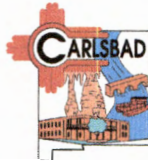


MINUTES OF THE REGULAR MEETING OF THE

**City of Carlsbad
Planning & Zoning Commission**

Monday, March 1, 2021 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, March 1, 2021 at 5:00 PM
Municipal Annex 114 S. Halagueno Street**

1. Roll call of voting members and determination of quorum
2. Approval of Agenda
3. Approval of Minutes from the Meeting held February 1, 2021
4. Consider a recommendation to Council of a petition to annex approximately 2.6 acres, including 1.5 acres of real property and 1.1 acres of street right of way located at the northeast corner of the intersection of North Canal St & Peach Lane, legally described as Tract 2, Cornum Land Division (Carlsbad Out).
5. Consider a recommendation to Council for the application of "R-1" Residential 1 District zoning for property located at the northeast corner of N. Canal St. & Peach Lane., legally described as Tract 2, Cornum Land Division
6. Consider approval of an amendment to the Peach Lane Subdivision Preliminary Plat
7. Consider a recommendation to Council for a request to Vacate a portion of the street right-of-way along the 2500 block of W. Jackson St.
8. Consider a recommendation to Council for the application of "R-1" Residential 1 District zoning for property located at 400 Kircher St.
9. Consider a recommendation to Council for a Zone Change request, "R-1" Residential 1 District to "C-2" Commercial 2 District, located at 109 Old Cavern Highway., legally described as 76B of the Gibson & Manlove Line Adjustment
10. Consider a recommendation to Council for a Zone Change request, "C-2" Commercial 2 District to "R-2" Residential 2 District, located at 2510 San Jose Blvd., legally described as Tract 31, Amended SW ¼ of the NE1/4, Sec. 18, T22S, R27E

11. Consider a recommendation to Council for a Zone Change request, "C-2" Commercial 2 District to "C-1" Commercial 1 District, located east of 404 Harper St., legally described as Lot 7, Block 1, Bindel #2 Subdivision
12. Consider approval of a Variance request to increase the fence height along the front-setback for the property located at 2317 Jackson St., zoned "R-1" Residential 1 District
13. Consider approval of a Variance request to reduce the required rear setback from 10' to 5' for the property located at 2302 Utah St., zoned "C-2" Commercial 2 District
14. Consider approval of a Variance request to reduce the required side setback from 5' to 18" for the property located at 919 N. Halagueno St., zoned "R-1" Residential 1 District
15. Consider approval of a Variance request to reduce the required side setback from 5' to 2" for the property located at 704 Southern Sky St., zoned "PUD" Planned Unit Development District
16. Report regarding Summary Review Subdivisions
17. Adjourn



FOR INFORMATION ONLY

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

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, April 12, 2021 at 5:00 p.m.

If you require hearing interpreter, language interpreters or auxiliary aids in order to attend and participate in the above meeting, please contact the City Administrator's office at (575) 887-1191 at least 48 hours prior to the scheduled meeting time.

**MINUTES OF A REGULAR MEETING OF THE CITY OF CARLSBAD PLANNING &
ZONING COMMISSION HELD IN THE MUNICIPAL ANNEX PLANNING ROOM,
114 S. HALAGUENO STREET, MARCH 1, 2021 AT 5:00 P.M.**

VOTING MEMBERS PRESENT:

**JAMES McCORMICK
BRAD NESSER
BRIGIDO GARCIA
JANELL WHITLOCK
TRENT CORNUM**

**CHAIRPERSON
COMMISSIONER
COMMISSIONER
COMMISSIONER (*arrived at 5:14 pm*)
COMMISSIONER**

VOTING MEMBERS ABSENT:

NONE

EX-OFFICIO MEMBERS PRESENT:

**JEFF PATTERSON
TRYSHA ORTIZ**

**PLANNING DIRECTOR
DEPUTY PLANNING DIRECTOR**

SECRETARY PRESENT:

JUDITH WEBSTER

**PLANNING AND REGULATION
DEPARTMENT SECRETARY**

OTHERS PRESENT:

**DENISE MADRID BOYEA
BRENT GRIFFITH
CHARLIE GARCIA
OSCAR GARCIA
TED McGILL
SAL REY SALCIDO
JONATHAN WILBANKS
KARLA HAMEL NIEMEIER
ROBIN BOSTICK
TRICIA BANISTER
ROQUE ALVAREZ
RAMON FLOREZ
SHEILA WALTERSCHEID
KACEY CORNUM
SALLY FERNANDEZ
ANNA FERNANDEZ
TANNER HOLT
YAMILETH DORADO
CHRISTY STARK**

**CITY ATTORNEY
CITY
CITY
2302 UTAH
1610 W. URAL
3207 OLD CAVERN HWY.
704 SOUTHERN SKY
919 N. HALAGUENO ST.
1512 CONCORD
218 E. PEACH LN.
702 SOUTHERN SKY
2407 E. DERRICK RD.
5903 MILLIRON RD.
1081 MONUMENT CT.**

**via virtual meeting
via virtual meeting
via virtual meeting**

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 [5:00:52 PM]

0:00:03 **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. McCormick, Mr. Nesser, Mr. Garcia, Mr. Cornum**. Absent--**Ms. Whitlock**.

0:00:22 **2. Approval of Agenda**

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

0:01:28 **3. Approval of Minutes from the regular Meeting held February 1, 2021**

The Motion was made by **Mr. Nesser** and seconded by **Mr. Cornum** for approval of the Minutes. The vote was as follows: **Yes--Mr. McCormick, Mr. Nesser, Mr. Garcia, Mr. Cornum**. No--None. Abstained--None; Absent--**Ms. Whitlock**. The motion carried.

Mr. Cornum excuses himself from the commission for item numbers 4, 5 & 6.

0:02:52 **4. Consider a recommendation to Council of a petition to annex approximately 2.6 acres, including 1.5 acres of real property and 1.1 acres of street right of way located at the northeast corner of the intersection of North Canal St & Peach Lane, legally described as Tract 2, Cornum Land Division (Carlsbad Out).**

Mr. Cornum explains his request to annex this property into city limits. **Mr. Patterson** explains the request will allow the property to be annexed allowing city utilities and the Planning staff recommends approval. Floor opened for public comment. **Tricia Banister** comes to the podium. She is concerned about the ditch that goes from Canal St. along Peach Lane. She wants to make sure she keeps access to water. **Mr. Patterson** explains CID ditch will remain in place and not be affected by the annexation.

The Motion was made by **Mr. Garcia** and seconded by **Mr. Nesser** to approve. The vote was as follows: **Yes--Mr. McCormick, Mr. Nesser, Mr. Garcia**. No--None. Recused--**Mr. Cornum**. Absent--**Ms. Whitlock**. The motion carried

0:10:34 **5. Consider a recommendation to Council for the application of "R-1" Residential 1 District zoning for property located at the northeast corner of N. Canal St. & Peach Lane., legally described as Tract 2, Cornum Land Division**

Mr. Patterson explains the request is to apply "R-1" Residential 1 Zoning District to the property being annexed. This will not create a spot zone; the property to the east is currently "R-1" Residential 1 Zoning District, and the properties to the north, west and south are outside the city boundary. It matches the plans for the property on which he will build single family homes. The City staff recommends approval of this request. Floor opened for public comment. There was none.

The Motion was made by **Mr. Nesser** and seconded by **Mr. Garcia** to approve. The vote was as follows: **Yes--Mr. McCormick, Mr. Nesser, Mr. Garcia**. No--None. Recused--**Mr. Cornum**. Absent--**Ms. Whitlock**. The motion carried.

Mr. Patterson informs the applicant that the application for Annexation and Zone Change will appear before the City Council at their April 13, 2021 meeting.

Commissioner Whitlock arrives (5:14 pm)

0:13:20
Plat

6. Consider approval of an amendment to the Peach Lane Subdivision Preliminary

Mr. Patterson explains this request; the applicant would like to add 5 new residential lots to the original 9 lots, resulting in 14 new residential lots with a proposed zoning of “R-1” Residential 1 District, along Peach Lane to the east of N. Canal St. This amends his already approved preliminary plat for the property. The City recommends approval of this request. Floor opened for public comment. **Robin Bostick** comes to the podium to express her concerns about second opening to the property over the CID ditch. She asks what the plan will be for access to the lots which will be long and narrow and only 60’ wide, and also what will be the side setbacks. **Mr. Nesser** tells her the side setbacks are 5’ for single story homes and 7.5’ for 2-story homes. **Mr. Cornum** tells her his lots are similar to those in Spring Hollow and Copperstone, and he is asking for no variances from City Code for R-1 Zoning. Further, he states that the ditch is not owned by CID; it is a private ditch. He has met with the CID officials and surveyors to confirm it is not CID-owned. **Mr. Nesser** asks what is the right-of-way width for Peach Lane. **Mr. Patterson** answers it is not standard, but is probably between 30’-50’ currently. **Mr. Cornum** states when he spoke to **K.C. Cass**, Carlsbad Co-Deputy City Administrator, they were aware the road was in disarray and the City planned to improve it; so when he pours the driveways he will tie them into the City’s side for a clean look. All the utilities are planned to go into the City easement. **Ms. Bostick** asks about the road width as it approaches the railroad tracks. The entire length of Peach Lane is too narrow and in poor condition. **Mr. Cornum** tells her he cannot speak for the City, but it is his understanding is the City will upgrade the road from N. Canal St. to the railroad tracks. His commitment with the City is he will do the utilities and the City will upgrade the road. **Ms. Bostick** asks who can she speak to at the City about this road matter. **Mr. Patterson** directs her to ask **K.C. Cass**, as he has been the lead on this project.

The Motion was made by **Mr. Garcia** and seconded by **Mr. Nesser** to approve. The vote was as follows: **Yes-- Mr. McCormick, Mr. Nesser, Mr. Garcia, Ms. Whitlock.** No--None. Recused-- **Mr. Cornum.** Absent--None. The motion carried.

0:30:22

7. Consider a recommendation to Council for a request to Vacate a portion of the street right-of-way along the 2500 block of W. Jackson St.

The City of Carlsbad is the applicant. **Mr. Patterson** explains this request is for a vacation of the street right-of-way to the south of the 2500 block of W. Jackson St., It amounts to .042 acres (1,865 sq. ft.) and is the result of a correction to the property lines of the properties that lie to the south of W. Jackson St. The property lines had been mistakenly shifted to the north approximately 7’ on a previous plat. By vacating the right-of-way the City will be returning this property to the owners and reestablishing the property lines to their previous location. Floor opened for public comment; there was none.

The Motion was made by **Ms. Whitlock** and seconded by **Mr. Nesser** to approve. The vote was as follows: **Yes-- Mr. McCormick, Mr. Nesser, Mr. Garcia, Ms. Whitlock, Mr. Cornum.** No--None. Abstained--None; Absent--None. The motion carried.

0:33:26

8. Consider a recommendation to Council for the application of “R-1” Residential 1 District zoning for property located at 400 Kircher St

The applicant is the City of Carlsbad. **Mr. Patterson** explains the request is to apply “R-1” Residential 1 Zoning District for approximately .23 acres, located at 400 Kircher St. When right-of-way was acquired for the reconstruction of San Jose Blvd, zoning was not applied to this parcel. This request will correct the error in the zoning map. Floor opened for public comment. There was none.

The Motion was made by **Mr. Nesser** and seconded by **Ms. Whitlock** to approve. The vote was as follows: **Yes-- Mr. McCormick, Mr. Nesser, Mr. Garcia, Ms. Whitlock, Mr. Cornum.** No--None. Abstained--None; Absent--None. The motion carried.

0:36:23 **9. Consider a recommendation to Council for a Zone Change request, "R-1" Residential 1 District to "C-2" Commercial 2 District, located at 109 Old Cavern Highway., legally described as 76B of the Gibson & Manlove Line Adjustment**

The applicant, **Tanner Holt**, representing BES Properties, joins via virtual meeting. The request is for a Zone Change from "R-1" Residential 1 Zoning District to "C-2" Commercial 2 Zoning District for approximately .802 acres, located at 109 Old Cavern Hwy. He explains that BES owns the tracts to the west and would like to join the properties; having no plans for construction, just consolidate the tracts. **Mr. Patterson** explains this would not create a spot zone. Upon review, the City recommends approval of this request. **Ms. Ortiz** clarifies with **Mr. Holt** that BES does not own the property at 105 Old Cavern Hwy. Floor opened for public comment. **Sal Salcido** comes to the podium. He lives at 3207 Old Cavern Hwy. and has for many years. He states he has talked with **Mr. Tanner** about the lighting they have installed, which is too bright and shines in his windows and backyard all night. The drastic increased lighting is affecting his lifestyle and health adversely. The former lights were okay and didn't cause him a problem. **Mr. Holt** states they are going to install lesser wattage lights that will not broadcast in the direction of his property. They will point northward away from **Mr. Salcido's** property. **Mr. Patterson** states there are ordinances in the City Code regarding lighting on commercial property in order to not bother neighboring residential properties.

The Motion was made by **Mr. Nesser** and seconded by **Mr. Cornum** to approve. The vote was as follows: **Yes-- Mr. McCormick, Mr. Nesser, Ms. Whitlock, Mr. Cornum.** No-- **Mr. Garcia.** Abstained--None; Absent--None. The motion carried.

Mr. Patterson informs the applicant that this will go to City Council at the April 13, 2021 meeting.

0:56:16 **10. Consider a recommendation to Council for a Zone Change request, "C-2" Commercial 2 District to "R-2" Residential 2 District, located at 2510 San Jose Blvd., legally described as Tract 31, Amended SW ¼ of the NE¼, Sec. 18, T22S, R27E**

Yamileth Dorado is the applicant; she joins via virtual meeting. She explains she wants the Zone Change to "R-2" Residential 2 Zoning District so she can place a double-wide on the back of the property for her brother. **Mr. Patterson** states the current zoning for the property is "C-2" Commercial 2 Zoning District, which does not allow residential usage. Floor opened for public comment.

The Motion was made by **Mr. Nesser** and seconded by **Mr. Garcia** to approve. The vote was as follows: **Yes-- Mr. McCormick, Mr. Nesser, Mr. Garcia, Ms. Whitlock, Mr. Cornum.** No--None. Abstained--None; Absent--None. The motion carried.

Mr. Patterson informs the applicant that this will go to City Council at the April 13, 2021 meeting.

1:00:26 **11. Consider a recommendation to Council for a Zone Change request, "C-2" Commercial 2 District to "C-1" Commercial 1 District, located east of 404 Harper St., legally described as Lot 7, Block 1, Bindel #2 Subdivision**

The applicant, **Sally Fernandez**, comes to the podium. She would like to place a double-wide on the property and needs the zone change to "C-1" Commercial 1 Zoning District, which allows it. **Mr. Patterson** states the property is approximately 1 acre, noting the surrounding properties are zoned "C-2" Commercial 2 Zoning District, so this would create a spot zone. However, it is needed for what the

applicant wants to do; and she will retain some commercial uses. The land is currently vacant with some trucks parked there. The Planning staff recommends approval of this request. Floor opened for public comment. **Ramon Florez** comes to the podium. He owns surrounding properties on Harper St., and Wood St. He is concerned with possible noise depending on what she does with the property. **Anna Fernandez** comes to the podium stating she has lived there for many years and has had no problems.

The Motion was made by **Mr. Cornum** and seconded by **Mr. Garcia** to approve. The vote was as follows: **Yes-- Mr. McCormick, Mr. Nesser, Mr. Garcia, Ms. Whitlock, Mr. Cornum.** No--None. Abstaine--None; Absent--None. The motion carried.

Mr. Patterson informs the applicant that this will go to City Council at the April 13, 2021 meeting.

1:14:59 **12. Consider approval of a Variance request to increase the fence height along the front-setback for the property located at 2317 Jackson St., zoned "R-1" Residential 1 District**

Christy Stark, of Cavern City Child Advocacy Center – Foundry Home, joins via virtual meeting. She is requesting a 2' variance on the height of the fence at the location on Jackson St. They provide temporary housing for children placed with them through CYFD, for runaways, and victims of human trafficking. She states they want to provide security and protection and privacy for the residents. **Mr. Patterson** states the location is in "R-1" Residential 1 Zoning District which prohibits fences in the front setback higher than 4'. Based on the purpose of the fence height, the Planning staff recommends approval of this request. **Ms. Stark** clarifies that the fence will be closer to the building and not near the street. Floor opened for public comment. There was none.

The Motion was made by **Mr. Garcia** and seconded by **Mr. Nesser** to approve. The vote was as follows: **Yes-- Mr. McCormick, Mr. Nesser, Mr. Garcia, Ms. Whitlock, Mr. Cornum.** No--None. Abstained--None; Absent--None. The motion carried.

1:19:53 **13. Consider approval of a Variance request to reduce the required rear setback from 10' to 5' for the property located at 2302 Utah St., zoned "C-2" Commercial 2 District**

Oscar Garcia comes to the podium. He states he would like to place a carport in the back of his house, and was told he would need a variance to place it where he wants it. His request is for a 5' rear setback instead of the required 10' rear setback. The property is currently zoned "C-2" Commercial 2 Zoning District. **Mr. Patterson** explains even though it is zoned "C-2" Commercial 2 Zoning District, it is residential in nature; and the resulting 5' setback would be in line with side setback requirements in the City's "R-1" Residential 1 District zoning, which best fits the use of this property. The Planning staff recommends approval of this request. Floor opened for public comment. There was none.

The Motion was made by **Mr. Garcia** and seconded by **Mr. Cornum** to approve. The vote was as follows: **Yes-- Mr. McCormick, Mr. Nesser, Mr. Garcia, Ms. Whitlock, Mr. Cornum.** No--None. Abstained--None; Absent--None. The motion carried.

1:24:52 **14. Consider approval of a Variance request to reduce the required side setback from 5' to 18" for the property located at 919 N. Halagueno St., zoned "R-1" Residential 1 District**

Karla Niemeier comes to the podium. She would like to build a garage in the rear of her house to replace an aging carport, which is currently 18" from the side fence. The footprint will not change. **Mr. Patterson** explains her request, that a variance is needed to give the garage an 18" setback, instead of the 5' side setback required. The Planning staff recommends approval of this request.

The Motion was made by **Mr. Garcia** and seconded by **Ms. Whitlock** to approve. The vote was as follows: **Yes-- Mr. McCormick, Mr. Nesser, Mr. Garcia, Ms. Whitlock, Mr. Cornum.** No--None. Abstained--None; Absent- None. The motion carried.

1:29:47 **15. Consider approval of a Variance request to reduce the required side setback from 5' to 2' for the property located at 704 Southern Sky St., zoned "PUD" Planned Unit Development District**

Sheila Walterscheid comes to the podium. She is the realtor for the sale of 704 Southern Sky St. **Chase Wilbanks** comes to the podium. He is the new owner of the property. **Ms. Walterscheid** is trying to rectify a problem of the previous owners, who built an unpermitted structure in the side setback on the property. The property was sold again noting, but not correcting, the encroachment. She is asking for a 2' side setback instead of the required 5' side setback. **Mr. Wilbanks** notes that if the metal building had the 5' side setback, it would be touching the house; and there is also a tree in the way. If not rectified, the new owner's insurance may not cover them. **Mr. Patterson** explains the previous owner erected the 30' x 10' metal building without obtaining a building permit or securing the Variance. Granting the Variance will satisfy the City's requirements and allow the current owner to insure the building and the property. The Planning staff recommends approval. Floor opened for public comment. There was none.

The Motion was made by **Mr. Nesser** and seconded by **Mr. Cornum** to approve. The vote was as follows: **Yes-- Mr. McCormick, Mr. Nesser, Mr. Garcia, Ms. Whitlock, Mr. Cornum.** No--None. Abstained--None; Absent- None. The motion carried.

1:36:10 **16. Report regarding Summary Review Subdivisions**

Ms. Ortiz states there were quite a few Summary Reviews.

1:38:55 **17. Adjourn**

There being no other business, the meeting was adjourned.

1:38:59 Stop Recording [6:39:52 PM]



Chairman

4-12-21
Date