MINUTES OF THE REGULAR MEETING OF THE

City of Carlsbad Planning & Zoning Commission

Monday, May 3, 2021 at 5:00 p.m.

Meeting Held in the Annex Council Chambers 114 S. Halagueno St.



CITY OF CARLSBAD CARLSBAD, NEW MEXICO

PLANNING AND ZONING COMMISSION

Monday, May 3, 2021 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 April 12, 2021
- 4. Consider approval of a Conditional Use Permit request to allow chickens at the property located at 2406 Legion St., zoned "R-1" Residential 1 District
- 5. Consider approval of a Conditional Use Permit request to allow chickens at the property located at 3314 Joshua Ct., zoned "R-1" Residential 1 District
- 6. Consider approval of a Variance request to allow a 5' rear setback instead of the minimum required 20' rear setback at the property located at 1022 Malibu Way, zoned "R-R" Rural Residential District
- 7. Consider approval of a Variance request to allow a 0' side setback instead of the minimum required 5' rear setback at the property located at 202 N. Lake St., zoned "R-2" Residential 2 District
- 8. Consider a recommendation to Council for a Zone Change request, "C-2" Commercial 2 District to "R-2" Residential 2 District, located at 211 S. Lake St., legally described as Lot 11, Block 101 Stevens Subdivision
- 9. Consider a recommendation to Council for a Zone Change request, "R-1" Residential 1 District to "C-2" Commercial 2 District, located at 2424 Bonita St., legally described as Lot 24 & Lot 25, Block 1, Dickson Terrace Subdivision
- Consider a recommendation to Council for a Zone Change request, "C-2" Commercial 2 District to "C-1" Commercial 1 District, located at 2007 Texas St., legally described as Lot 6A, West Texas Street Replat

- 11. Consider a recommendation to Council for a Zone Change request, "R-1" Residential 1 District to "R-R" Rural Residential District, located at 2315 Iris St., legally described as the S80' of the N150' of the W 140.77' of Lot 6, Block A, Halls Amended Subdivision
- 12. Consider a recommendation to Council of a petition to annex approximately 3.88 acres lying to the east of the intersection of Callaway Dr. & W. Cherry Ln, legally described as Lots 11, 12, 13 & 14, Hemler's Town & Country Estates and approximately 0.59 acres of Right-of-Way (ROW) along Indian Rd. (Carlsbad Out)
- 13. Consider a recommendation to Council for the application of "R-R" Rural Residential District for the properties lying to the east of the intersection of Callaway Dr. & W. Cherry Ln., legally described as Lots 11, 12, 13 & 14, Hemler's Town & Country Estates
- 14. Report regarding Summary Review Subdivisions
- 15. Adjourn

FOR INFORMATION ONLY

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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, June 7, 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 COUNCIL CHAMBERS, 114 S. HALAGUENO STREET, MAY 3, 2021 AT 5:00 P.M.

VOTING MEMBERS PRESENT:

JAMES McCORMICK **BRAD NESSER**

TRENT CORNUM

COMMISSIONER COMMISSIONER

CHAIRPERSON

VOTING MEMBERS ABSENT:

BRIGIDO GARCIA JANELL WHITLOCK

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

DIANA ESQUIBEL E. DESARAE DANIELS **ARTHUR HUTCHINS** DAN MIDDLETON

KAYLA MITCHELL TREVOR FRAY

JAYDEN OTTMAN **EVE OTTMAN** KATHLEEN DAVIS AMANDA MASHAW

ALVIE KINAMAN

JUAN C. CRUZ **CANDACE CRUZ** FRANCISCO B. VEGA

PAUL TRUE

RILEY NEATHERLIN

ERICKA LANEY KIM AVERY WHIT STOREY **AUSTIN WEYANT**

CASSIE TRUE

JORDAN ANDERSEN JOSEPH BANNISTER **CITY ATTORNEY**

CITY **CITY**

414 RUSSELL 3314 JOSHUA CT.

2406 LEGION ST. 108 S. 11TH ST. 202 N. LAKE ST. 2315 IRIS ST.

1280 E. WOOD ST. 1280 E. WOOD ST. 109 N. 3RD ST.

212 N. STEVENS

2313 IRIS

1123 ORTEGA ST. 1123 ORTEGA ST. 2207 W. TEXAS ST. 1022 MALIBU WAY

1304 ALPHA

1514 MISSION AVE. 911 N. MESA ST. 400 N. 2ND ST.

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.

0:00:04 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. Cornum. Absent-- Mr. Garcia, Ms. Whitlock.

0:00:25 2. Approval of Agenda

Mr. Patterson indicates that Item #10 should read 2207 W. Texas St., not 2007 W. Texas as written.

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

0:01:25 3. Approval of Minutes from the regular Meeting held April 12, 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. Cornum. No--None. Abstained--None; Absent-- Mr. Garcia, Ms. Whitlock. The motion carried.

0:01:51 4. Consider approval of a Conditional Use Permit request to allow chickens at the property located at 2406 Legion St., zoned "R-1" Residential 1 District

The applicant, Arthur Hutchins, comes to the podium. Mr. Patterson explains this request is to allow the applicant to keep chickens at his residence, which is zomed R-1 Residential District. This Conditional Use permit would not be transferrable. The applicant would like three chickens, which is the maximum allowed by the Ordinance. The Planning staff recommends approval. Mr. Hutchins explains he would like the chickens for eggs, insect control and waste reduction. Mr. Hutchins states he would like even more chickens if he could; Mr. Patterson explains that would require a Variance, which has not be submitted. Ms. Ortiz received one phone call for clarification from a neighbor; the neighbor has no issue with the Conditional Use for the chickens. There were no other comments.

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

0:07:36 <u>5. Consider approval of a Conditional Use Permit request to allow chickens at the property located at 3314 Joshua Ct., zoned "R-1" Residential 1 District</u>

The applicants, **Desarae** and **Michael Daniels**, come to the podium. **Mr. Patterson** explains the request is to allow up to three chickens at the residence, which is zoned R-1 Residential District. Upon review, the Planning staff recommends approval. **Mr. Patterson** states he did get a phone call and an email from Margarita Sanchez at 3409 Meadowlark Lane in opposition to this request. **Ms. Daniels** explains they would like the chickens to provide insect control and compost for her garden. Floor opened for public comment. There was none.

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

0:11:01 6. Consider approval of a Variance request to allow a 5' rear setback instead of the minimum required 20' rear setback at the property located at 1022 Malibu Way, zoned "R-R" Rural Residential District

The applicants, Cassie True and Paul True, come to the podium. Ms. Ortiz explains this request is for a Variance to allow for a 5' rear setback as opposed to the 20' rear setback required in the R-R Rural Residential Zoning. The applicants would like to place a metal shop within 5' of the rear property line. After review by other departments, the Planning staff recommends approval of a 10' rear setback instead of the 5' rear setback requested. Ms. Ortiz states she received a phone call from the property owner at 4010 S. Doc Holliday, which backs up to the applicants' property, and they would be okay with the 5' setback. She also received a phone call from the owner of the property at 1023 Malibu, and they do not object to the 5' setback. Ms. True explains that they would like to make the most of their space, and this would allow them to extend their patio if they could place the shop nearer the back. Mr. McCormick clarifies that if the shop was to be placed at the 10' setback, the useable space between the patio and the shop would reduce from 23' to 17'. Mr. Cornum asks for clarification on the rear setbacks for R-R Rural Residential Zoning and R-1 Residential Zoning; Ms. Ortiz states R-R Rural Residential Zoning calls for a 20' rear setback and R-1 Residential Zoning calls for 10' rear setback. Floor opened for public comment. There was none. Mr. Nesser asks the applicant if the subdivision is thinking about changing the setback requirement. Ms. Ortiz notes there are quite a few structures placed in the setbacks in that neighborhood.

The Motion was made for approval by Mr. Nesser with the condition that the setback be 10'; and Mr. Cornum seconded the motion. The vote was as follows: Yes--Mr. McCormick, Mr. Nesser, Mr. Cornum. No--None. Abstained--None; Absent-- Mr. Garcia, Ms. Whitlock. The motion carried.

Mr. True asks why can't the setback be cannot be the 5' he requested. **Mr. Nesser** states the setacks are designed to give access to fire and provide protection for the property. **Ms. True** states there is no alley for access anyway. **Mr. McCormick** tells the applicants that their Variance has been approved for a 10' rear setback.

0:23:41 7. Consider approval of a Variance request to allow a 0' side setback instead of the minimum required 5' rear setback at the property located at 202 N. Lake St., zoned "R-2" Residential 2 District

The applicant, **Kayla Mitchell**, comes to the podium. **Mr. Patterson** explains this request is for a Variance to allow a 0' side setback for the property at 202 N. Lake. The applicant has already placed a 10' x 80' metal carport along the north property line. No permit was obtained from the City of Carlsbad Building Department. The City Ordinance states that carports cannot exceed 20' in width and 25' in length. Based on the fact that no permit was obtained and the length of the carport, City staff recommends denial of the request. **Ms. Mitchell** states that she placed the carport to store her boat and motorcycles. **Mr. Nesser** asks about setback for a garage behind the carport; and asks her how long has the garage been there. She states it has been there over 50 years. **Mr. Cornum** asks if the property was ever surveyed. She says no survey was done. **Mr. Patterson** tells the applicant that if the Commission denies her request, the 10' x 80' carport will have to be removed. **Mr. McCormick** asks about drainage off the carport. **Ms. Mitchell** states the rain off the roof goes on her side of the fence. Floor opened for public comment. **Mr. Cornum** asks how long the carport has been in place. **Ms. Mitchell** states it was put up two years ago.

The Motion was made by Mr. Cornum for approval. Mr. Nesser seconds with the condition the carport is never walled in. The vote was as follows: Yes--Mr. McCormick, Mr. Nesser, Mr. Cornum. No--None. Abstained--None; Absent-- Mr. Garcia, Ms. Whitlock. The motion carried.

0:34:36 8. Consider a recommendation to Council for a Zone Change request, "C-2" Commercial 2 District to "R-2" Residential 2 District, located at 211 S. Lake St., legally described as Lot 11, Block 101 Stevens Subdivision

The applicant, **Jordan Andersen**, joins via virtual meeting. **Mr. Patterson** explains this request is for a Zone Change from "C-2" Commercial 2 District to "R-2" Residential 2 District; the applicant would like to continue the residential nature of the property. This zone change would not create a spot zone. The Planning staff recommends approval of this request. **Mr. Andersen** states he needs the zone change in order to sell the house as it cannot be sold with improper zoning. Floor opened for public comment. **Amanda Mashaw** from Century 21 Dunagan & Associates comes to the podium. She states the house is currently for sale; and there are issues with lending and insurance because it is improperly zoned as Commercial.

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

Mr. Patterson informs the applicant that the application for the Zone Change will appear before the City Council at their June 8, 2021 regular meeting.

0:39:36 9. Consider a recommendation to Council for a Zone Change request, "R-1" Residential 1 District to "C-2" Commercial 2 District, located at 2424 Bonita St., legally described as Lot 24 & Lot 25, Block 1, Dickson Terrace Subdivision

The applicant, **Riley Neatherlin**, comes to the podium. **Mr. Patterson** explains this request is for a Zone Change from "R-1" Residential 1 District to "C-2" Commercial 2 District; the properties have been used in a commercial manner for some time; and the properties adjacent to the south are zoned C-2 Commercial 2 as well, so this would not create a spot zone. Planning staff recommends approval of this request. **Mr. Neatherlin** tells the commission that the property has a 5,000 square foot steel frame building that has been used for various commercial purposes for years.

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

The application for the Zone Change will appear before the City Council at their June 8, 2021 regular meeting.

0:42:53 <u>10. Consider a recommendation to Council for a Zone Change request, "C-2" Commercial 2 District to "C-1" Commercial 1 District, located at 2207 Texas St., legally described as Lot 6A, West Texas Street Replat</u>

The applicant, **Francisco Vega**, comes to the podium. **Ms. Ortiz** explains this request is for a Zone Change from "C-2" Commercial 2 District to "C-1" Residential 1 District; allowing for a mixed use of residential and commercial. The property is currently vacant; the properties behind it are zoned R-1; and the C-1 zoning would create a desirable buffer. The applicant would like to use the property as both residential and commercial. The Planning staff recommends approval. **Mr. Vega** explains he works at WIPP and lives in Las Cruces. He will use the property as his business/residence when he is in Carlsbad. **Mr. Cornum** asks if the applicant plans to build on the property; **Mr. Vega** states that he will.

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

Mr. Patterson informs the applicant that the application for the Zone Change will appear before the City Council at their June 8, 2021 regular meeting.

0:47:50 <u>11. Consider a recommendation to Council for a Zone Change request, "R-1"</u> <u>Residential 1 District to "R-R" Rural Residential District, located at 2315 Iris St., legally described as the S80' of the N150' of the W 140.77' of Lot 6, Block A, Halls Amended Subdivision</u>

The applicant, Trevor Fray, comes to the podium. Mr. Patterson explains this request is for a Zone Change from "R-1" Residential 1 District to "R-R" Rural Residential, which would allow for more rural use, including agriculture and animal keeping. He notes the properties to the west are zoned Industrial, and the properties to the north, east and south are zoned R-1 Residential. This would create a spot zone, but it would still be residential in nature and not a direct departure from the use of the property currently. The Planning staff recommends approval of this request. Mr. Fray explains he would like to produce a self-sustaining environment on the property; chicken tending and agriculture. Floor opened for public comment. Alvie Kinaman comes to the podium to state his objections that the applicant is not keeping up with the property as it is now. Austin Weyant comes to the podium in support of the applicant. He is a licensed soil scientist and a licensed compost expert with NMED. He states that he has reviewed the applicant's current agriculture plan and it meets all the NCRS, solid waste and state guidance; noting that the compost pile is well managed. Stephanie Davis comes to the podium and states that the applicant keeps up very well with the land; she is part of the Farmer's Market and looks forward to having more local farmers and growers involved. She is in favor of the zone change. Whit Storey comes to the podium. He states he is in favor of the zone change request; has visited the property numerous times and says it is kept up very well. Mr. Kinaman comes to the podium again to say that City Hall was called several times about the dog waste in the yard that hadn't been cleaned up in over a year. Mr. Cornum asks if it is a specific issue of dog waste. Mr. Kinaman said Animal Control was called and told them to clean up the yard. Mr. Fray responds that he cleaned up the yard, but in doing so he noticed other fecal matter from the feral cat population that was contributing. Everything has been cleaned up. Mr. Nesser asks the applicant how many chickens he has; Mr. Fray says he has eight chickens.

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

Mr. Patterson informs the applicant that the application for the Zone Change will appear before the City Council at their June 8, 2021 regular meeting.

1:00:18

12. Consider a recommendation to Council of a petition to annex approximately
3.88 acres lying to the east of the intersection of Callaway Dr. & W. Cherry Ln, legally described as
Lots 11, 12, 13 & 14, Hemler's Town & Country Estates and approximately 0.59 acres of Right-ofWay (ROW) along Indian Rd. (Carlsbad Out)

The applicant, **Joseph Bannister**, joins via virtual meeting. **Mr. Patterson** explains this request for Annexation of the properties into the City of Carlsbad. The Planning Dept. recommends approval of this request with the condition that an annexation plat is submitted to the Planning office before the request is heard by the City Council. **Mr. Bannister** states he and his neighbor noticed the City putting in sewer

lines along Cherry Lane and thought this would be a good time to tap into the sewer. Floor opened for public comment.

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

Mr. Patterson informs the applicant that the application for the Annexation will appear before the City Council at their June 8, 2021 meeting.

1:05:54

13. Consider a recommendation to Council for the application of "R-R" Rural Residential District for the properties lying to the east of the intersection of Callaway Dr. & W. Cherry Ln., legally described as Lots 11, 12, 13 & 14, Hemler's Town & Country Estates

The applicant, **Joseph Bannister**, joins via virtual meeting. **Mr. Patterson** explains this request is to apply R-R Rural Residential Zoning to the properties in the previous item, as part of the Annexation action. This is the zoning that is normally applied to properties that are annexed at the edge of the City's boundary. It fits with the use and lifestyle that the owners have previously enjoyed. The Planning Dept. recommends approval. **Mr. Bannister** confirms that is the zoning he wants for his property.

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

Mr. Patterson informs the applicant that the application for the Zone Change will appear before the City Council at their June 8, 2021 meeting.

1:08:45 14. Report regarding Summary Review Subdivisions

Ms. Ortiz gives a report on the Summary Reviews.

1:12:51 **15.** Adjourn

There being no other business, the meeting was adjourned.

1:12:55 Stop Recording [6:15:04 PM]

Jan Me Chairman

6-7-21 Date