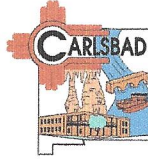


MINUTES OF THE REGULAR MEETING OF THE

**City of Carlsbad
Planning & Zoning Commission**

Monday, February 6, 2023 at 5:00 p.m.

**Meeting Held in the Janell Whitlock Municipal Complex Council Chambers
114 S. Halagueno St.**



PLANNING AND ZONING COMMISSION
Monday, February 6, 2023 at 5:00 PM
Janell Whitlock Municipal Complex Council Chambers
114 S. Halagueno Street
GoToMeeting ID: 236-525-389
US Phone: (646) 749-3122 Access Code: 236-525-389

1. Roll call of voting members and determination of quorum
2. Approval of Agenda
3. Approval of Minutes from the Meeting held January 9, 2023
4. Consider approval of a Conditional Use Permit to allow a Community Services Center for the property located at 2314 W. Vermont St., zoned "R-1" Residential 1 District zoning
5. Consider approval of a Conditional Use Permit to allow Retail Sales & Service – Neighborhood Scale for the property located at 4008 Cowboys Country Rd., zoned "R-R" Rural Residential District zoning
6. Consider approval of a Variance to allow a 5' side setback for the property located at 501 Grazer Ln., zoned "R-1" Residential 1 District zoning
7. Report regarding Summary Review Subdivisions
8. 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, March 6, 2023 at 5:00 p.

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 JANELL WHITLOCK MUNICIPAL COMPLEX
COUNCIL CHAMBERS,
114 S. HALAGUENO STREET, FEBRUARY 6, 2023 AT 5:00 P.M.**

VOTING MEMBERS PRESENT:

**JAMES MCCORMICK
BRAD NESSER
TRENT CORNUM
LINDA WILSON
VALERIE BRANSON**

**CHAIRPERSON
COMMISSIONER
COMMISSIONER
COMMISSIONER
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:

**CHARLIE GARCIA
DENISE MADRID BOYEA
SHAMROCK P. HALL
SHERRY REDDING
DORIS HOLLAND
DAVID R. LOZANO
WOODS HOUGHTON
CINDY HOUGHTON
ROBYN THORP
JIM HOLLEN
DANIEL KIRKES
ASHLEE KNIGHT
JASON KNIGHT
CHRISTIAN LUNA
BHAKTI SALIAN
DINESH KUMAR PARMAR
JOHN BOWEN
ROSA LOMAX
MARIA BADGETT**

**CITY
CITY ATTORNEY
2321 MISSOURI ST.
2321 MISSOURI ST.
503 GRAZER LN.
1903 N. WALTERSCHEID
4421 HARMON
4421 HARMON
1801 PEARL
704 SPYGLASS
921 EDWARDS
4008 COWBOYS COUNTRY
4008 COWBOYS COUNTRY
1211 W. ROSE ST.
501 GRAZER LN.
CARLSBAD
1129 TRACY PL.
209 S. MESQUITE ST.
209 S. MESQUITE 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 [5:00:49 PM]

0:00:05 **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, Ms. Wilson, Ms. Branson.** Absent—None.

0:00:18 **2. Approval of Agenda**

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, Ms. Wilson, Ms. Branson.** No—None. Absent—None. Abstained—None. The motion carried.

0:00:58 **3. Approval of Minutes from the regular Meeting held January 9, 2023**

Mr. Nesser made a motion to approve the Minutes from the regular meeting held on January 9, 2023; **Ms. Wilson** seconded the motion. The vote was as follows: **Yes—Mr. McCormick, Mr. Nesser, Mr. Cornum, Ms. Wilson, Ms. Branson.** No—None. Absent—None. Abstained—None. The motion carried.

0:01:43 **4. Consider approval of a Conditional Use Permit to allow a Community Services Center for the property located at 2314 W. Vermont St., zoned “R-1” Residential 1 District zoning**

The applicant, **David Lozano** and **Robyn Thorp**, come to the podium. **Mr. Patterson** explains the request is to allow a Community Services Center at the property which is zoned R-1 Residential 1 District; requiring a Conditional Use Permit. The applicant plans to build a 60' x 30' metal building, with parking for about 25 vehicles. They will host support meetings for the recovery community. This item was considered at the December 5, 2022 meeting and failed to gain approval. It was appealed at the December 12, 2022 (Correct date is January 10, 2023) City Council meeting; City Council remanded it back to the Planning & Zoning Board. **Ms. Thorp** states the building they are planning will host 12-step recovery groups – 5 days a week from 7-8 p.m. They would also have other gatherings and allow other groups to have their meeting there as well. They would provide information on all the services available in town. She states they have listened to the concerns of neighbors, such as about the foot traffic, for which they would put up a fence. For parking they have the permission to use the church across the street for overflow. **Mr. McCormick** tells her the Conditional Use permit is only for this owner, and would not transfer to the next owner. Floor opened for public comment. **Ms. Shamrock Hall** comes to the podium stating she has lived at 2321 Missouri St. for 21 years. The southeast corner of her property abuts the northwest corner of the subject property. She states that 2319 Missouri is a known drug house; there have been many arrests for meth and fentanyl as well as a murder/dismemberment. She is all for getting people clean but does not want this next to her property, citing that the current zoning is R-1, which is residential for single family homes. **Ms. Thorp** states she has heard the concerns, and they will move the children's play area from the back to the front of the property. She states they were offered a property on Howard St., and felt it was too far outside city limits. They typically have 12-20 people and hope that will grow; having attendees from other recovery groups in town. **Sherry Redding** comes to the podium to ask how many people are going to come to the center for these meetings and how much traffic will come through the neighborhood. **Ms. Thorp** states her hope that if people can't make the evening meeting, they can come to the noon meeting. **Ms. Redding** states she is scared it will turn into more and more traffic and people. **Ms. Thorp** states they will not allow people to hang out after the meetings end at 8 p.m. Not all meetings meet every day; some only once a week. There will be no late meetings. **Maria Badgett** comes to the podium. She is lifelong Carlsbad resident and he has been sober for 3 years. She works at Lifehouse

and takes those clients to these meetings. She states with a permanent building they will always have child care. These meetings have given her a life and allow her to maintain her sobriety as a single mother. **Mr. McCormick** asks about Conditional Permit Renewal. **Mr. Patterson** informs **Mr. McCormick** that the Conditional Use Permit does not have to be renewed; but the commission can place a time or term limit on the permit and then re-review it. Then the property owner would have to renew it. **Ms. Hall** asks if there are problems, what could they do? **Mr. McCormick** states they would take their concerns to the City and report it. **Mr. Nesser** asks **Mr. Lozano** what type of fence will he be building. **Mr. Lozano** replies it will be a metal fence and he has already asked about the permit. **Mr. Nesser** asks when the building be finished. **Ms. Thorp** states it will be done in six months. **Mr. McCormick** states that the Conditional Use Permit could be null and void if the guidelines are not followed.

Mr. Cornum made a motion for approval; **Mr. Nesser** seconded the motion. The vote was as follows: Yes--**Mr. McCormick, Mr. Nesser, Mr. Cornum, Ms. Branson.** No— **Ms. Wilson.** Absent—None. Abstained—None. The motion carried.

Mr. Patterson states that if anyone wants to appeal this decision, they have 15 days to submit a letter to his office and he will schedule that appeal to go before City Council.

0:41:14 **5. Consider approval of a Conditional Use Permit to allow Retail Sales & Service – Neighborhood Scale for the property located at 4008 Cowboys Country Rd., zoned “R-R” Rural Residential District zoning**

The applicant, **Ashlee Knight**, comes to the podium. **Mr. Patterson** explains her request is to allow retail sales and service at her residence. She has built a shop behind her house and would like to have pop-up sales; she has plenty of space for parking. Upon review from city staff, the Planning Dept. is recommending denial of this request. He states the reason is this is in the middle of a residential neighborhood and there would be an increase in traffic. **Ms. Knight** states she sells wreaths, wine glasses and freshies, and would like to have the pop-up sales about three times a year on a Saturday. They have poured more concrete to make even more parking space. **Mr. Patterson** states that restrictions could be placed by the Commission on the Permit for the frequency of the sales.

Ms. Wilson made a motion for approval without restrictions; **Mr. Cornum** seconded the motion. The vote was as follows: Yes--**Mr. McCormick, Mr. Nesser, Mr. Cornum, Ms. Wilson, Ms. Branson.** No— None. Absent—None. Abstained—None. The motion carried.

0:47:40 **6. Consider approval of a Variance to allow a 5’ side setback for the property located at 501 Grazer Ln., zoned “R-1” Residential 1 District zoning**

The applicant, **Bhakti Salian** and **Dinesh Parmar**, come to the podium. **Mr. Patterson** explains this request is for a Variance to allow a 5’ side setback as opposed to the minimum 7.5’ required side setback at the property at 501 Grazer, zoned R-1 Residential 1 District. The applicant has applied for a permit to complete an addition at the existing structure. The applicant has constructed a second story on the property, which requires a 7.5’ side setback. The building permit on record does not show plans for a second story to be constructed. That permit has expired effective 11/13/2022. There are currently permits issued (1/31/2023) for the electrical work and plumbing/mechanical work; however work has taken place at the property before these permits were applied for and issued. The project remains unfinished. Upon internal review of this item, the Planning Dept. recommends denial of this request. **Ms. Salian** states she and her family moved to Carlsbad in 2019 and they purchased the biggest house available from Corrales Construction, with the intention of enlarging it. They submitted a permit application for the extension with her father doing the plans and the construction. Ray Benavidez, the City Building Official at that time, approved the permit with a 5’ setback. She states they were not informed of a 7.5’ setback. She states in November 2022 they received a call from Nick Sullivan, the current City Building Official, that their permit was expiring and would need to be renewed. He informed her that the setback needed to be 7.5’. She states she was never told that. She states that she was misguided by the City on the 7.5’ setback,

and that Mr. Benavidez would vouch for her, as she has saved text messages from that time. She states he had made numerous visits to the house for inspections. She states the plumbing, mechanical and electrical inspections were done as well; and now the City is asking them for those reports. She states the City must have made a mistake, but now it needs to be taken care of. **Mr. McCormick** asks **Ms. Salian** if the original permit was for a 2-story addition. She states the house was originally two stories, and the plans for the addition were also 2-story, showing a staircase to the second story. She states Mr. Benavidez encouraged expanding their ideas for an addition because there was plenty of room for it. **Mr. Cornum** asks the applicant the distance between her house and the neighbor's house, for fire safety concerns. **Mr. Parmar** states it is 10' from the fence to the neighbor's house. **Mr. Cornum** asks **Mr. Patterson** if the site plan and the building plans showing the 2-story addition were submitted and approved by the City. **Mr. Patterson** says Mr. Benavidez does not remember; and whatever was submitted is included in the packet. If anything else was submitted to Ray Benavidez, it cannot be located. **Ms. Salian** states Mr. Benavidez has walked the property many times over 1-1/2 years since they pulled the original permit. She states they wanted a poly-carbon roof, but they were told to use shingles. She states in addition to Mr. Benavidez and City inspectors walking on the second story, so did George Dunagan. **Mr. Parmar** states they did what they were told by Mr. Benavidez. **Ms. Salian** states she doesn't understand why if the house was already 2 stories it should have had a 7.5' setback. **Mr. Parmar** states their plans were clear and they did the things they could. Floor opened for public comment. **Doris Holland** comes to the podium. She states she lives next door at 503 Grazer. She has a letter signed by eleven neighbors in opposition to the variance and photos of the progress. She states she was told by **Mr. Parmar** that the addition would not be 2-story. The condition of the house has been unfinished for 1-1/2 years. The balcony on the second floor that they added is only 32" from the block wall dividing their properties. She states her fear is that if their house catches fire, that her house will too. She states they have added over 1,000 sq. feet to the house and there was no permit for a second floor. She states they have had the permit for 2 years and the property has remained in disarray and looks horrible. She states she reached out to the City, and they told her it was permitted wrong, and that the setback should have been 7.5'. She states there should have been a stop-work order placed when the City realized they were adding a second story, and there was not. The addition now degrades the integrity of the subdivision. She states it may affect the value of her house. She states she called the City and George Dunagan, who is in charge of the covenants for the subdivision, when the applicant put poly-carbon on the roof and they were instructed to use shingles. She states now there is just tar on the roof, no shingles. She states the applicants used T-111 siding on the addition; and were told they had to use stucco; but this has not been done. She again states the condition of the house is horrible. She and her neighbors feel they have lost all privacy; she has no privacy whatsoever in her backyard because of the second story balcony overlooking her property. She states she cannot use her above ground pool because **Mr. Parmar** stares at her the entire time from that balcony he has built. She states the neighbors behind had to put up a wall to shield their sliding glass door because he can see right into their house. She states when the wind blows, all the construction debris blows into her yard and she has to pick it up and put it into bags; sometimes she throws it back over into their yard. **Mr. Cornum** asks **Ms. Holland** when the photos were taken. She states they were taken last week and one neighbor took a Tik-tok video which is on her phone. **Ms. Salian** comes to the podium to say that the things said against her father were highly disrespectful. She states her house is not horrible. She states she was told to stop the work by Mr. Sullivan, the City Building Official. She was not told that there was a time limit on the building permit. She is wanting to get curtains in the windows in the living room; and was not aware of a limit on the number of windows. She states her father can do anything he wants in her house. She states she also has men looking at her when she is on her deck. She states she was told by a neighbor that not everyone accepts diversity. She states she is open to make any fixes to the house, but the humiliation regarding her father is too much to take. She states Mr. Dunagan told them about the required color for the shingles, but it has taken 3-1/2 months. She states she had asked Mr. Benavides if they are doing something wrong and he said no. She asks what can be done now. She states they would like to have inspections as the work has been done over a year ago. **Mr. Parmar** speaks but he is too far from the microphone to be heard on the recording. **Mr. Patterson** tells **Mr. Parmar** that homeowners can do certain things, but plumbing, mechanical and electrical must be done by certified contractors, who pull the permits for the work and request those inspections. **Ms. Salian** states they trusted the representative from the City and they did nothing without his guidance. She states that once

the stucco and roof are done it will be very beautiful and will add to the value of the other homes. **Mr. Cornum** asks if once the permit is approved, when would construction begin and when would it end. **Ms. Salian** asks if that includes the interior or the exterior. **Mr. Cornum** asks her again when would the construction be complete and they obtain a certificate of occupancy. **Ms. Salian** replies a maximum of three months, and possibly before that. She states they are ready for some inspections, and that it is the roof and the stucco are all that need to be done. **Mr. Cornum** states the City has granted many variances on setbacks that are closer than that for fire safety issues. He states his biggest concern is not fire safety, but simply getting it done. **Mr. Nesser** asks **Mr. Patterson** if the plumbing, mechanical and electrical permits were accompanied by a floor plan for the second story. **Mr. Patterson** states that he has not seen plans that were used to pull those permits; they were submitted in January of this year. He clarifies that City inspectors still have to go and inspect the plumbing, mechanical and electrical work that has already been done. He states that things may have to be uncovered for the inspectors, and that may take some time, and that may affect their time to get this finished. **Mr. Nesser** asks if there is a plan submitted for the second story addition. He states the original construction of the two story house had a 9.5' side setback. It is the addition that doesn't have the correct setback. He states that if Mr. Benavidez did not receive a second floor plan, he was looking at a single story addition. **Mr. Cornum** states the house was a two story from the beginning; and the permit for the addition was clearly approved with a 5' setback by the City. **Ms. Salian** states she would have not known about setbacks, it was approved by Mr. Benavidez, who they trusted. **Mr. Cornum** asks **Ms. Holland** if she would be satisfied if the house was completely 100% finished in 3 months; or is the issue the setback. **Ms. Holland** states if that upper balcony walkway was taken down, she would be okay with that because it is only 32" from her property line. She understands that Mr. Benavidez did not do his job regarding the setback. She states she would be happy if the house was absolutely complete in 3 months and the balcony removed. She states there was no permit for the second story addition. For clarification, **Mr. Cornum** asks **Mr. Patterson** if there was any plans submitted for a second story addition. **Mr. Patterson** confirms he has been unable to locate anything beyond what is included in the packet provided. **Ms. Salian** states that the balcony is not 32" but 24", and Mr. Benavidez approved it. She states she is willing to take off the balcony along the sides, but not in the front. She asks if this removal would have to be done in the 3 months. She states she will consider it. She says she will finish the roof and the stucco and then think about the balcony. **Mr. Cornum** proposes he would like to see the 24" balcony gone and 100% completion of the construction in four months. **Mr. Patterson** suggests the way to do this is to have the commission request to hear this item again at the June or July commission meeting; have the applicant appear and answer whether or not the building is finished. **Mr. Patterson** clarifies to **Ms. Salian** that the commission approves the variance with the compromise that the 24" deck along the east side come off, that work begins with proper permitting, the entire job is finished, and they report back at the July meeting with a certificate of occupancy from the City. **Ms. Salian** says she will comply. **Mr. Nesser** clarifies that she understands the balcony will have to cut off to the end of the deck. **Ms. Ortiz** reminds the commission that any stipulation or condition be clearly stated. Public comment is closed. **Ms. Ortiz** states they need to be very clear on the conditions, such as how much of the balcony is to be removed and that the applicants be scheduled to appear in front of the commission at the July meeting; so they can be very clear on what they are voting on.

Mr. Cornum makes a motion for approval of the variance with these conditions: the eastern most side of the house be made flush all the way north and south; and that the construction is 100% complete with a certificate of occupancy issued by the City Building Dept. before the July 2023 Planning & Zoning Commission Meeting; that is on July 10, 2023. That includes all necessary permitting, all necessary inspections, and all necessary final permitting to receive the certificate of occupancy. **Ms. Wilson** seconded the motion. The vote was as follows: **Yes with the stated conditions--Mr. McCormick, Mr. Nesser, Mr. Cornum, Ms. Wilson, Ms. Branson.** No—None. Absent—None. Abstained—None. The motion carried.

Mr. McCormick asks if the applicant understands these conditions and that they have to come back in July. He states the potential downside is that they would have to move their house to comply with the 7.5' side setback.

1:44:04 7. Report regarding Summary Review Subdivisions

Mr. Patterson gave a report on the Summary Reviews. Nothing unusual was noted.

1:46:16 8. Adjourn

The meeting was adjourned.

1:46:21 Stop Recording [6:47:10 PM]



Chairman

3-6-23

Date