing and will take those in opposition first. Alan Wood comes to the podium, representing about 20 people who are in attendance. He explains he lives on Cherry Lane near the proposed development. He states himself and those he represents support houses being built on that property but only for residences that are qualified for the R-1 ordinance. The lots in the area are generally an acre in size. He and those he represents want the variance denied based on the lot sizes being reduced 67.2% smaller than the City requires in R-1 Zoning. He states the density would be too much and questions the overflow parking on the map, as well as drainage. Mr. Patterson replies the applicants did meet the City specifications for amount of parking spaces per unit, and points out the drainage area on the map. Mr. Wood questions traffic issues, and Mr. Patterson says a traffic study has been requested as part of the recommendations for the approval. Mr. Wood states some residents in the 100 foot did not receive a letter informing them of the variance request. Dr. Hung Chiou comes to the podium stating that he is also representing a group of people in the audience. He and those he represents object to the request for the variance to reduce the required lot size and he has prepared a list of his seven reasons. He states as #1 reason is that the variance will bring maximal profits to the applicant at the expense of the surrounding neighborhood and lower the standard of the Zoning Ordinance that all strive to follow and respect. Reason #2 is the variance would create much higher density than the R-2 District would allow and such a high density does not conform to the R-1 zoning standards. Reason #3 is that the board may modify such requirements as necessary providing the public interest and its citizens are protected and the general intent and spirit of these regulations are preserved. He asserts the variance does not preserve the general intent and spirit of code regulations, and urges the commission to reject the variance. Reason #4 is that the variance is detrimental to the health, safety and general welfare of the surrounding neighborhood and will adversely affect property values; the topography where there is no inconvenience to meet the minimum R-1 lot size; the variance is only for the interest to the developer and is not in the best interest of the general public. Reason #5 the variance shall not be granted if it is contrary to the public interest and will result in unnecessary hardship. Reason #6 includes that the hardship is not related to the topography but the desire for maximum profits; the variance will be injurious to adjacent property or neighborhood. Reason #7 is that the majority if not all the surrounding neighbors are against or will oppose the substandard variances. Mr. Knott asks if Mr. Chiou is a resident of the city or county, and he replies he is a county resident. Mr. Patterson states that the variance request is in accordance with the City's Comprehensive Plan and is in harmony with the purpose and intent of the Zoning Ordinance. Rachelle Thompson comes to the podium to state why she thinks that the high density of the development does not fall into the nature and intent R-1 Zoning. She is in opposition to the smaller lot sizes. Mr. McCutcheon comes to the podium and states that this is not just for monetary gain. He states the most profitable use of it would be to develop it as Industrial, such as a truck yard. He feels it is a monetary win for people who cannot afford a \$350,000- \$550,000 home in Carlsbad. He asks if there is a Zone that allows townhomes. Mr. Patterson states townhomes are allowed in R-1 and R-2 Zoning, as well as C-1; all would require a variance depending on design and lot size. Mr. Cornum comes to the

podium stating there is a need for this type of construction and there will always be opposition. **Mr. Patterson** states that granting the variance has not historically created a precedent. **Dr. Chiou** questions the flatness of the property and drainage plan. **Mr. Knott** replies the City has very strict regulations that the developer would have to adhere to. **Ms. Thompson** states there is a housing shortage, and that the people coming here from Chevron and Conoco-Phillips make more than teachers, police officers. She does not believe a single person coming here earning \$48,000 a year could afford a \$200,000 home. The floor opened for those in support of the variance. **J.R. Doport** comes to the podium in favor of the variance, stating that as people cannot get into homes they cannot support the workforce. He says Carlsbad's Comprehensive Plan states that we need this type of housing. **John Waters**, Executive Director of the Carlsbad Department of Development, comes to the podium. He states his support for the Master Plan as there is not a lot of inventory in this range. The Department of Development supports this project. **Billy Massengill**, Eddy County Detention Facility Warden, comes to the podium. He states there are 35 positions now open at the jail, plus ISD and Transportation. He sees a lot of mancamps around and he is pleased to see places for people coming to work here and don't have \$350,000 for a house and then \$250,000 for renovations. He states he is in support of the variance. **Oran Means**, of the Mayor's Housing Committee, comes to the podium. He states that people cannot afford most of the housing that is coming here. He believes that more building on less land should keep prices down. **Mr. Nesser** asks if it would be possible to come back with less density. **Mr. Cornum** states that with the land prices and the development costs that this is fair. **Mr. McCutcheon** states that they did start with what they believe people needed. Floor is closed for public comment. Mr. Barney asks Mr. Patterson where the City stands on this. Mr. Patterson states that with all the considerations, the City Planning Staff recommends approval of this variance.

**Mr. Knott** made a motion to approve the request for variance to decrease the lot size for the Carlsbad Townhouse Subdivision; **Mr. Barney** seconded the motion. The vote was as follows: Yes— **Mr. Barney, Mr. Knott**, No— **Mr. Garcia, Mr. Nesser**; Abstained—None; Absent- **Mr. McCormick**. The motion failed to pass.

**Mr. Nesser** made a motion to table the request for variance to decrease the lot size for the Carlsbad Townhouse Subdivision; **Mr. Garcia** seconded the motion. The vote was as follows: Yes— **Mr. Garcia, Mr. Barney, Mr. Knott, Mr. Nesser**; No—None; Abstained—None. Absent- **Mr. McCormick**. The motion carried.

**Mr. Patterson** states this item will be included in the December 2, 2019 Planning & Zoning meeting.

**Mr. Patterson** verified that since items #5 and #6 are related to the item just heard, a vote will need to be made on each item to table them to be heard at the December 2, 2019 Planning & Zoning meeting.

1:09:46      **5. Consider approval of a Variance to allow a 0' side setback and a 20' front setback for the Carlsbad Townhouse Subdivision development, zoned "R-1" Residential 1 District**

This item is attached to Item #4 above.

**Mr. Barney** made a motion to table the request for variance to allow 0' side setback and 20' front setback for the Carlsbad Townhouse Subdivision; **Mr. Garcia** seconded the motion. The vote was as follows: Yes— **Mr. Garcia, Mr. Barney, Mr. Knott, Mr. Nesser**; No—None; Abstained—None; Absent- **Mr. McCormick**. The motion carried.

1:11:52      **6. Consider approval of a Preliminary Plat for the Carlsbad Townhouse Subdivision**

This item is attached to Item #4 and Item #5 above.



**Mr. Barney** made a motion to table the preliminary plat for the Carlsbad Townhouse Subdivision; **Mr. Garcia** seconded the motion. The vote was as follows: **Yes— Mr. Garcia, Mr. Barney, Mr. Knott, Mr. Nesser**; No—None; Abstained—None; Absent- **Mr. McCormick**. The motion carried.

1:13:22      **7. Consider approval of a Variance to allow an increase in fence height to exceed 7' at 604 Riviera Ct, zoned "PUD" Planned Unit Development District**

**Mr. Patterson** explains the request which is for an increase in fence height. There is a discrepancy in the height along the length of the fence, which was permitted by the Building Dept., but there was a miscommunication between the applicant and the building official. When this was discovered, the Building Dept. informed the applicant he would need to bring the fence down to 7' maximum height or apply for a variance request. The Planning Dept. recommends approval of this request and keeping the fence the height it is now. **Chris Hamill** comes to the podium and explains his request, and explains the miscommunication with the Building Dept. **Mr. Cass**, Director of Projects, comes to the podium to clarify how fence height is determined; using the existing grade, and the grade cannot be raised after the fence is in place. **Mr. Hamill** reports multiple incidents of conflict with his neighbors. Floor opened for public comment. **Evelyn** and **Ted Cordova** come to the podium. **Ms. Cordova** states her home is in a PUD District and Mr. Hamill's structure is detrimental to her property value. **Ms. Cordova** cites covenants which restrict the height of fences in their neighborhood to 72 inches, and they already have a 6' fence in place; further that City Ordinances only apply to structures to be built, not structures already built, nor to circumvent the law. She states there is a difference between a fence and a wall, and Mr. Hamill's structure would be defined as a wall, which is not allowable by City Code. **Mr. Patterson** explains the City only has purview only over its own regulations, not covenants or regulations of the development. **Mr. Cordova** states everyone should follow the rules, and that the covenants should be enforced. **Mr. Patterson** states that if the variance request is denied, the applicant would have to take the fence down or adjust the height to 7' to comply with City Code. **Ms. Cordova** states that the City handbook with subdivision ordinances either means something or it doesn't. **Mr. Patterson** explains that when it was discovered that the fence height was out of compliance, the City offered this process of getting a variance instead of having to remove the fence. **Mr. Nesser** asks if this is a matter for Code Enforcement, and **Mr. Cass** comes to the podium to clarify that the time to apply for a variance is before the construction of the fence; and that the applicant's entire fence is in violation of the Code. **Mr. Patterson** states that if the Board votes to deny the variance request, then a process would be taken to enforce compliance.

**Mr. Knott** made a motion to approve the increase in fence height at 604 Riviera Ct.; **Mr. Barney** seconded the motion. The vote was as follows: **Yes— Mr. Garcia, Mr. Barney, Mr. Knott, Mr. Nesser**; No—None; Abstained—None; Absent- **Mr. McCormick**. The motion carried.

**Mr. Patterson** tells the applicant that this item is now approved and he will receive notification of the decision and one will be kept in the building permit record.

1:41:29      **8. Consider approval of a request for a Conditional Use Permit to allow Employee Housing at 807 Del Rio St., zoned "C-2" Commercial 2 District**

**Mr. Patterson** explains the request. The Planning Dept. recommends approval of this request to allow employee housing, noting that they can only house their own employees. **George Dunagan** and **Amanda Mashaw** come to the podium, representing WellStar Properties. To clarify, **Mr. Dunagan** states that WellStar is purchasing this property to rent to a tenant, and the tenant is seeking the employee housing. Floor opened for public comment. **John Waters** comes to the podium to express his support, as it would provide much needed housing. **Michael Gomez** comes to the podium, stating he lives across the street



from this property. He feels that south Carlsbad seems to get all the mancamps and the traffic and noise, trucks. The infrastructure was supposed to be improved before the current developments, but has not.

**Mr. Nesser** made a motion to approve the conditional use permit for employee housing at 807 Del Rio St.; **Mr. Barney** seconded the motion. The vote was as follows: **Yes– Mr. Barney, Mr. Knott, Mr. Nesser**; **No– Mr. Garcia**; **Abstained–None**. **Absent- Mr. McCormick**. The motion carried.

Recording paused for a 10 minute recess.

1:58:07      **9. Consider approval of a Temporary Use Permit for Temporary Housing to be located at 5302 National Parks Hwy., zoned "C-2" Commercial 2 District and "I" Industrial District**

**Ms. Ortiz** explains the request. The applicants are seeking to place 94 spaces in this 5 acre property for temporary housing. The Planning Staff recommends approval of this request, providing the applicants continue to work with the necessary departments for permits and application. **Huyen Nguyen** and **Mark Aguilar** come to the podium. **Ms. Nguyen** explains her plans for this development and its benefits. Floor opened for public comment. **Ms. Ortiz** explains the original application was for 80 spaces, but the applicants revised the plans to accommodate 94 spaces. This will be for temporary housing, as per regulations, for five years, and then become a permanent RV park. **Mr. Knott** mentions a drainage plan would be necessary for the RV park. **Mr. Aguilar** responds that they are working with a contractor on this..

**Mr. Garcia** made a motion to approve the temporary use permit for temporary housing to be located at 5302 National Parks Hwy; **Mr. Nesser** seconded the motion The vote was as follows: **Yes– Mr. Garcia, Mr. Barney, Mr. Knott, Mr. Nesser**; **No–None**; **Abstained–None**. **Absent- Mr. McCormick**. The motion carried.

**Ms. Ortiz** states this will go before City Council for final approval on November 12, 2019.

2:05:07      **10. Consider approval of a request for a Conditional Use Permit to allow a Residential Accessory Unit at 1011 N. Halagueno St., zoned "R-1" Residential 1 District**

**Ms. Ortiz** explains this request is to convert an accessory structure to a Rental Unit. The applicant has provided a draft of his plan. Parking has been addressed, and the Planning Staff recommends approval providing the applicant will work with the Building Dept. and the Utilities Dept. on all permits. Further, an address will be needed for the rental unit. **Dustin Denton** explains this property has been in his family for many years. He would like to rent this to traveling medical staff and it would be single occupancy. **Mr. Patterson** explains the water meter would be separate. Floor opened for public comment. There was none.

**Mr. Barney** made a motion to approve the conditional use permit for residential accessory unit at 1011 N. Halagueno St.; **Mr. Garcia** seconded the motion. The vote was as follows: **Yes– Mr. Garcia, Mr. Barney, Mr. Knott, Mr. Nesser**; **No–None**; **Abstained–None**. **Absent- Mr. McCormick**. The motion carried.

2:15:40      **11. Consider approval of a Variance to allow the parking and storage of a Recreational Vehicle in the front setback at 122 S. Fourth, zoned "R-1" Residential 1 District**

**Ms. Ortiz** explains this request. The Planning Staff recommends denial of this request. **William Smith** comes to the podium and explains he has no other place to store his RV, which he has owned for about 6 years. There is no alley or rear access to his property. **Mr. Patterson** explains that motorized vehicles

may be stored at a residence, but cannot be stored in a setback. Floor opened for public comment. There was none. **Mr. Nesser** asked about the storage shed on the property and if it could be moved to help the parking of the RV. There is still not enough room on the side.

**Mr. Nesser** made a motion to approve the request for variance to allow parking and storage of a recreational vehicle in the front setback at 122 S. Fourth St.; **Mr. Garcia** seconded the motion. The vote was as follows: Yes– **Mr. Garcia, Mr. Nesser**; No– **Mr. Barney, Mr. Knott**; Abstained–None. Absent- **Mr. McCormick**. The motion failed to pass.

Second vote. **Mr. Knott** made a motion to table the request for variance to allow parking and storage of a recreational vehicle in the front setback at 122 S. Fourth St.; **Mr. Nesser** seconded the motion. The vote was as follows: Yes– **Mr. Garcia, Mr. Barney, Mr. Knott, Mr. Nesser**; No–None; Abstained–None. Absent- **Mr. McCormick**. The motion carried.

**Ms. Ortiz** tells the applicant the item is tabled and will be heard at the December 2, 2019 meeting.

2:29:20      **12. Consider approval of a Variance to allow a 5' rear setback at 4010 Pat Garrett Rd, zoned "R-R" Rural Residential District**

**Ms. Ortiz** explains this request. The applicants would like to place a multi-use building in the rear of their house. After meeting with other departments, the Planning Staff recommends denial of the 5' setback, but recommend a 10' setback. **Lea** and **Larson Crawford** come to the podium. **Mr. Crawford** explains he would like to build a multi-use structure in their backyard. It would have vehicle access from the driveway. Floor opened for public comment. There was none.

**Mr. Nesser** made a motion to approve the request for variance at 4010 Pat Garrett Rd, with the condition of a 10' rear setback instead of a 5' rear setback; **Mr. Garcia** seconded the motion. The vote was as follows: Yes– **Mr. Garcia, Mr. Barney, Mr. Knott, Mr. Nesser**; No–None; Abstained–None. Absent- **Mr. McCormick**. The motion carried.

**Ms. Ortiz** tells the applicant to come into the Building Department and speak with Ray Benavidez for permits.

2:35:08      **13. Report regarding Summary Review Subdivisions.**


**Mr. Patterson** states the Crestline Land Division property will have hotels. The construction has already begun on Hidalgo near National Parks Highway.

2:37:13      **14. Adjourn.**

There being no other business, the meeting was adjourned.

2:37:21      Stop Recording [7:48:13 PM]

  
Chairman

  
Date