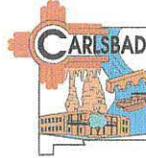


MINUTES OF THE REGULAR MEETING OF THE

**City of Carlsbad
Planning & Zoning Commission**

Monday, June 7, 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, June 7, 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 May 3, 2021
4. Consider approval of a Variance request to build a wall 12' in height as opposed to the maximum 4' allowed height within the required front setback at 1102 Miehl's Dr., zoned "R-1" Residential 1 District.
5. Consider approval of a Conditional Use Permit request to allow a Home Occupation – Personal Service (salon) to operate at 1204 W. Fox St., zoned "R-2" Residential 2 District.
6. Consider approval of a Variance request to reduce the required side setback from 5' to 2' at 1307 W. Howard St., zoned "R-1" Residential 1 District.
7. Consider approval of the Final Plat for the Cornum Subdivision, creating 9 new residential lots for development, located on Peach Lane, zoned "R-1" Residential 1 District.
8. Report for the Final Plat and development approval for Martin Farms Subdivision Unit 3.
9. Report regarding Summary Review Subdivisions
10. 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, July 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 COUNCIL CHAMBERS,
114 S. HALAGUENO STREET, JUNE 7, 2021 AT 5:00 P.M.**

VOTING MEMBERS PRESENT:

**JAMES McCORMICK
BRAD NESSER
TRENT CORNUM**

**CHAIRPERSON
COMMISSIONER
COMMISSIONER**

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:

**RON MYERS
RAY BENAVIDEZ
DENISE MADRID BOYEA
CHARLIE GARCIA
DEBRA BISCAINO
THEODORA MARTINEZ
PHIL PALMA
CHARLA PALMA
BILL JACKS
VALERIE JACKS
GLEN GRIFFITH
JOHN CUNNINGHAM
ANNA VIGIL**

**DIRECTOR OF UTILITIES
CERTIFIED BUILDING OFFICIAL
CITY ATTORNEY
CITY
1206 W. FOX
1206 W. FOX
1102 MIEHLS DR.
1102 MIEHLS DR.
MIEHLS DR.
MIEHLS DR.
1207 MIEHLS DR.
1307 W. HOWARD
*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 [5:02:26 PM]**

0:00:08 **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.**

0:00:32 **2. Approval of Agenda**

Mr. Patterson tells the Board that Commissioner Cornum is the applicant for Item #7; which means he would recuse himself; and his item may have to be tabled due to lack of a quorum.

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.

0:01:30 **3. Approval of Minutes from the regular Meeting held May 3, 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.

0:02:15 **4. Consider approval of a Variance request to build a wall 12' in height as opposed to the maximum 4' allowed height within the required front setback at 1102 Miehls Dr., zoned "R-1" Residential 1 District.**

The applicant, **Phil Palma**, comes to the podium. **Mr. Patterson** explains this request is to consider approval of a Variance request to build a wall 12' in height as opposed to the maximum 4' allowed height within the required front setback at 1102 Miehls Dr., zoned "R-1" Residential 1 District. **Mr. Patterson** states the applicant has already constructed most of the wall; however, there are no permits pulled through the Building Dept; and no engineered plans were submitted. **Mr. Patterson** states the applicant plans to place a swimming pool and pool house within the walled area, and has provided drawings of the proposed project. The Planning staff recommends denial of this request. **Mr. Palma** states he came to the City to ask if he needed a permit for this work and was told no by an inspector twice that he did not need a permit for the fence. **Mr. Palma** stated that when finished he would provide plans for the pool and addition and would get a permit then. He states he would not have proceeded without knowing it was covered. He states he was visited recently by an inspector and City personnel and asked if he had a permit. He told them he did not and they told him to stop work. He informed them he was told he did not require a permit as per a City inspector. He clarifies that Inspector Rubio was the inspector who told him he did not need a permit. **Mr. McCormick** tells Mr. Palma that the issue now is the Variance to the fence height. **Mr. Cornum** asks if the City of Carlsbad Certified Building Official Ray Benavidez knows if Inspector Rubio did in fact tell Mr. Palma he did not need a permit. **Mr. Palma** states that Inspector Rubio would testify to this. **Mr. Patterson** spoke to Inspector Rubio and he does not agree with Mr. Palma. **Mr. McCormick** asked what the distance from the street to the fence is. **Mr. Palma** states it is 30' from the street. It does not obstruct view. **Mr. Nesser** asks about why it is 12' tall. **Mr. Palma** said because of the pool he would need to build a retaining wall to hold fill because he is on solid rock. The pool would have to be 8' deep. **Mr. Nesser** asks once the pool is installed, how tall would the fence be on the inside. **Mr. Palma** says between 3.5 - 4'. Floor opened for public comment. **Bill Jacks** comes to the podium. He is the next door neighbor and his concern was that part of what is holding up the wall is on his property. He states it does block his view of the corner, but not obstruct view of traffic or his driveway. He is against it being so tall -- maybe 8' or 9' would be more acceptable. **Valerie Jacks** comes to the podium. She states that one day they just saw the wall going up; when the City came to talk to her about it she was told there was no permit for it. She is concerned about safety; and now she is concerned about another building going up in the enclosure which will further obstruct her view. She states this wall does obstruct the view now and may impact her property value. **Mr. Cornum** asks about the construction of the fence and finished height of the fence. **Mr. Palma** states it is ICF blocks and is at finish height now. **Glen Griffith** comes to the podium; he lives across the street at 1207 Miehls. He states that the wall does not fit with the neighborhood. He states it has been an eyesore for over a year now. **Mr. Palma** says he is not building an eyesore; further if it is finished by end of the year he will put house on the market. **Mr. Patterson** says engineered plans for any wall over 7' are required by the City, and Mr. Palma would need to provide these building plans and apply for a permit. Being that it is already built, the inspector would have to rely on the plans only for approval. **Mr. Palma** says he will do whatever he has to do or submit what is needed for plan approval. **Mr. Patterson** tells the Commissioners that the variance and the building

permits are two different matters; the variance could be approved, then the building permits may or may not be approved. **Mr. Palma** says he will submit engineered drawings for what is already in place. **Mr. Benavidez**, City of Carlsbad Certified Building Official, tells the Commission that it would be up to the engineer who puts his stamp on it, if the design and construction as it is now is approvable. **Mr. Nesser** asks **Mr. Patterson** if Building Code requires a 6' fence around swimming pools; if it does, additional fencing would be required on top of the 12' wall. **Mr. Nesser** tells **Mr. Palma** most pools now are 3.5' deep for safety and insurance reasons. **Mr. Palma** states he is open to some change, but not willing to tear anything down. He states again he was misinformed and has thousands of dollars already in this. He has 5-6' of concrete poured into the blocks at this point. **Mr. McCormick** reminds **Mr. Palma** if this variance request is denied, he can appeal it at City Council.

The Motion was made by **Mr. Nesser** and seconded by **Mr. Cornum** for denial. 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 tells **Mr. Palma** if he would like to appeal he must write a letter addressed to him or the City Administrator within 15 days stating he wants to appeal the Planning & Zoning Commission decision.

0:43:20 **5. Consider approval of a Conditional Use Permit request to allow a Home Occupation – Personal Service (salon) to operate at 1204 W. Fox St., zoned “R-2” Residential 2 District.**

The applicant, **Anna Vigil**, joins via virtual meeting. **Mr. Patterson** explains the request is to allow a salon to operate at 1204 W. Fox St, which is zoned R-2 Residential. The Planning staff recommends approval of the Condition Use Permit to allow a Personal Service (Salon) with the following conditions: The applicant shall confirm the number of employees for the business, should be limited to one employee; The applicant shall submit an Encroachment Permit application for the off street parking in the public ROW, and surface this parking with appropriate materials; The applicant shall confirm that the property owner and business operator live at this location as their primary residence. **Ms. Vigil** responds that she did not know that only one employee was all she could have, or that she had to be the owner of the property. She does not live at the property. **Mr. McCormick** reminds her of the conditions required. She states that it is her son's property. **Mr. Patterson** tells her that because the property is in her family, it can be considered. **Mr. Cornum** asks her about the other requirements for this permit. **Mr. Patterson** reminds her the Ordinance states that the employee limit is one; and that would be a non-resident employee. Floor opened for public comment. **Debra Biscaino** comes to the podium. She states that her mother, who is elderly, lives next door and has for 40 years. There is a lot of traffic, including City traffic going and coming from Public Works. She is worried about for the increase in traffic when it is already very busy. Floor closed for public comment. **Mr. McCormick** asks about the requirement regarding business hours. **Mr. Patterson** replies the Ordinance states that the home occupation cannot appear as commercial; and cannot stand out from the neighborhood; keeping the nature of the neighborhood the same.

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

Mr. Patterson informs her if she wants to appeal this decision to City Council, she must write a letter addressed to him within 15 days.

0:59:28 **6. Consider approval of a Variance request to reduce the required side setback from 5' to 2' at 1307 W. Howard St., zoned “R-1” Residential 1 District.**

The applicant, **John Cunningham**, come to the podium. **Mr. Patterson** explains this request is for a Variance to allow for a 2' rear setback as opposed to the 5' side setback required in the R-1 Residential Zoning. The applicants would like to place a 20' x 20' metal storage within 2' of the side property line. After review by other departments, the Planning staff recommends approval of this request. **Mr. Cunningham** states he has an existing structure that is 12' x 14'; he has already poured concrete for the new metal building. He has received no feedback from his neighbors. He will obtain the proper building permit from the Building Dept.

The Motion was made for approval by **Mr. Cornum**; and **Mr. Nesser** 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.

1:05:06 **7. Consider approval of the Final Plat for the Cornum Subdivision, creating 9 new residential lots for development, located on Peach Lane, zoned "R-1" Residential 1 District.**

No Quorum

1:06:10 **8. Report for the Final Plat and development approval for Martin Farms Subdivision Unit 3.**

Mr. Patterson gives the update for Martin Farms Subdivision Unit 3. After the walk-through and satisfying the punch list, the City now will accept the infrastructure.

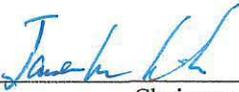
1:07:22 **9. Report regarding Summary Review Subdivisions**

Mr. Patterson and **Ms. Ortiz** give a report on the Summary Reviews.

1:14:10 **10. Adjourn**

There being no other business, the meeting was adjourned.

1:14:14 Stop Recording [6:15:04 PM]



Chairman



Date