

CITY OF CARLSBAD
CARLSBAD, NEW MEXICO

AGENDA

PLANNING AND ZONING COMMISSION
REGULAR MEETING

Monday, October 6, 2014 at 5:00 PM

Municipal Building 101 N. Halagueno Street
Planning Room (Second Floor)

1. Roll call of voting members and determination of quorum.
2. Approval of Agenda.
3. Approval of Minutes from the Regular Meeting held September 8, 2014.
4. Consider a recommendation regarding a zoning change from "C-2" Commercial District to "R-2" Residential District for an approximately 0.54 acre area, located at 1210 W. Mermod St., legally described as Greene's Highland, Block 4, Lot 6, and Gibsons Subdivisions, Block 4, Lot 8 E1/2, and Gibsons Subdivision, Block 4, Lot 8 W1/2, pursuant to Section 3-21-1 et. Seq. NMSA 1978 and Sections 56-150(b) and 56-140(j), Carlsbad Code of Ordinances.
5. Consider a request for an Appeal (variance) from Section 56-90(b) to allow a front-yard setback variance of 30', which would result in a 0' front-yard setback at 2409 W. Missouri St., legally described as Sharp Subdivision, Block A, Lot 9, zoned R-1 Residential District.
6. Consider a request for an Appeal (variance) from Section 56-90(b) to allow a front-yard setback variance of 30', which would result in a 0' front-yard setback at 912 Albert St., legally described as Carter Subdivision Unit 3, Block 16, Lot 14, zoned R-1 Residential District.
7. Report regarding plats approved through Summary Review process.
8. Adjourn.

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

Agenda Item #1: Roll Call of Voting Members and determination of Quorum

Agenda Item #2: Approval of Agenda

#3 Approval of Minutes from Previous Meeting

MINUTES OF THE REGULAR MEETING OF THE

**City of Carlsbad
Planning & Zoning Commission**

September 8, 2014, at 5:00 p.m.

Meeting Held in the Planning Room

CITY OF CARLSBAD
CARLSBAD, NEW MEXICO

AGENDA

PLANNING AND ZONING COMMISSION
REGULAR MEETING

Monday, September 8, 2014 at 5:00 PM

Municipal Building 101 N. Halagueno Street
Planning Room (Second Floor)

1. Roll call of voting members and determination of quorum.
2. Approval of Agenda.
3. Approval of Minutes from the Regular Meeting held August 4, 2014.
4. Consider recommendation regarding the Annexation of an approximately 15.89 acre parcel located at the north end of Kevil Road, legally described as part of the W1/2 of the NE1/4 of the SW1/4 of Section 1, Township 23 South, Range 26 East, N.M.P.M., Eddy County, New Mexico, pursuant to the petition method as provided for in Section 3-7-1 et. Seq. NMSA 1978. (Tabled from the 8/4/14 meeting).
5. Consider recommendation regarding the Establishment of Planned Unit Development (PUD) zoning of an approximately 15.89 acre parcel located at the north end of Kevil Road, legally described as part of the W1/2 of the NE1/4 of the SW1/4 of Section 1, Township 23 South, Range 26 East, N.M.P.M., Eddy County, New Mexico. (Tabled from the 8/4/14 meeting).
6. Consider recommendation regarding a request for Temporary Housing as a Temporary Use at 3412 Hidalgo Rd., zoned "R-R" Rural Residential District, in accordance with Sec. 56-80 and as approved by the City Council 10/22/13. (Tabled from 8/4/14 and subsequently withdrawn by applicant).
7. Consider request for an Appeal (variance) from Section 56-90(b) to allow a side-yard setback variance of 5' from the north side property line, which would result in a 0' side-yard setback at 203 S. Tenth St., zoned R-1.
8. Consider request for an Appeal (variance) from Section 56-90(b) to allow a side-yard setback variance of 5' from the western property line, which would result in a 0' side-yard setback at 810 Latrobe Dr., zoned Planned Unit Development (PUD).
9. Consider request for an Appeal (variance) from Section 56-90(b) to allow a front-yard setback variance of 30', which would result in a 0' front-yard setback at 912 Albert St., zoned R-1.
10. Consider recommendation regarding the request allowing Temporary Housing as a Temporary Use at 1100 W. Fox St., legally described as Greene's Highlands Subdivision, Block 6, Lots 2, 4, 6, and 8, zoned R-2, in accordance with Sec. 56-80 and as approved by the City Council 10/22/13 and as revised on 8/12/14.
11. Consider recommendation regarding a Zoning Change from "R-1" Residential District to "C-2" Commercial District for an approximately 0.88 acre parcel, located at 1105 N. Pate St., legally described as Beg NW COR, Cavern Subdivision, N05 DEG 15'W 291.60', S61 DEG 36'W 208.93', S02 DEG 07'W 191.92', N89 DEG 42'W 150' to POB, pursuant to Section 3-21-1 et. Seq. NMSA 1978 and Sections 56-150(b) and 56-140(i), Carlsbad Code of Ordinances.
12. Consider request for an Appeal (variance) from Section 56-70(d)(5)(d) to allow a 4' tall perimeter fence instead of the maximum allowed 3' at 1107 W. Country Club Circle, zoned R-1.
13. Report regarding plats approved through Summary Review process.
14. Adjourn.

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

MINUTES OF A REGULAR MEETING OF THE CITY OF CARLSBAD PLANNING & ZONING COMMISSION HELD IN THE MUNICIPAL BUILDING PLANNING ROOM, 101 N. HALAGUENO STREET, SEPTEMBER 8, 2014, AT 5:00 P.M.

VOTING MEMBERS PRESENT:

**JAMES KNOTT
JAMES MCCORMICK
WANDA DURHAM**

**CHAIRPERSON
COMMISSION SECRETARY
COMMISSIONER**

VOTING MEMBERS ABSENT:

EDDIE RODRIGUEZ

COMMISSIONER

EX-OFFICIO MEMBERS PRESENT:

**STEPHANIE SHUMSKY
JEFF PATTERSON**

**PLANNING DIRECTOR
PLANNING DEPUTY DIRECTOR**

BOARD SECRETARY PRESENT:

NONE

OTHERS PRESENT:

**BILLY L. MIDGLEY
MARGIE MIDGLEY
KARL P. MAYDWELL
ANNIE D. MAYDWELL
RICHARD L. RILEY
LINDA RILEY
BRENDA NORTHCUTT
JAN SPEARMAN
KEN SKINNER
JAMES BRADFORD
PHILLIP PRICE
DERRICK BAER
JACK CHILDRESS
GEORGE DUNAGAN
TOM C. LEE
MRS. LEE
ANISSA OROZCO
SHARON FIX
LARRY SELLS
CAROL WALLER**

**1047 N. PATE
1047 N. PATE
2210 MOUNTAINVIEW
2210 MOUNTAINVIEW
801 TANOAN COURT
801 TANOAN COURT
605 W. RIVERSIDE
814 LATROBE DRIVE
PHOENIX, ARIZONA
NO ADDRESS LISTED
901 VALVERDE
810 LATROBE DRIVE
811 MERION DRIVE
212 W. STEVENS
1107 N. COUNTRY CLUB CIRCLE
1107 N. COUNTRY CLUB CIRCLE
1045 N. PATE
910 W. PIERCE STREET**

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 Start Recording [5:04:22 PM]

1. Roll call of voting members and determination of quorum.

Meeting was called to order at 5:04 p.m. **Mr. Knott** called roll. There was a quorum. Present: **Mr. McCormick, Mr. Knott, Ms. Durham**. Absent: **Mr. Rodriguez**.

2. Approval of Agenda.

Mr. Knott stated that there were changes to the Agenda as follows: #6 for Temporary Housing was withdrawn, #9 for a Setback Variance was moved to the next meeting, and #10 for Temporary Housing was withdrawn.

Motion was made by **Ms. Durham** for approval of the changed Agenda. **Mr. McCormick** seconded the motion. The vote was as follows: **Yes –Mr. McCormick, Mr. Knott, Ms. Durham**; No – None; Abstained – None; Absent – **Mr. Rodriguez**. The motion carried.

3. Approval of Minutes from the Regular Meeting held August 4, 2014.

Motion made by **Mr. McCormick** and seconded by **Ms. Durham** for approval of the Minutes. The vote was as follows: **Yes –Mr. McCormick, Mr. Knott, Ms. Durham**; No – None; Abstained – None; Absent – **Mr. Rodriguez**. The motion carried.

4. Consider recommendation regarding the Annexation of an approximately 15.89 acre parcel located at the north end of Kevil Road, legally described as part of the W1/2 of the NE1/4 of the SW1/4 of Section 1, Township 23 South, Range 26 East, N.M.P.M., Eddy County, New Mexico, pursuant to the petition method as provided for in Section 3-7-1 et. Seq. NMSA 1978. (Tabled from the 8/4/14 meeting).

Mr. Skinner and his assistant, **Mr. Bradford**, were present for the requested annexation. **Mr. Patterson** explained that Staff recommends denial. There are no plans included for utilities, and Kevil Road is a small county road and is not designed or constructed for heavy traffic. Kevil Road actually dead-ends before it gets to the property. **Mr. Knott** explained that the developer is responsible for installing infrastructure such as utilities and roads. He wondered if the commission could even consider the proposal without those plans. **Ms. Shumsky** explained that for annexation the plans did not have to be as detailed as for the PUD, but basic plans for utilities and roads could be submitted. For PUDs (which the applicant wants in Agenda Item #5), the concept plan needs to cover all the land to be included. It has to identify type, total amount and location of development, and plans for pedestrian and vehicle traffic circulation. Landscaping has to be more detailed. Utilities, easements, and public areas (including schools) have to be identified. She also said the development product proposed was not consistent with the surrounding area. Usually this type of development product would be located in an R-2 zoned area, not within a rural area. She thinks the request is premature because there are no public facilities in the area, no plan to extend them and the property adjacent to this area (El Dorado) has not been officially annexed into the city yet. There was discussion to change the request in Agenda Item #5 from PUD to R-R, because it would be more straight-forward and give the applicant time to develop his plan. There was no public comment. **Mr. McCormick** wanted to know if the whole process would have to start over. **Ms. Shumsky** explained that it would not, because the request still needs to be published for 30 days, and adjacent property owners still need to be notified. In addition, R-R zoning is less intense than what is proposed in the PUD request. **Ms. Durham** was concerned that without any plans for installing utilities or roads there was no advantage to the City. She said she had been to the area, which has several narrow, dead-end roads. She said there was oilfield traffic and trucks parked out there already. **Mr. Skinner** said he had talked to Public Works about extending Derrick Road, and that the bypass would be in the area in the future. **Ms. Durham** noted that the road extension and bypass were unknowns at this point. She would be more comfortable if there were more details, and thinks the request is premature. She said it

seems that every month they were getting incomplete applications, with not enough information to make good decisions. She thinks they need to stay within the guidelines. Things are moving fast in the community and people are jumping the gun. **Ms. Shumsky** agreed and explained that is why we are no longer accepting any incomplete applications, after getting support from the City Council regarding the issue.

Motion made by **Ms. Durham** to recommend denial of the Annexation. **Mr. McCormick** seconded the motion. The vote was as follows: **Yes –Mr. McCormick, Mr. Knott, Ms. Durham**; No – None; Abstained – None; Absent – **Mr. Rodriguez**. The motion carried to recommend denial.

5. Consider recommendation regarding the Establishment of Planned Unit Development (PUD) zoning of an approximately 15.89 acre parcel located at the north end of Kevil Road, legally described as part of the W1/2 of the NE1/4 of the SW1/4 of Section 1, Township 23 South, Range 26 East, N.M.P.M., Eddy County, New Mexico. (Tabled from the 8/4/14 meeting).

Applicant withdrew this request after discussion of the previous item. The Planning Commission did not make a recommendation on this item. However, the previous annexation request was not withdrawn.

6. Consider recommendation regarding a request for Temporary Housing as a Temporary Use at 3412 Hidalgo Rd., zoned “R-R” Rural Residential District, in accordance with Sec. 56-80 and as approved by the City Council 10/22/13. (Tabled from 8/4/14 and subsequently withdrawn by applicant).

Application was withdrawn.

7. Consider request for an Appeal (variance) from Section 56-90(b) to allow a side-yard setback variance of 5’ from the north side property line, which would result in a 0’ side-yard setback at 203 S. Tenth St., zoned R-1.

Mr. Hopkins was present for the request. **Mr. Patterson** explained that Staff recommends denial. If approved, Staff recommends conditions. **Mr. Hopkins** said he just wants to complete the fence and cover the drive where he already parks his truck. He wants to use fire-retardant shingles, rather than build of metal because of how it would look. He also agreed that gutters were necessary to keep the water on his property. **Mr. Knott** explained to him that if he is approved for the Variance and connects the structure to his manufactured home, he will need to get permits through the State’s manufactured housing office. If he does not secure it to his home, then he will only need to go through the City building department. He also complemented him on how nice his property looked.

Motion was made by **Mr. McCormick** to approve the Variance with conditions--structure of metal, and no drainage on adjacent property. **Mr. Knott** seconded the motion. The vote was as follows: **Yes –Mr. McCormick, Mr. Knott**; No – **Ms. Durham**; None; Abstained – None; Absent – **Mr. Rodriguez**. The motion carried.

8. Consider request for an Appeal (variance) from Section 56-90(b) to allow a side-yard setback variance of 5’ from the western property line, which would result in a 0’ side-yard setback at 810 Latrobe Dr., zoned Planned Unit Development (PUD).

This request for a Variance is for a structure that had already been constructed prior to obtaining a building permit. A building permit was granted but a final inspection was never called in by the

contractor. The existing structure appears to be constructed in violation of the building permit that was issued in that the structure was built up to the property line, rather than maintaining the setback on the drawings submitted for a permit. The property also has a wall and a hot tub within the side-yard setback. In addition, but not relevant to the variance, the applicant did not receive approval from the architectural design committee for the neighborhood, which is zoned PUD. The City does not enforce covenants and restrictions in subdivisions, but considered this request for a variance because of the City's setback regulations. The covenants and restrictions conflict will need to be addressed by the homeowners association for that subdivision by legal recourse. **Mr. Baer** said he didn't know about the subdivision restrictions and would have gone to the association if they'd told him about them.

During public comment, **Larry Sells** and **Carol Waller**, both members of the Architectural Committee for the subdivision (their homeowners organization), came forward to speak. **Mr. Sells** said that the realtor should have provided the restrictive covenants to the buyer at the time of the sale. He said the problem with the structure being so close to the property line is because of the elevation of the property. It looks down into the yards of all the other property owners. The structure is a fire hazard and a privacy issue. **Mr. Knott** asked about the homeowner's association. **Mr. Sells** said the organization was reorganized in 2009 and is on file with the county. **Ms. Waller** said when the organization was reinstituted they got signatures from 90% of the residents and have legal authority to speak for the committee. **Mr. Sells** said this house is built with a 0' setback on both sides. **Ms. Shumsky** reiterated that the City doesn't enforce private covenants. However, if we know about them, we do refer the property owner to their association when they come for a permit. We don't prevent them from applying for a permit; we just make the applicant aware of the issue. **Mr. McCormick** was most concerned about drainage, because of the history of the area. Discussion regarding the engineering concerns brought up the fact that the wall had not been engineered and there were no inspections on the concrete before it was poured. It is the contractor or homeowner's responsibility to call for inspections. The building department doesn't know it is ready for an inspection, otherwise. There were also no final inspections.

Motion was made by **Mr. McCormick** to approve the Variance, contingent on compliance with the Engineer's recommendations and no runoff on adjacent properties. **Mr. Knott** seconded the motion. The vote was as follows: **Yes –Mr. McCormick, Mr. Knott**; **No – Ms. Durham**; **None; Abstained – None**; **Absent – Mr. Rodriguez**. The motion carried.

9. Consider request for an Appeal (variance) from Section 56-90(b) to allow a front-yard setback variance of 30', which would result in a 0' front-yard setback at 912 Albert St., zoned R-1.

Item deferred to October meeting.

10. Consider recommendation regarding the request allowing Temporary Housing as a Temporary Use at 1100 W. Fox St., legally described as Greene's Highlands Subdivision, Block 6, Lots 2, 4, 6, and 8, zoned R-2, in accordance with Sec. 56-80 and as approved by the City Council 10/22/13 and as revised on 8/12/14.

Item was withdrawn.

11. Consider recommendation regarding a Zoning Change from "R-1" Residential District to "C-2" Commercial District for an approximately 0.88 acre parcel, located at 1105 N. Pate St., legally described as Beg NW COR, Cavern Subdivision, N05 DEG 15'W 291.60', S61 DEG

36'W 208.93', S02 DEG 07'W 191.92', N89 DEG 42'W 150' to POB, pursuant to Section 3-21-1 et. Seq. NMSA 1978 and Sections 56-150(b) and 56-140(i), Carlsbad Code of Ordinances.

Mr. Price, pastor of Calvary Assembly, was present for the request. **Mr. Dunagan** and **Ms. Northcutt** also came forward representing the sale of the church. **Mr. Patterson** said the applicants want to sell the church building and parking lot, but the prospective buyers require C-2 zoning. Since the property is next to a residential area, Staff recommends denial because C-2 opens the area up to a wider variety of uses that are not consistent with the adjacent residential area. **Mr. Price** said there were plans to build a bank across the street to the north and there is a shopping center across the street to the northeast. He thinks any business will bring less traffic than the church does. **Mr. McCormick** said he would not be in favor of the change if there wasn't already a large structure on the lot. He doesn't think a new owner will tear down the structure to put in a trucking company or body shop because the size of the lot. He thinks the cost would be prohibitive. During public comment, five residents spoke in opposition—**Mr. Midgley**, **Mr. Maydwell**, **Ms. Orozco**, **Ms. Midgley**, and **Ms. Maydwell**. They were concerned with property values decreasing, increased traffic, and the safety of the children in the neighborhood. **Mr. Price** said they would have liked to sell the property to another church, but there were no buyers.

Ms. McCormick made a motion to recommend approval of the Zone Change. **Mr. Knott** seconded the motion. The vote was as follows: **Yes –Mr. McCormick, Mr. Knott, Ms. Durham**; No – None; Abstained – None; Absent – **Mr. Rodriguez**. The motion carried to recommend approval.

12. Consider request for an Appeal (variance) from Section 56-70(d)(5)(d) to allow a 4' tall perimeter fence instead of the maximum allowed 3' at 1107 W. Country Club Circle, zoned R-1.

Mr. Lee was the applicant for a Variance. **Mr. Patterson** explained that the variance is for a four-foot fence, rather than a three-foot fence, made of chain link. This will mitigate the concern regarding line of sight. The applicants stated that their dogs can jump a shorter fence, but not the four-foot fence.

Ms. Durham made a motion to approve the Variance, and **Mr. McCormick** seconded the motion. The vote was as follows: **Yes –Mr. McCormick, Mr. Knott, Ms. Durham**; No – None; Abstained – None; Absent – **Mr. Rodriguez**. The motion carried.

13. Report regarding plats approved through Summary Review process.

There were quite a few plats signed in August, but there were none out of the ordinary.

14. Adjourn.

There being no further business, the meeting was adjourned.

2:27:15

Stop Recording [7:31:33PM]

Chairman

Date

CITY OF CARLSBAD
AGENDA BRIEFING MEMORANDUM
PLANNING AND ZONING COMMISSION

Meeting Date: 10/6/14

DEPARTMENT: Planning,
Engineering & Regulation

BY: Jeff Patterson,
Deputy Planning Director

DATE: 9/22/14

SUBJECT: Zoning Change from “C-2” Commercial District to “R-2” Residential District for an approximately 0.54 acre area, located at 1210 W. Mermod St., legally described as Greene’s Highland, Block 4, Lot 6, and Gibsons Subdivision, Block 4, Lot 8 E1/2, and Gibsons Subdivision, Block 4, Lot 8 W1/2, pursuant to Section 3-21-1 et. Seq. NMSA 1978 and Sections 56-150(b) and 56-140(i), Carlsbad Code of Ordinances.

Applicant:
Kenneth Colman
802 Walker Farm Rd.
Carlsbad, NM 88220

****The applicant provided the required notification to property owners within 100’ and agreed to post the required sign 5-days prior to the public hearing as required by Sec. 56-140(i). The City will notify the property owners’ 15-days prior to the City Council hearing and publish notification in the newspaper 30-days prior to said hearing.***

SYNOPSIS, HISTORY AND IMPACT (SAFETY AND WELFARE/FINANCIAL/PERSONNEL/INFRASTRUCTURE/ETC.):
The applicant is requesting a Zoning Change from “C-2” Commercial District to “R-2” Residential District at the subject site, which is currently three vacant lots. The zoning to the east and west of this property along Mermod St. is currently “C-2” Commercial District. The property to the north of this site is zoned “R-2” Residential District, so the requested change will not create a spot zone.

The existing zoning allows community and regional scale retail and commercial uses. The proposed residential zoning is intended to accommodate higher density single-family, duplex, multiple-family, and mobile home parks and subdivisions and to provide land-use protection for areas that develop in such a manner. Due to the rapid influx of people as a result of the oil and gas industry boom, the City is experiencing a severe housing shortage. This change would facilitate opening more available land for housing development.

According to Zoning Ordinance Sec. 56-4. Amendments, prior to approving a zoning change, the Planning and Zoning Commission must find “whether or not the proposal would improve or damage the comprehensive zoning plan herein established”.

Comprehensive Plan: Strategy 2030 goals and policies that are applicable to this request are:

Chapter 3: Land Use

Goal 1: The City of Carlsbad will adopt policies to support the Infill/Redevelopment Land Use Scenario.

Goal 2: The City of Carlsbad will make efficient use of government resources through well-planned land use decisions.

Goal 4: The City of Carlsbad will strive to create an aesthetically pleasing built environment.

Goal 5: The City of Carlsbad will ensure that land use does not negatively impact the city’s environmental resources.

Chapter 4: Housing

Goal 1: Carlsbad will continue to encourage the development and redevelopment of housing in appropriate locations and at appropriate densities in order to provide a range of housing choices that meets the needs of current and future Carlsbad residents.

Goal 2: Carlsbad will ensure that local housing protects the health, safety, and welfare of residents and their neighbors.

Chapter 5: Economic Development

Goal 1: Enable the development of needed affordable and market rate housing in Carlsbad so that future employees and residents have places to live.

Goal 4: Improve the appearance of Carlsbad.

An amendment to the Official Zoning Map or to the Text of this Zoning Ordinance must be justified by one or more of the following findings:

(a) The proposed amendment will or will not adversely impact the public health, safety or general welfare and will or will not promote the original purposes of the Zoning Ordinance; and

(b) The proposed amendment responds or does not respond to changed conditions, such as changes in public capital investments, road locations or functional classification, population trends, density, use or further studies that have been completed since adoption of the Zoning Ordinance; and

(c) The proposed amendment is or is not necessary in order to respond to State and/or Federal legislation; and

(d) The proposed amendment provides or does not provide additional flexibility in meeting the objectives of this Zoning Ordinance without lowering the standards of the Zoning Ordinance; and

(e) The proposed amendment is or is not in substantial compliance with the City's Comprehensive Plan or other City Master Plan; and

(f) The proposed amendment will or will not adversely affect the implementation of the goals and policies of the City's Comprehensive Plan or other City Master Plan; and

(g) The proposed amendment is justified in order to correct a mistake in the Official Zoning Map or the text of the Zoning Ordinance; and

(h) The proposed amendment is justified in order to respond to changes in the City's Comprehensive Plan or other City Master Plan including, but not limited to, changes in land use assumptions, surrounding uses, population forecasts, rates of land consumption, anticipated community needs or other factors.

PLANNING STAFF RECOMMENDATION: Based on review of the application and staff comments, planning staff recommends approval of this request based on the following findings:

1. The proposed amendment will not adversely impact the public health, safety or general welfare and will or will not promote the original purposes of the Zoning Ordinance; and
2. The proposed amendment responds to changed conditions, such as changes in public capital investments, road locations or functional classification, population trends, density, use or further studies that have been completed since adoption of the Zoning Ordinance; and
3. The proposed amendment is not necessary in order to respond to State and/or Federal legislation; and
4. The proposed amendment provides additional flexibility in meeting the objectives of this Zoning Ordinance without lowering the standards of the Zoning Ordinance; and
5. The proposed amendment is in substantial compliance with the City's Comprehensive Plan or other City Master Plan; and
6. The proposed amendment will not adversely affect the implementation of the goals and policies of the City's Comprehensive Plan or other City Master Plan; and
7. The proposed amendment is not justified in order to correct a mistake in the Official Zoning Map or the text of the Zoning Ordinance; and
8. The proposed amendment is justified in order to respond to changes in the City's Comprehensive Plan or other City Master Plan including, but not limited to, changes in land use assumptions, surrounding uses, population forecasts, rates of land consumption, anticipated community needs or other factors.

DEPARTMENT RECOMMENDATION (please check):

	Approval	Denial	n/a		Approval	Denial	n/a
Public Works	x			Plng., Eng. & Reg. Dept:			
Fire Department	x			Code Enforcement Division			x
Legal Department			x	Engineering Division	x		
Police Department	x			Planning Division	x		
Utilities Department			x	Building & Regulation Division			x
Culture & Rec. Dept.			x				

DEPARTMENT COMMENTS:

Public Works: No objection.

Utilities Department: no comments.

Building Department: no comments.

Fire Department: I have no objections to the zoning change. My comment is that there may not be adequate water available for fire suppression on a larger multi-unit structure. This will have to be addressed.

Code Enforcement: no comments.

Legal Department: no comments.

Planning Department: see comments above.

Police Department: Reviewed. Recommend approval, no comments.

Culture & Rec. Dept: no comments.

City Engineer: Recommendation of Approval. No Comments

ATTACHMENTS: Application materials

**CITY OF CARLSBAD***Planning, Engineering, and Regulation Department*

PO Box 1569, Carlsbad, NM 88221

Phone (575) 887-1191

Fax (575) 885-9871

ZONING CHANGE APPLICATION**Sec. 56-150(b)**

**PROCESS FOR ACCEPTANCE AND REVIEW
OF PLANNING AND ZONING COMMISSION MATTERS**

1. The Planning and Zoning Commission's regularly scheduled meetings are on the **FIRST MONDAY OF THE MONTH**. Applicant should obtain an Application Packet for the particular type of request (Zone Change, Subdivision, Variance, Annexation, Conditional Use, etc.) from the City of Carlsbad, Planning, Engineering, and Regulation Office.
2. **Applicant must submit a completed Application to the Planning, Engineering, and Regulation Office on, or before, the FIRST FRIDAY OF THE MONTH prior to the desired Commission meeting.** The minimum application packet submittal is one (1) copy of the Application with original signatures and all required supporting documents. A letter of explanation or clarification may also be provided. The required non-refundable application fee is due with submittal of the application.

The desired maximum size for all documents is 11"x17". **However, if the applicant wishes to support his or her application with larger size documents, an original and fifteen (15) copies need to be provided.** Separate arrangements for copying these large documents may be possible, but will incur additional costs.

3. The Planning, Engineering, and Regulation Office will give the Application an initial cursory review. If deficiencies or questions are noted, the Applicant will be advised and provided an opportunity to supplement the Application. If the Applicant fails to complete and resubmit the application prior to the above deadline, the matter will not be heard until the next subsequent Commission meeting. The original application fee will be retained and will suffice for the specific original application for a period of 90-days from the date of the original application.
4. Applications appearing complete will be set for full evaluation by City Staff prior to the Commission meeting. The purpose of this evaluation is to develop and provide a full briefing report for the Commission. Applicants will be advised of deficiencies noted during this review and will be afforded opportunity to supplement their application during their presentation to the Commission, if they so desire.

ADDITIONAL PROCEDURAL REQUIREMENTS FOR ZONING CHANGES:

- 1) **PRESENCE AT MEETING:** The Planning and Zoning Commission will vote to recommend to the City Council approval or denial of request. Applicant or his/her representative must be present to address any questions that Planning and Zoning Commissioners may have.
- 2) **CITY COUNCIL SETS A HEARING DATE:** After the Planning and Zoning Commission has made a recommendation on the request, the City Council (at their next regular meeting) will set a date for a public hearing. The date will be set for a regularly scheduled City Council meeting a minimum of 30 days from that date. A “notice of public hearing” is published in the Current Argus at least 30 days prior to the hearing.
- 3) **NOTIFICATION:** The applicant shall mail notice of the Planning and Zoning Commission meeting, via certified mail, to all property owners within one-hundred feet (100’) of the subject site. Evidence of such notification shall be provided with the application. In addition, the applicant shall post a sign, provided by the City, at the property at least 5 days prior to the public hearing. At least fifteen (15) days prior to the City Council hearing, the City will notify adjacent property owners within 100’ of the subject property via first-class mail for properties greater than one (1) block in size, or via certified mail for properties one (1) block or less in size. The notification will include a description of the request, applicant’s information, legal description of subject property, and the date of the hearing.
- 4) **PUBLIC HEARING:** The Public Hearing will be held during a regularly scheduled City Council meeting, and the applicant or his/her representative **MUST BE PRESENT** to address any questions that the Mayor or Council members may have.
- 5) **ZONING CHANGE IS FINAL:** If the City Council approves the zone change, the ordinance is published in the Current Argus. The change is considered final five (5) days after publication.



CITY OF CARLSBAD

Planning, Engineering, and
Regulation Department

PO Box 1569, Carlsbad, NM 88221

Phone (575) 887-1191

Fax (575) 885-9871

ZONING CHANGE APPLICATION

Sec. 56-150(b)

Application Date: _____

Existing Zoning: C-2Fee Paid (\$100.00): DVP VProposed Zoning: R-2

APPLICANT INFORMATION:

KENNETH + ROSE COLMAN 802 WALKER FARM RD
NAME ADDRESS
CARLSBAD N.M. 88220 575-689-0218 KENCOLMAN@PVTN.NET
CITY STATE ZIP PHONE EMAIL

PROPERTY OWNER INFORMATION (attach separate sheet for multiple owners):

KENNETH + ROSE COLMAN 802 WALKER FARM RD
NAME ADDRESS
CARLSBAD N.M. 88220 575-689-0218 KENCOLMAN@PVTN.NET
CITY STATE ZIP PHONE EMAIL

* A signed affidavit from the property owner(s), consenting to submittal of the application, must be included with the application.

LEGAL DESCRIPTION AND/OR STREET ADDRESS OF PROPERTY (INCLUDE A MEETS AND BOUNDS
DESCRIPTION FOR UNPLATTED LAND, ATTACH SEPARATE SHEET, IF NECESSARY):

ADDRESS	LOT	BLOCK	SUBDIVISION
<u>1210 W MERMOD</u>	<u>6</u>	<u>4</u>	<u>GREENE'S HIGHLAND</u>
<u>1214 W MERMOD EAST 1/2</u>	<u>8</u>	<u>4</u>	<u>GREENE'S HIGHLAND</u>
<u>1216 W MERMOD WEST 1/2</u>	<u>8</u>	<u>4</u>	<u>GREENE'S HIGHLAND</u>

REASON FOR THE REQUEST

An amendment to the Official Zoning Map or to the Text of the Zoning Ordinance must be justified by one or more of the following. Check all that apply:

- ☒ The proposed amendment will not adversely impact the public health, safety or general welfare and will or will not promote the original purposes of the Zoning Ordinance.
- ☐ The proposed amendment responds to changed conditions, such as changes in public capital investments, road locations or functional classification, population trends, density, use or further studies that have been completed since adoption of the Zoning Ordinance.
- ☐ The proposed amendment is necessary in order to respond to State and/or Federal legislation.
- ☐ The proposed amendment provides additional flexibility in meeting the objectives of this Zoning Ordinance without lowering the standards of the Zoning Ordinance.
- ☐ The proposed amendment is in substantial compliance with the City's Comprehensive Plan or other City Master Plan.
- ☐ The proposed amendment will not adversely affect the implementation of the goals and policies of the City's Comprehensive Plan or other City Master Plan.
- ☐ The proposed amendment will correct a mistake in the Official Zoning Map or the text of the Zoning Ordinance.
- ☐ The proposed amendment is justified in order to respond to changes in the City's Comprehensive Plan or other City Master Plan including, but not limited to, changes in land use assumptions, surrounding uses, population forecasts, rates of land consumption, anticipated community needs or other factors.

FOR OFFICIAL USE ONLY:**Required prior to P & Z:**

Complete Application Including: ☒ Map ☒ Fee ☒ Letter ☒ Notification ☒ Sign Agreement

Required prior to City Council:

Council Hearing Date: _____ Publication Date: _____

Property Owner Notification Sent (within 100' minimum.): _____

☐ ABM ☐ Staff Comments ☐ Application Packet ☐ Draft Ordinance ☐ P&Z Minutes

Council Action: ☐ Approved ☐ Denied ☐ Other Ordinance No.: _____

NOTIFICATION SIGN POSTING AGREEMENT

Notification of Public Hearings before the City of Carlsbad Planning and Zoning Commission is required pursuant to Sec. 56-140(i).

- Signs shall be posted a minimum of 5 days prior to and shall be removed a maximum of 5 days after the public hearing.
- If the sign is not posted as required, the application will be delayed and will not be considered at the public hearing as scheduled.
- The sign shall be posted at the street side property line with a secure stake provided by the applicant.

I have read and understand these requirements. I understand where the sign is to be located and my obligation to post the sign prior to the public hearing and remove it afterwards.




APPLICANT SIGNATURE

8/6/14
DATE

Sign issued by: _____

Staff Member



CITY OF CARLSBAD
AFFIDAVIT BY PROPERTY OWNER(S)

IF AN APPLICATION IS MADE BY SOMEONE OTHER THAN THE PROPERTY OWNER THIS FORM MUST ACCOMPANY THE APPLICATION MATERIALS.

APPLICATION TYPE:

☐ ZONING CHANGE ☐ CONDITIONAL USE ☐ VARIANCE ☐ TEMPORARY USE

I (WE) HEREBY CERTIFY that I am (we are) the owners of record of the property described as follows:

ADDRESS OF PROPERTY: 1210, 1214, 1216 WEST MERMO, CARLSBAD
STREET ADDRESS

LEGAL DESSCRPTION: GREENE'S HIGHLAND 4 6 + 8
SUBDIVISION BLOCK LOT OR TRACT

I (WE) HAVE AUTHORIZED the following individuals to act as my (our) agent with regard to this application.

AGENT:

NAME

PHONE

ADDRESS

I (WE) UNDERSTAND, CONCUR AND AFFIRM:

That this application may be approved, approved with conditions or denied and that, as the property owner, it is my responsibility to ensure that any conditions are complied with and to ensure that the property is maintained in a condition so as not to jeopardize the health, safety or welfare of others and that compliance with all applicable City ordinances is required, and

I (WE) HEREBY EXECUTE THIS AFFIDAVIT in support of the proposed application as presented:

OWNER 1:

BY: _____
SIGNATURE

BY: _____
PRINTED NAME

DATE: _____
DATE SIGNED

NOTARY SEAL

OWNER 2: (IF APPLICABLE)

BY: _____
SIGNATURE

BY: _____
PRINTED NAME

DATE: _____
DATE SIGNED

NOTARY SEAL

ADDITIONAL OWNERS: ATTACH SEPARATE SHEETS AS NECESSARY

Date: 8/19/14

Dear Property Owner,

This letter serves as legal notification of a pending action before the City of Carlsbad Planning and Zoning Commission in accordance with Code of Ordinances Sec. 56-140(i). You are being notified because you are a property owner within one-hundred feet (100') of the subject site.

Applicant: KEN COLEMAN 802 WALKER FARM RD - CARLSBAD 575-689-0218
Name Address Phone
Subject Site Location: 1210, 1214, 1216 W. MERMOD

The proposed action is a:

☒ Zoning Change from C-2 to R-2 in accordance with Sec. 56-150(b).

☐ Variance/Appeal from Sec. _____ in accordance with Sec. 56-150(c).

The purpose of the variance/appeal is:

☐ Conditional Use Permit in accordance with Sec. 56-150(f). The purpose of the permit is for a:

☐ Home Occupation: _____

☐ Other Use: _____

The Planning and Zoning Commission will consider this request at a Public Hearing on:

Date: 10/6/2014Time: 5:00pmPlace: City Hall Planning Room, 2nd Floor101 N. Halagueno St.Carlsbad, NM 88220

The Code of Ordinances can be found on the City's website www.cityofcarlsbadnm.com.

For details about this request contact the applicant OR contact the City Planner at

575-234-7923 or via email at seshumsky@cityofcarlsbadnm.com.

Sincerely,



Applicant/Agent

Date: 8/19/14

Dear Property Owner,

This letter serves as legal notification of a pending action before the City of Carlsbad Planning and Zoning Commission in accordance with Code of Ordinances Sec. 56-140(i). You are being notified because you are a property owner within one-hundred feet (100') of the subject site.

Applicant: KEN COLEMAN 802 WALKER FARM RD - CARLSBAD 575-689-0218
Name Address Phone

Subject Site Location: 1210, 1214, 1216 W. M ZEMOD

The proposed action is a:

☒ Zoning Change from C-2 to R-2 in accordance with Sec. 56-150(b).☐ Variance/Appeal from Sec. _____ in accordance with Sec. 56-150(c).The purpose of the variance/appeal is:

_____☐ Conditional Use Permit in accordance with Sec. 56-150(f). The purpose of the permit is for a:☐ Home Occupation: _____☐ Other Use: _____**The Planning and Zoning Commission will consider this request at a Public Hearing on:**Date: 10/6/2014Time: 5:00pmPlace: **City Hall Planning Room, 2nd Floor**
101 N. Halagueno St.
Carlsbad, NM 88220The Code of Ordinances can be found on the City's website www.cityofcarlsbadnm.com.For details about this request contact the applicant OR contact the City Planner at 575-234-7923 or via email at seshumsky@cityofcarlsbadnm.com.

Sincerely,



Applicant/Agent

CITY OF CARLSBAD, NEW MEXICO

ZONING FEES

KEN & ROSE COLMAN

ZONE CHG APP
01-0000-30968
CK#9846

AMOUNT	100.00
CHECK TENDERED	100.00
CHANGE ISSUED	.00

CASHIER: PISTOLEP
RECEIPT NO 3619523
DATE 04:38 PM 8/19/14

U.S. Postal Service™
CERTIFIED MAIL™ RECEIPT
(Domestic Mail Only; No Insurance Coverage Provided)

For delivery information visit our website at www.usps.com

CARLSBAD NM 88220

Postage	\$ 0.49	0615
Certified Fee	\$3.30	03
Return Receipt Fee (Endorsement Required)	\$0.00	Postmark Here
Restricted Delivery Fee (Endorsement Required)	\$0.00	SEP 4 2014
Total Postage & Fees	\$ 3.79	09/04/2014

Sent To

GONZALES
915 N. MAIN ST
CARLSBAD, NM. 88220

PS Form 3800, August 2006

See Reverse for Instructions

U.S. Postal Service™
CERTIFIED MAIL™ RECEIPT
(Domestic Mail Only; No Insurance Coverage Provided)

For delivery information visit our website at www.usps.com

CARLSBAD NM 88220

Postage	\$ 0.49	0615
Certified Fee	\$3.30	03
Return Receipt Fee (Endorsement Required)	\$0.00	Postmark Here
Restricted Delivery Fee (Endorsement Required)	\$0.00	SEP 4 2014
Total Postage & Fees	\$ 3.79	09/04/2014

Sent To

PINA
801 ALVARADO ST
CARLSBAD, NM. 88220

PS Form 3800, August 2006

See Reverse for Instructions

U.S. Postal Service™
CERTIFIED MAIL™ RECEIPT
(Domestic Mail Only; No Insurance Coverage Provided)

For delivery information visit our website at www.usps.com

CARLSBAD NM 88220

Postage	\$ 0.49	0615
Certified Fee	\$3.30	03
Return Receipt Fee (Endorsement Required)	\$0.00	Postmark Here
Restricted Delivery Fee (Endorsement Required)	\$0.00	SEP 4 2014
Total Postage & Fees	\$ 3.79	09/04/2014

Sent To

MC GONAGILL
1612 WESTRIDGE DR
CARLSBAD, NM. 88220

PS Form 3800, August 2006

See Reverse for Instructions

U.S. Postal Service™
CERTIFIED MAIL™ RECEIPT
(Domestic Mail Only; No Insurance Coverage Provided)

For delivery information visit our website at www.usps.com

EDGEWOOD NM 87015

Postage	\$ 0.49	0615
Certified Fee	\$3.30	03
Return Receipt Fee (Endorsement Required)	\$0.00	Postmark Here
Restricted Delivery Fee (Endorsement Required)	\$0.00	SEP 4 2014
Total Postage & Fees	\$ 3.79	09/04/2014

Sent To

HAROLD CRASS
P.O. BOX 2743
EDGEWOOD, N.M. 87015

PS Form 3800, August 2006

See Reverse for Instructions

U.S. Postal Service™
CERTIFIED MAIL™ RECEIPT
(Domestic Mail Only; No Insurance Coverage Provided)

For delivery information visit our website at www.usps.com

CARLSBAD NM 88220

Postage	\$ 0.49	0615
Certified Fee	\$3.30	03
Return Receipt Fee (Endorsement Required)	\$0.00	Postmark Here
Restricted Delivery Fee (Endorsement Required)	\$0.00	SEP 4 2014
Total Postage & Fees	\$ 3.79	09/04/2014

Sent To

LOPEZ
1209 W MERMOD
CARLSBAD, NM. 88220

PS Form 3800, August 2006

See Reverse for Instructions

U.S. Postal Service™
CERTIFIED MAIL™ RECEIPT
(Domestic Mail Only; No Insurance Coverage Provided)

For delivery information visit our website at www.usps.com

CARLSBAD NM 88220

Postage	\$ 0.49	0615
Certified Fee	\$3.30	03
Return Receipt Fee (Endorsement Required)	\$0.00	Postmark Here
Restricted Delivery Fee (Endorsement Required)	\$0.00	SEP 4 2014
Total Postage & Fees	\$ 3.79	09/04/2014

Sent To

WOOLF
1201 W URAL ST
CARLSBAD NM 88220

PS Form 3800, August 2006

See Reverse for Instructions

7013 0600 0000 8208 6814

CERTIFIED MAIL™ RECEIPT

(Domestic Mail Only; No Insurance Coverage Provided)

For delivery information visit our website at www.usps.com

LUBBOCK TX 79424

Postage	\$	\$0.70
Certified Fee		\$3.30
Return Receipt Fee (Endorsement Required)		\$2.70
Restricted Delivery Fee (Endorsement Required)		\$0.00
Total Postage & Fees	\$	\$6.70



Sent To

Street, Apt. No.,
or PO Box No.
City, State, ZIP+4

PS Form 3800, August 2006

See Reverse for Instructions

7013 0600 0000 8218 4855

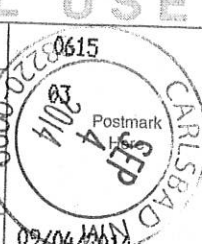
CERTIFIED MAIL™ RECEIPT

(Domestic Mail Only; No Insurance Coverage Provided)

For delivery information visit our website at www.usps.com

ALBUQUERQUE NM 87105

Postage	\$	\$0.49
Certified Fee		\$3.30
Return Receipt Fee (Endorsement Required)		\$0.00
Restricted Delivery Fee (Endorsement Required)		\$0.00
Total Postage & Fees	\$	\$3.79



Sent To

Street, Apt. No.,
or PO Box No.
City, State, ZIP+4

PS Form 3800, August 2006

See Reverse for Instructions

7013 0600 0000 8217 5662

U.S. Postal Service™ CERTIFIED MAIL™ RECEIPT

(Domestic Mail Only; No Insurance Coverage Provided)

For delivery information visit our website at www.usps.com

CARLSBAD NM 88220

Postage	\$	\$0.49
Certified Fee		\$3.30
Return Receipt Fee (Endorsement Required)		\$0.00
Restricted Delivery Fee (Endorsement Required)		\$0.00
Total Postage & Fees	\$	\$3.79



Sent To

Street, Apt. No.,
or PO Box No.
City, State, ZIP+4

PS Form 3800, August 2006

See Reverse for Instructions

7013 0600 0000 8217 5655

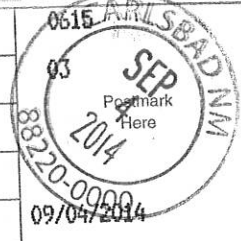
U.S. Postal Service™ CERTIFIED MAIL™ RECEIPT

(Domestic Mail Only; No Insurance Coverage Provided)

For delivery information visit our website at www.usps.com

CARLSBAD NM 88220

Postage	\$	\$0.49
Certified Fee		\$3.30
Return Receipt Fee (Endorsement Required)		\$0.00
Restricted Delivery Fee (Endorsement Required)		\$0.00
Total Postage & Fees	\$	\$3.79



Sent To

Street, Apt. No.,
or PO Box No.
City, State, ZIP+4

PS Form 3800, August 2006

See Reverse for Instructions

7013 0600 0000 8217 5648

U.S. Postal Service™ CERTIFIED MAIL™ RECEIPT

(Domestic Mail Only; No Insurance Coverage Provided)

For delivery information visit our website at www.usps.com

CARLSBAD NM 88220

Postage	\$	\$0.49
Certified Fee		\$3.30
Return Receipt Fee (Endorsement Required)		\$0.00
Restricted Delivery Fee (Endorsement Required)		\$0.00
Total Postage & Fees	\$	\$3.79



Sent To

Street, Apt. No.,
or PO Box No.

City, State, ZIP+4

PS Form 3800, August 2006

See Reverse for Instructions

7013 0600 0000 8217 5648

U.S. Postal Service™ CERTIFIED MAIL™ RECEIPT

(Domestic Mail Only; No Insurance Coverage Provided)

For delivery information visit our website at www.usps.com

CARLSBAD NM 88220

Postage	\$	\$0.49
Certified Fee		\$3.30
Return Receipt Fee (Endorsement Required)		\$0.00
Restricted Delivery Fee (Endorsement Required)		\$0.00
Total Postage & Fees	\$	\$3.79



Sent To

Street, Apt. No.,
or PO Box No.
City, State, ZIP+4

PS Form 3800, August 2006

See Reverse for Instructions

and build with the exception of one particular lot. Mr. Dickerson a resident of the area said he is concerned with the traffic and bus stops and the crime rate at apartments.

2:19:34 **Mayor Janway asked if anyone would like to speak regarding this issue.**

No one appeared and the Mayor declared the public hearing closed and reconvened

the Council in regular session.

2:19:38 **B. Consider Ordinance No. 2014-19**

2:21:36 **Motion**

The motion was made by Councilor Doporto and seconded by Councilor Shirley to table Ordinance No. 2014-19, an Ordinance Rezoning part of "R-1" Residential District to "R-2" Residential District for an approximately 0.84+/- acre site, located along N. Guadalupe Street, legally described as Martin Line adjustment, Lot 34, pursuant to Section 3-21-1 et. Seq. NMSA 1978 and Section 56-150(B) and 56-140(I), Carlsbad Code of Ordinance - Applicant: W. T. Martin

2:24:00 **Vote**

The vote was as follows: Yes - Whitlock, Anaya Flores, Doporto, Nunley, Salcido, Shirley, Carter; No - None; Absent - None; Abstain - Doss; The motion carried.

DINANCE REZONING PART OF "R-1" RESIDENTIAL DISTRICT TO "R-2" RESIDENTIAL DISTRICT FOR AN APPROXIMATELY 0.84+/- ACRE SITE, LOCATED ALONG N. GUADALUPE STREET, LEGALLY DESCRIBED AS MARTIN LINE ADJUSTMENT, LOT 34, PURSUANT TO SECTION 3-21-1 ET. SEQ. NMSA 1978 AND SECTIONS 56-150(B) AND 56-140(I), CARLSBAD CODE OF ORDINANCES-APPLICANT: W.T. MARTIN

Ms. Shumsky explained this is a request for a zoning change on a parcel of land off of Guadalupe Street from "R-1" which is single family residential to "R-2" which is generally considered multi-family residential. She explained staff and the Planning and Zoning Commission recommended approval primarily because the surrounding property on three sides is zoned "R-2". She said if this zoning change is not approved it will be a spot zone of single family residential surrounded by multi-family and commercial on Pierce Street.

1:34:05 **A. Public Hearing**

1:34:08 **Mayor Janway asked if there was anyone who would like to speak in favor of the ordinance.**

Mr. Martin said he is asking for the vacant lot behind his office to be consistent and be all R-2. He said all those in opposition have not come into his office to review the materials or talk to him. He explained he would like to build upper end townhouses in the area to provide houses for professionals in need of housing. He is looking at housing that will improve the values in the area and help maintain the values in the area. He explained the concept of the housing, the parking, the access, and the landscaping. He said his goal is to build, rent, and maintain control over the property. He is asking Council to vote in favor of the zone change so the zoning of the lot is consistent.

Councilor Carter said he lives near the property. He said he thinks people may fear the conceptual versus the concrete plan. He said he hears horror stories about six oilfield workers with 3/4 ton trucks parked on the street living in the rentals. **Mr. Martin** said that is not what he is trying to put in. **Councilor Carter** said he understands people need to get away from conceptual ideas. **Councilor Shirley** said he did try to go by the office without an appointment. He said he met with some of the surrounding homeowners and heard their concerns and also knows the City has a need for housing at this time.

1:51:17 **Ms. Jasso** said she is a resident of the neighborhood and is concerned about the development. She said she has lived in the neighborhood since 1995 and it is a wonderful neighborhood. She said she has thought about purchasing a new home but her neighbors have kept her in the community. She said they have block parties, Christmas soup night, and dessert night. She is concerned even though the description sounds nice she feels it will be bad to have in the community.

16

Ms. Welch, Realtor, said she has been involved in two sales by apartment complexes and the property value was not hurt at all. She said Carlsbad need to grow and it needs to grow in a planned way.

Mr. Jay Jenkins and Mr. John Waters on behalf of the Carlsbad Department of Development said they submitted a letter in support of the zone change. **Mr. Jenkins** said the zone change will clean up the spot zoning. **Mr. Waters** said Carlsbad needs affordable housing and this would help bring in professionals and be a nice addition to Carlsbad.

1:56:29 **Ms. Shumsky** said she would like to clarify two points, she said if the property was not rezoned it would create a spot zone and that is an error. She said the property to the east is single family residential. She said if the zoning is changed to R-2 multi-family you can have one dwelling per 3000 sq./ft. of lot area. She explained if the zoning is changed it would allow Mr. Martin to put one additional unit. She said he has two lots that are already zoned R-2 for a total of 5 units and the requested lot would add one additional unit. **Councilor Shirley** asked if the maximum amount of units that could be placed on the property would be six units. **Ms. Shumsky** answered yes.

1:59:19 **Mayor Janway** asked if there was anyone who would like to speak against the ordinance.

Mr. Roy Willis said he lives across the alley from the proposed development. He explained he is concerned because there is so much confusion about what will be built. He asked is the current infrastructure able to support the development. He said his recommendation is to vote no until there is a further study and more information.

Mrs. Tammy Nance said her property will meet with the property in question. She explained she called the office and was told the plan was to build three possibly four, two bedroom high end townhouses in the range of \$150,000 to \$200,000. She said her concern is the number of units that will be going onto the property. She is asking Council to say no, until there is a concrete plan.

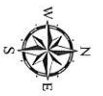
Ms. Judy Ledford said she is not without sympathy for families looking for housing. She said there were 54 signatures opposed to the development. She said we don't know what the development will do to the home value in the area and what will the apartments become in a few years. She said the people who spoke in favor of the ordinance were certainly not any of her neighbors and will still go home to their nice quite neighborhoods. She is asking Council to take more careful consideration of the project.

Ms. Jasso said she is not against a housing development, she said the area is zoned for a reason. She said she is not against the applicant building something that will blend in with the existing single family homes in the area.

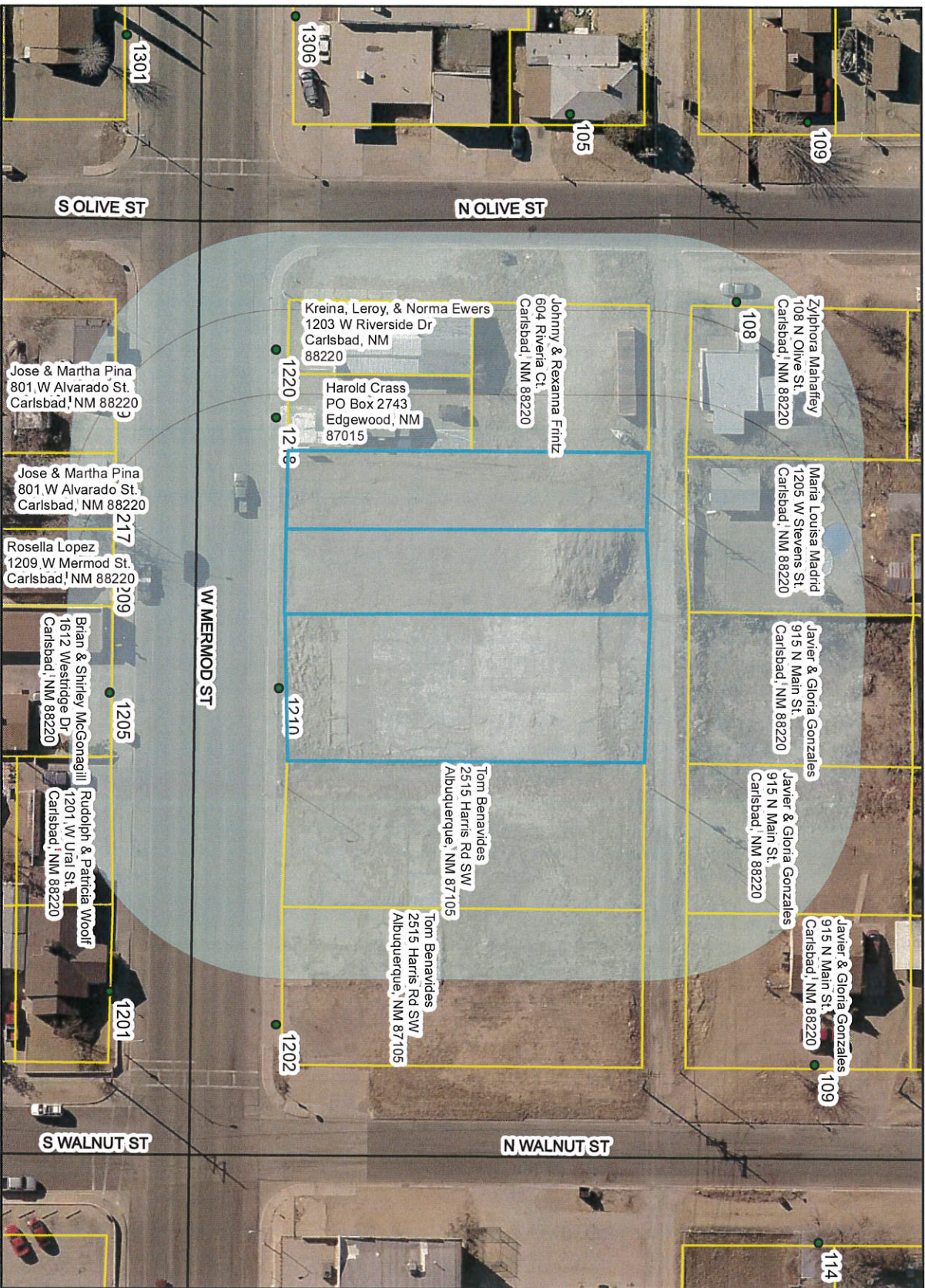
17

Mr. Brad Nesser a resident of the area, said the zoning ordinance was created to preserve the community welfare and to enhance the community and protect and improve the established community character within the City. He said he would like to ask Council to table the request or vote no to maintain the character of one of the few historic neighborhoods in Carlsbad.

2:15:52 **Mr. Martin** explained the vast majority of the lot is already zoned "R-2" and has been for many years. He said with the current zoning he can go in tomorrow



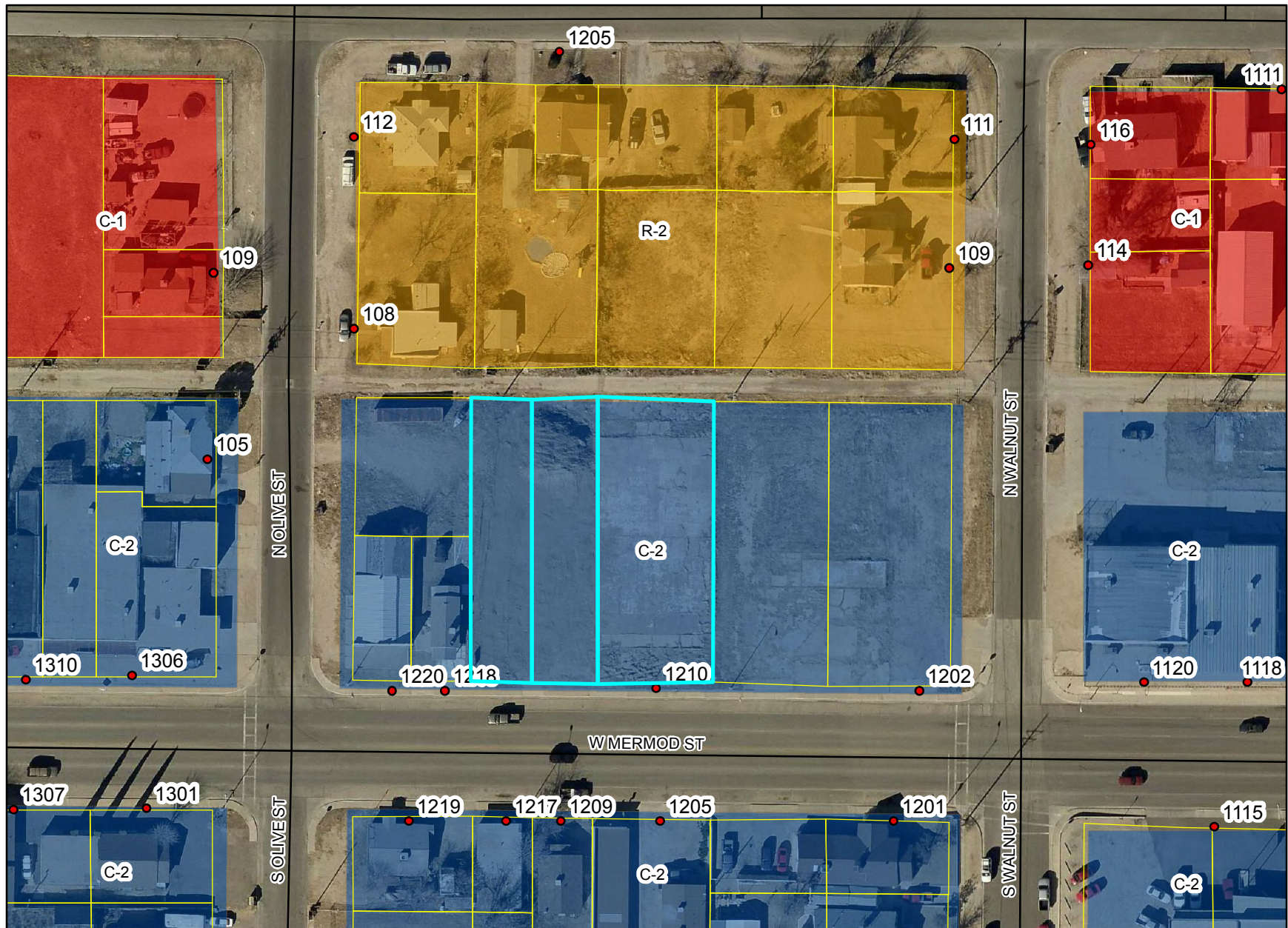
Mermod St. Owners



CITY OF CARLSBAD
PLANNING, ENGINEERING AND
REGULATION DEPARTMENT
8/26/2014



1210 W. Mermod St. - Zone Change - C-2 to R-2



0 75 150 300 Feet



CITY OF CARLSBAD
PLANNING, ENGINEERING AND
REGULATION DEPARTMENT
9/15/2014

CITY OF CARLSBAD
AGENDA BRIEFING MEMORANDUM
PLANNING AND ZONING COMMISSION

Meeting Date: 10/6/14

DEPARTMENT: Planning, Engineering and Regulation	BY: Jeff Patterson, Deputy Planning Director	DATE: 9/25/14
<p>SUBJECT: Appeal (variance) from Section 56-90(b) to allow a front-yard setback variance of 30', which would result in a 0' front-yard setback at 2409 W. Missouri St., legally described as Sharp Subdivision, Block A, Lot 9, zoned R-1 Residential District.</p> <p>Applicant: Edward M. Rodriguez 2409 Missouri St. Carlsbad, NM 88220</p> <p><i>*The applicant provided the required notification to property owners within 100' and agreed to post the required sign 5-days prior to the public hearing as required by Sec. 56-140(i).</i></p>		
<p>SYNOPSIS: This request is to place a carport in the 30' front-yard setback at the subject site. If approved, the resulting front yard setback would be 0'. The majority of lots within the Sharp Subdivision, Block A, have a 20' front setback. However, over half of the lots on the south side of Missouri St. all have a 30' setback. Table 6 of Section 56-90(b) states that all front setbacks in R-1 zoning should be 30', unless the majority of buildings on a block are closer than 30'. In such cases, the lesser setback will apply.</p> <p>The majority of homes located in Block A on the south side of Missouri St. adhere to the 30' front setback.</p>		
<p>IMPACT (SAFETY AND WELFARE/FINANCIAL/PERSONNEL/INFRASTRUCTURE/ETC.): The 30' front-yard setback standards of Section 56-90(b) of the Zoning Ordinance are meant to preserve a substantial buffer along the public streets and public right-of-ways that front residential properties in the City. This buffer is designed to provide access for emergency situations, for safety purposes and line of sight, and for providing adequate room for utilizing the public right of way along the City streets in residential neighborhoods. Granting this variance would eliminate this buffer along the western property boundary.</p> <p>Sec. 56-150(k) of the Zoning Ordinance states:</p> <p style="padding-left: 40px;">The Planning and Zoning Commission shall only approve a variance if it makes the following findings:</p> <ul style="list-style-type: none">(a) The stated hardship is one that is unique to the applicant rather than one suffered by the neighbors or the general public, and(b) The hardship relates to the applicant's land, rather than personal circumstances, and(c) The hardship is not the result of the applicant's own actions, and(d) The granting of the variance is consistent with the City's Comprehensive Plan or other City master plan, and(e) The granting of the variance is in harmony with the purpose and intent of the Zoning Ordinance, and(f) The variance granted is the minimum necessary to make possible the reasonable use of the land or structure, and		

- (g) The granting of the variance will not be injurious to adjacent property or the neighborhood or detrimental to the public health, safety or general welfare, and
- (h) The variance will neither result in the extension or expansion of a non-conforming structure or use in violation of Article VII nor authorize the initiation of a non-conforming use of land.

The applicant's request is not justified based on the criteria above.

The following *Greater Carlsbad Comprehensive Plan: Strategy 2030* goals apply to this request:

Chapter 3: Land Use

Goal 4: "The City of Carlsbad will strive to create an aesthetically pleasing built environment."

Chapter 4: Housing

Goal 2: Carlsbad will ensure that local housing protects the health, safety, and welfare of residents and their neighbors.

PLANNING STAFF RECOMMENDATION: Based on the application materials and staff comments, the Planning Staff recommends denial.

DEPARTMENT RECOMMENDATION (please check):

	Approval	Denial	n/a		Approval	Denial	n/a
Public Works		x		Plng., Eng. & Reg. Dept:			
Fire Department	x			Code Enforcement Division			x
Legal Department		x		Engineering Division		x	
Police Department	x			Planning Division		x	
Utilities Department			x	Building & Regulation Division			x
Culture & Rec. Dept.			x				

DEPARTMENT COMMENTS:

Public Works: Recommend denial. Proposed location too close to existing roadway and utilities.

Utilities Department: no comments.

Building Department: no comments

Fire Department: no objections or comments.

Code Enforcement: no comments

Legal Department: I recommend denial. The request is for a 0' front yard setback. The application does not demonstrate the existence of a hardship that meets the requirements for the grant of such a variance.

Planning Department: see comments above.

Police Department: Reviewed. Recommend approval, no comments.

Culture and Recreation Department: no comments

City Engineer: Recommend denial. Need to adhere to front lot setback for safety.

ATTACHMENTS: Application materials



CITY OF CARLSBAD

*Planning, Engineering,
and Regulation Department*

PO Box 1569, Carlsbad, NM 88221

Phone (575) 887-1191

Fax (575) 885-9871

BOARD OF APPEALS APPLICATION

(VARIANCE FROM SUBDIVISION OR ZONING ORDINANCE)

Sec. 47-7 or Sec. 56-150(c)

PROCESS FOR ACCEPTANCE AND REVIEW OF PLANNING AND ZONING COMMISSION MATTERS

1. The Planning and Zoning Commission's regularly scheduled meetings are on the FIRST MONDAY OF THE MONTH. Applicant should obtain an Application Packet for the particular type of request (Zone Change, Subdivision, Variance, Annexation, Conditional Use, etc.) from the City of Carlsbad, Planning, Engineering, and Regulation Office.
2. **Applicant must submit a completed Application to the Planning, Engineering, and Regulation Office on, or before, the FIRST FRIDAY OF THE MONTH prior to the desired Commission meeting.** The minimum application packet submittal is one (1) copy of the Application with original signatures and all required supporting documents. A letter of explanation or clarification may also be provided. The required non-refundable application fee is due with submittal of the application.

The desired maximum size for all documents is 11"x17". **However, if the applicant wishes to support his or her application with larger size documents, an original and fifteen (15) copies need to be provided.** Separate arrangements for copying these large documents may be possible, but will incur additional costs.

3. The Planning, Engineering, and Regulation Office will give the Application an initial cursory review. If deficiencies or questions are noted, the Applicant will be advised and provided an opportunity to supplement the application. If the Applicant fails to complete and resubmit the application prior to the above deadline, the matter will not be heard until the next subsequent Commission meeting. The original application fee will be retained and will suffice for the specific original application for a period of 90-days from the date of the original application.
4. Applications appearing complete will be set for full evaluation by City Staff prior to the Commission meeting. The purpose of this evaluation is to develop and provide a full briefing report for the Commission. Applicants will be advised of deficiencies noted during this review and will be afforded opportunity to supplement their application during their presentation to the Commission, if they so desire.
5. The Planning and Zoning Commission will vote to approve or deny the request. Applicant or his/her representative must be present to address any questions that Planning and Zoning Commissioners may have. Appeals of Planning and Zoning Commission decisions will be heard by the City Council pursuant to Sec. 56-150(c).
6. The applicant shall mail notice of the Planning and Zoning Commission hearing, via certified mail, to all property owners within one-hundred feet (100') of the subject site. Evidence of such notification shall be provided with the application. In addition, the applicant shall post a sign, provided by the City, at the property at least 5 days prior to the public hearing.

**CITY OF CARLSBAD**

*Planning, Engineering,
and Regulation Department*

PO Box 1569, Carlsbad, NM 88221

Phone (575) 887-1191

Fax (575) 885-9871

BOARD OF APPEALS APPLICATION
(VARIANCE FROM SUBDIVISION OR ZONING ORDINANCE)
Sec. 47-7 or Sec. 56-150(c)

Application Date: 8/19/14

Fee Paid (\$50.00): ✓ ^{PUP}

APPLICANT INFORMATION:

Edward M. Rodriguez 2409 Missouri St.

NAME

ADDRESS

Carlsbad NM. 88220 575-885-6431

CITY

STATE

ZIP

PHONE

EMAIL

PROPERTY OWNER INFORMATION (IF DIFFERENT FROM APPLICANT):

Same as above.

NAME

ADDRESS

CITY

STATE

ZIP

PHONE

EMAIL

LEGAL DESCRIPTION AND/OR STREET ADDRESS OF PROPERTY (FOR WHICH VARIANCE IS REQUESTED): 2409 Missouri St.

TYPE OF REQUEST (CHECK ONE):

 VARIANCE FROM THE SUBDIVISION REGULATIONS (CHAPTER 47 - CODE OF ORDINANCES) AS PROVIDED FOR IN SECTION 47-7, VARIANCES.

SPECIFY REGULATION AND/OR SUBSECTION: _____

X VARIANCE FROM THE ZONING ORDINANCE (CHAPTER 56 - CODE OF ORDINANCES) AS PROVIDED FOR IN SECTION 56-150(c).

SPECIFY REGULATION AND/OR SUBSECTION: 56-90(b)

JUSTIFICATION FOR REQUEST AND SITE PLAN: (Describe the topographical uniqueness of the property or extreme practical difficulties or undue hardship that would result from the strict application of the requirement(s) contained in the ordinance section from which the variance is requested. Include a site plan drawn to scale or with accurate dimensions showing property lines, existing and proposed fences and/or walls, setbacks, building and structure locations and parking areas. Attach a separate sheet if necessary.)

See Attached

Zoning Ordinance

Criteria for Appeals - Sec. 56-150(c)(4):

The purpose of the appeal procedure is to determine if the decision being appealed meets the requirements of this Zoning Ordinance. The City Council or the Planning and Zoning Commission, when hearing an appeal, is limited to the following determinations:

- (a) The decision-maker made an error in reviewing whether a standard was met, by a misreading of the facts, plans, regulations or an error in judgment.
- (b) Where conflicting evidence exists, the appeal is limited to determining what evidence or testimony bears the greatest credibility.
- (c) The decision-maker made the decision on standards not contained in this or other City ordinances, regulations or state law; or a standard was applied more strictly or broadly than is appropriate to implement the City's Comprehensive Plan and this Zoning Ordinance.

Subdivision Regulations

Criteria for Appeals – Sec. 47-7

Whenever, in the opinion of the board of appeals, the strict application of the requirements contained in this chapter would result in extreme practical difficulties or undue misuse of property, the board may modify such requirements as are necessary so that the subdivider is allowed to develop his/her property in a reasonable manner providing that the public interests of the community and its citizens are protected and the general intent and spirit of these regulations are preserved. **The board shall grant such a variance or modification only upon determination that:**

1. The variance will not be detrimental to the public health, safety and general welfare of the community;
2. The variance will not adversely affect the reasonable development of adjacent property;
3. The variance is justified because of topographic or other special conditions unique to the property involved in contradistinction to mere inconvenience or financial disadvantage;
4. The variance is consistent with the objectives of this chapter and will not have the effect of nullifying the intent or purpose of this chapter or the comprehensive plan;
5. The variance has been shown to be in the best interest of the general public and not only of interest to the developer, land owner or other interested party;
- 6 The hardship must not be pecuniary and must be a direct result of the land location, topography or other characteristic;
- 7 Where a variance is requested from the required provision of sidewalks, and ADA compliant, alternative route to the nearest bus stop or school is required. If an alternative route cannot be provided, a variance shall not be approved.

FOR OFFICIAL USE ONLY:

Required prior to P & Z:

Complete Application Including:

- | | | | |
|--|---|--|---|
| <input checked="" type="checkbox"/> Site Plan | <input checked="" type="checkbox"/> Fee | <input checked="" type="checkbox"/> Notification | <input checked="" type="checkbox"/> Letter of Explanation |
| <input checked="" type="checkbox"/> Sign Posting Agreement | | | <input type="checkbox"/> Sign Posted |
| <input type="checkbox"/> ABM | <input type="checkbox"/> Staff Comments | | <input type="checkbox"/> Application Packet |

P & Z Action: ☐ Approved

☐ Denied

☐ Other

Date: _____

N/A

CITY OF CARLSBAD
AFFIDAVIT BY PROPERTY OWNER(S)

**IF AN APPLICATION IS MADE BY SOMEONE OTHER THAN THE PROPERTY OWNER
THIS FORM MUST ACCOMPANY THE APPLICATION MATERIALS.**

APPLICATION TYPE:

☐ ZONING CHANGE ☐ CONDITIONAL USE ☐ VARIANCE ☐ TEMPORARY USE

I (WE) HEREBY CERTIFY that I am (we are) the owners of record of the property described as follows:

ADDRESS OF PROPERTY: _____
STREET ADDRESS

LEGAL DESSCRPTION: _____
SUBDIVISION BLOCK LOT OR TRACT

I (WE) HAVE AUTHORIZED the following individuals to act as my (our) agent with regard to this application.

AGENT: _____
NAME PHONE

ADDRESS

I (WE) UNDERSTAND, CONCUR AND AFFIRM:

That this application may be approved, approved with conditions or denied and that, as the property owner, it is my responsibility to ensure that any conditions are complied with and to ensure that the property is maintained in a condition so as not to jeopardize the health, safety or welfare of others and that compliance with all applicable City ordinances is required, and

I (WE) HEREBY EXECUTE THIS AFFIDAVIT in support of the proposed application as presented:

OWNER 1:

BY: _____
SIGNATURE
BY: _____
PRINTED NAME
DATE: _____
DATE SIGNED

NOTARY SEAL

OWNER 2: (IF APPLICABLE)

BY: _____
SIGNATURE
BY: _____
PRINTED NAME
DATE: _____
DATE SIGNED

NOTARY SEAL

ADDITIONAL OWNERS: ATTACH SEPARATE SHEETS AS NECESSARY

NOTIFICATION SIGN POSTING AGREEMENT

Notification of Public Hearings before the City of Carlsbad Planning and Zoning Commission is required pursuant to Sec. 56-140(i).

- Signs shall be posted a minimum of 5 days prior to and shall be removed a maximum of 5 days after the public hearing.
- If the sign is not posted as required, the application will be delayed and will not be considered at the public hearing as scheduled.
- The sign shall be posted at the street side property line with a secure stake provided by the applicant.

I have read and understand these requirements. I understand where the sign is to be located and my obligation to post the sign prior to the public hearing and remove it afterwards.


APPLICANT SIGNATURE

8/19/14
DATE

Sign issued by: 
Staff Member

Date: 8/30-14

Dear Property Owner,

This letter serves as legal notification of a pending action before the City of Carlsbad Planning and Zoning Commission in accordance with Code of Ordinances Sec. 56-140(i). You are being notified because you are a property owner within one-hundred feet (100') of the subject site.

Applicant: Edward M. Rodriguez 2409 Missouri St Carlsbad N. Mex. 575 885-
Name Address Phone 6431
Subject Site Location: _____

The proposed action is a:

☐ Zoning Change from _____ to _____ in accordance with Sec. 56-150(b).

☒ Variance/Appeal from Sec. 56-906 in accordance with Sec. 56-150(c).

The purpose of the variance/appeal is:

For a 0' front yard setback for a car port.

☐ Conditional Use Permit in accordance with Sec. 56-150(f). The purpose of the permit is for a:

☐ Home Occupation: _____

☐ Other Use: _____

The Planning and Zoning Commission will consider this request at a Public Hearing on:

Date: Oct. 6th, 2014

Time: 5:00pm

Place: City Hall Planning Room, 2nd Floor

101 N. Halagueno St.

Carlsbad, NM 88220

The Code of Ordinances can be found on the City's website www.cityofcarlsbadnm.com.

For details about this request contact the applicant OR contact the City Planner at

~~575-234-7923~~ or via email at seshumsky@cityofcarlsbadnm.com.
(575) 885-1185 x 2232

Sincerely,

Applicant/Agent

U.S. Postal Service™ CERTIFIED MAIL™ RECEIPT <i>(Domestic Mail Only; No Insurance Coverage Provided)</i>	
For delivery information visit our website at www.usps.com .	
CARLSBAD NM 88220	OFFICIAL USE
Postage	\$ 04.99
Certified Fee	\$3.30
Return Receipt Fee (Endorsement Required)	\$0.00
Restricted Delivery Fee (Endorsement Required)	\$0.00
Total Postage & Fees	\$ 3.79
08/19/2014	
Sent To: <i>APRIL ROSE MARTINEZ</i> Street, Apt. No.; or PO Box No. City, State, ZIP+4	
PS Form 3800, August 2006	
See Reverse for Instructions	

U.S. Postal Service™ CERTIFIED MAIL™ RECEIPT <i>(Domestic Mail Only; No Insurance Coverage Provided)</i>		
For delivery information visit our website at www.usps.com		
<div style="display: flex; justify-content: space-between;"> <div> CARLSBAD NM 88220 <small>CARLSBAD NM 88220</small> </div> <div style="font-size: 2em; opacity: 0.5;">OFFICIAL USE</div> </div>		
Postage	\$	\$0.49 <div style="text-align: right; font-size: 0.8em;">0615 2014 Postmark Here</div>
Certified Fee	\$	\$3.30
Return Receipt Fee <small>(Endorsement Required)</small>	\$	\$0.00
Restricted Delivery Fee <small>(Endorsement Required)</small>	\$	\$0.00
Total Postage & Fees	\$	\$3.79



Sent To Service For Rodger Kincaid
Street, Apt. No.;
or PO Box No.
City, State, ZIP+4

PS Form 3800, August 2006
See Reverse for Instructions

U.S. Postal Service™ CERTIFIED MAIL™ RECEIPT <i>(Domestic Mail Only; No Insurance Coverage Provided)</i>	
For delivery information visit our website at www.usps.com	
<div style="display: flex; justify-content: space-between;"> CARLSBAD NM 88220 OFFICIAL USE </div>	
Postage	<div style="display: flex; align-items: center;"> \$ <div style="border: 1px solid black; padding: 5px; display: inline-block;"> <div style="display: flex; justify-content: space-between;"> 0615 CARLSBAD NM </div> <div style="text-align: center;"> 06 AUG 19 </div> <div style="text-align: center;"> 2014 </div> <div style="display: flex; justify-content: space-between;"> 88219-20140 Postmark Here </div> </div> </div>
Certified Fee	<div style="display: flex; align-items: center;"> \$ \$3.30 </div>
Return Receipt Fee (Endorsement Required)	<div style="display: flex; align-items: center;"> \$ \$0.00 </div>
Restricted Delivery Fee (Endorsement Required)	<div style="display: flex; align-items: center;"> \$ \$0.00 </div>
Total Postage & Fees	<div style="display: flex; align-items: center;"> \$ \$3.79 </div>


Sent To: Elizabeth Ross & Robert Johnson

Street, Apt. No., or PO Box No. _____

City, State, ZIP+4 _____

PS Form 3800, August 2006

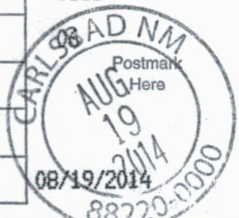
See Reverse for Instructions

U.S. Postal Service™ CERTIFIED MAIL™ RECEIPT <i>(Domestic Mail Only; No Insurance Coverage Provided)</i>		
For delivery information visit our website at www.usps.com		
CARLSBAD NM 88220		
	OFFICIAL USE	
Postage	\$ 04.90	
Certified Fee	\$3.30	
Return Receipt Fee (Endorsement Required)	\$0.00	
Restricted Delivery Fee (Endorsement Required)	\$0.00	
Total Postage & Fees	\$ 08.19	
Sent To <u>Samuel H. French</u> Street, Apt. No.; or PO Box No. City, State, ZIP+4		
PS Form 3800, August 2006 See Reverse for Instructions		

U.S. Postal Service™ CERTIFIED MAIL™ RECEIPT <i>(Domestic Mail Only; No Insurance Coverage Provided)</i>	
For delivery information visit our website at www.usps.com	
CARLSBAD NM 88220	
Postage	\$ \$0.49
Certified Fee	\$ \$3.30
Return Receipt Fee (Endorsement Required)	\$ \$0.00
Restricted Delivery Fee (Endorsement Required)	\$ \$0.00
Total Postage & Fees	\$ \$3.79



Sent To: Richard + Kathleen Brooks
 Street, Apt. No.,
 or PO Box No.
 City, State, ZIP+4

U.S. Postal Service™ CERTIFIED MAIL™ RECEIPT <i>(Domestic Mail Only; No Insurance Coverage Provided)</i>		
For delivery information visit our website at www.usps.com		
CERTIFIED MAIL™ 88220		
Postage	\$ 04.99	<div style="text-align: center;"> 0615  </div>
Certified Fee	\$ 3.30	
Return Receipt Fee (Endorsement Required)	\$ 0.00	
Restricted Delivery Fee (Endorsement Required)	\$ 0.00	
Total Postage & Fees	\$ 3.79	
Sent To <i>Classic Mt. Hatteray & Patricia Taylor</i> Street, Apt. No.; or PO Box No. City, State, ZIP+4		

PS Form 3800, August 2006
See Reverse for Instructions

U.S. Postal Service™
CERTIFIED MAIL™ RECEIPT
(Domestic Mail Only; No Insurance Coverage Provided)

For delivery information visit our website at www.usps.com

CARLSBAD NH 08220

Postage	\$	\$0.49	0615
Certified Fee		\$3.30	06 AUG 19 2014
Return Receipt Fee (Endorsement Required)		\$0.00	Postmark Here
Restricted Delivery Fee (Endorsement Required)		\$0.00	
Total Postage & Fees	\$	\$3.79	08/19/2014

Sent To *Jamie Renteria*

Street, Apt. No.,
or PO Box No.

City, State, ZIP+4

PS Form 3800, August 2006

See Reverse for Instructions

U.S. Postal Service™
CERTIFIED MAIL™ RECEIPT
(Domestic Mail Only; No Insurance Coverage Provided)

For delivery information visit our website at www.usps.com

CARLSBAD NH 08220

Postage	\$	\$0.49	0615
Certified Fee		\$3.30	06 AUG 19 2014
Return Receipt Fee (Endorsement Required)		\$0.00	Postmark Here
Restricted Delivery Fee (Endorsement Required)		\$0.00	
Total Postage & Fees	\$	\$3.79	08/19/2014

Sent To

ELSA Ortega

Street, Apt. No.,
or PO Box No.

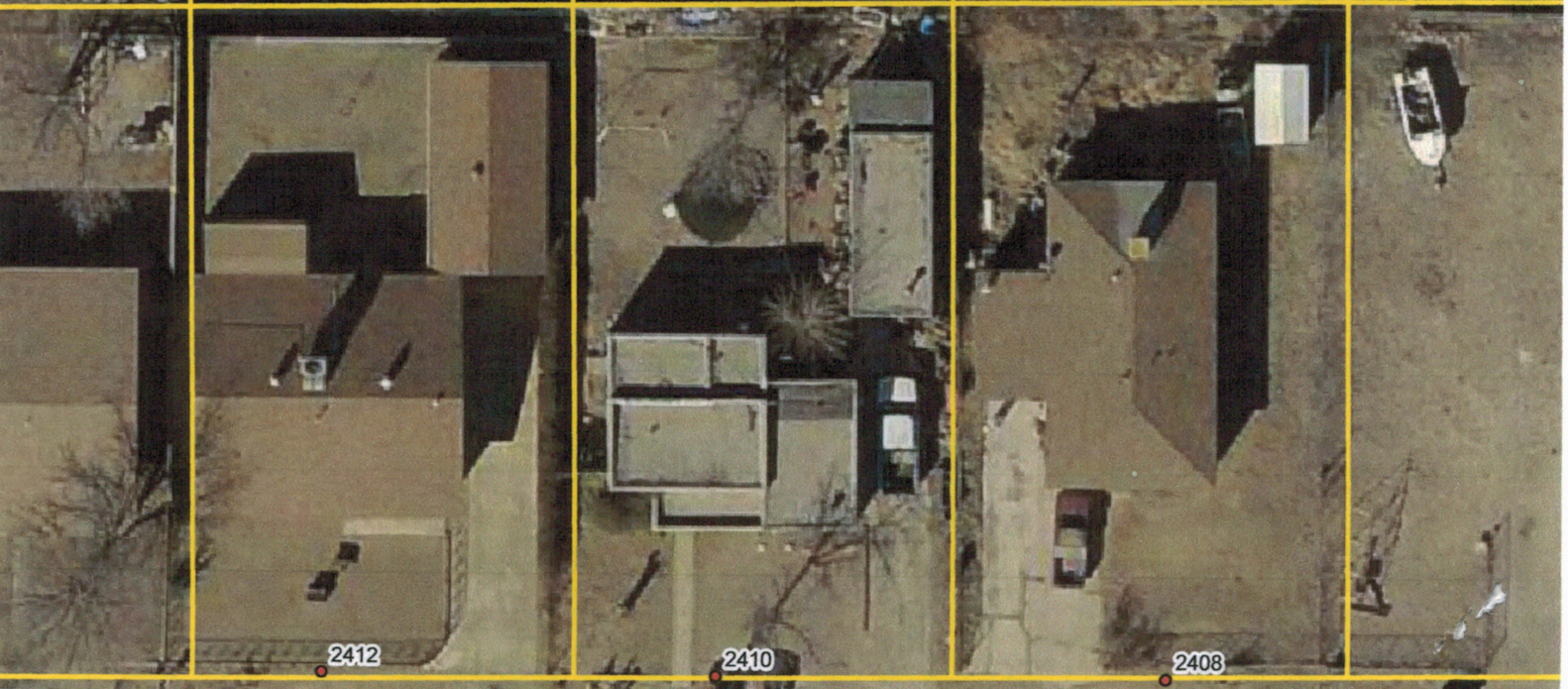
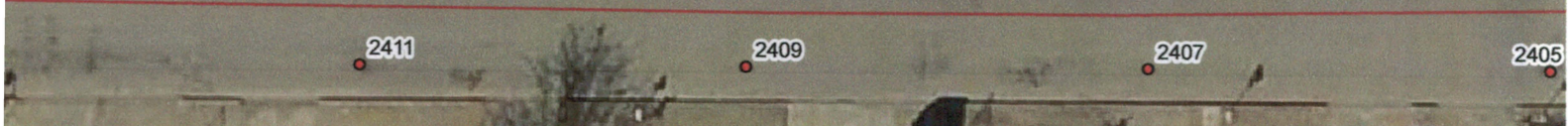
City, State, ZIP+4

PS Form 3800, August 2006

See Reverse for Instructions

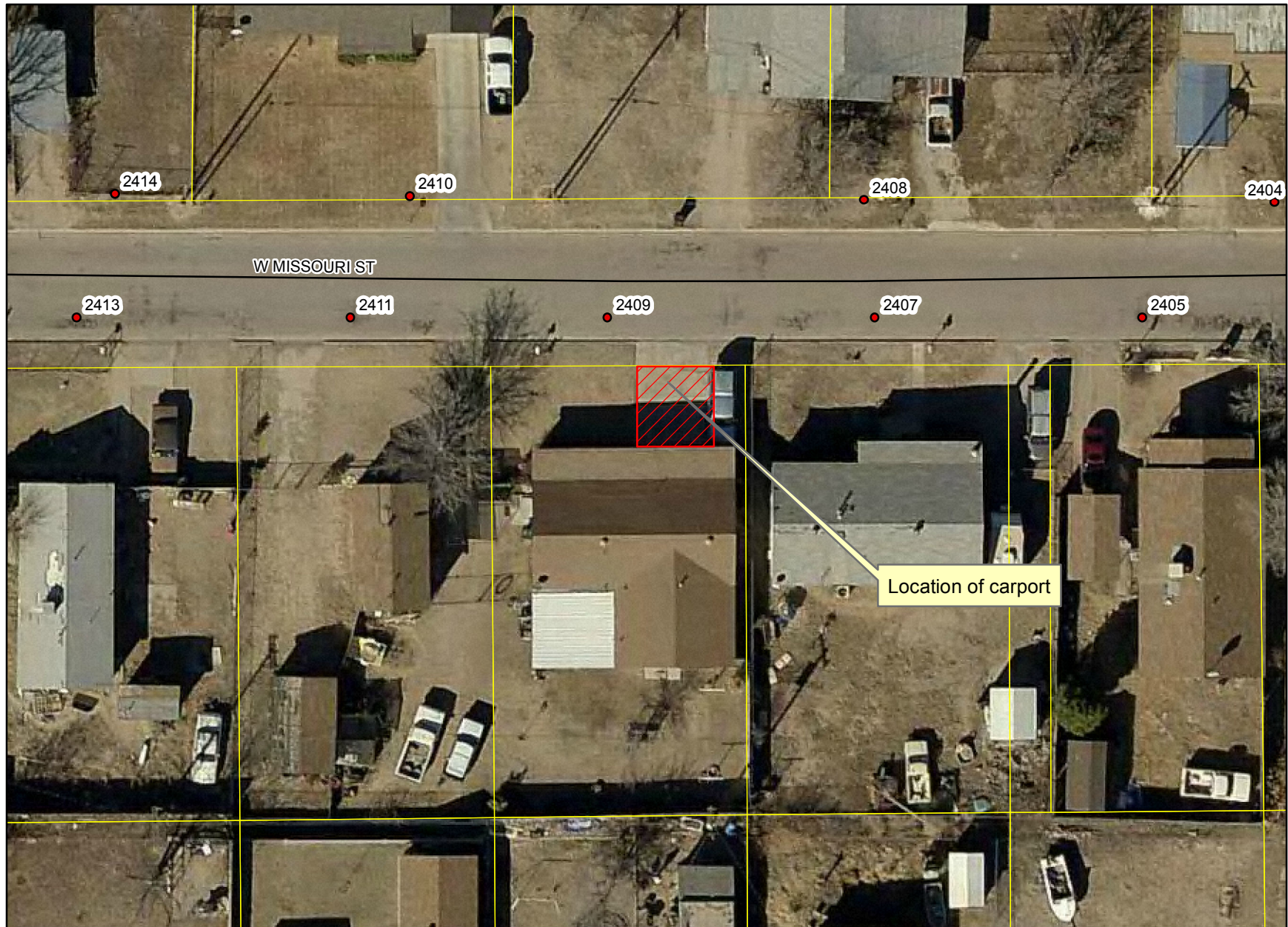


W Missouri St





Variance - 2409 W. Missouri St.



0 25 50 100 Feet



CITY OF CARLSBAD
PLANNING, ENGINEERING AND
REGULATION DEPARTMENT
9/15/2014

CITY OF CARLSBAD
AGENDA BRIEFING MEMORANDUM
PLANNING AND ZONING COMMISSION

Meeting Date: 10/6/14

DEPARTMENT: Planning, Engineering and Regulation	BY: Jeff Patterson, Deputy Planning Director	DATE: 8/21/14
<p>SUBJECT: Appeal (variance) from Section 56-90(b) to allow a front-yard setback variance of 30', which would result in a 0' front-yard setback at 912 Albert St., legally described as Carter Subdivision Unit 3, Block 16, Lot 14, zoned R-1 Residential District.</p> <p>Applicant: Ruben Rodriguez 912 Albert St. Carlsbad, NM 88220</p> <p><i>*The applicant provided the required notification to property owners within 100' and agreed to post the required sign 5-days prior to the public hearing as required by Sec. 56-140(i).</i></p>		
<p>SYNOPSIS: This request is to place a carport in the 30' front-yard setback at the subject site. If approved, the resulting front yard setback would be 0'. The majority of lots within Carter Subdivision Unit 3 have a 22' front setback. However, the lots on the east side of Albert St. all have a 30' setback. Table 6 of Section 56-90(b) states that all front setbacks in R-1 zoning should be 30', unless the majority of buildings on a block are closer than 30'. In such cases, the lesser setback will apply.</p> <p>The majority of homes along located in Block 16 on the east side of Albert St. adhere to the 30' front setback.</p>		
<p>IMPACT (SAFETY AND WELFARE/FINANCIAL/PERSONNEL/INFRASTRUCTURE/ETC.): The 30' front-yard setback standards of Section 56-90(b) of the Zoning Ordinance is meant to preserve a substantial buffer along the public streets and public right-of-ways that front residential properties in the City. This buffer is designed to provide access for emergency situations, for safety purposes and line of sight, and for providing adequate room for utilizing the public right of way along the City streets in residential neighborhoods. Granting this variance would eliminate this buffer along the western property boundary.</p> <p>Sec. 56-150(k) of the Zoning Ordinance states:</p> <p style="padding-left: 40px;">The Planning and Zoning Commission shall only approve a variance if it makes the following findings:</p> <ul style="list-style-type: none">(a) The stated hardship is one that is unique to the applicant rather than one suffered by the neighbors or the general public, and(b) The hardship relates to the applicant's land, rather than personal circumstances, and(c) The hardship is not the result of the applicant's own actions, and(d) The granting of the variance is consistent with the City's Comprehensive Plan or other City master plan, and(e) The granting of the variance is in harmony with the purpose and intent of the Zoning Ordinance, and(f) The variance granted is the minimum necessary to make possible the reasonable use of the land or structure, and		

- (g) The granting of the variance will not be injurious to adjacent property or the neighborhood or detrimental to the public health, safety or general welfare, and
- (h) The variance will neither result in the extension or expansion of a non-conforming structure or use in violation of Article VII nor authorize the initiation of a non-conforming use of land.

The applicant's request is not justified based on the criteria above.

The following *Greater Carlsbad Comprehensive Plan: Strategy 2030* goals apply to this request:

Chapter 3: Land Use

Goal 4: "The City of Carlsbad will strive to create an aesthetically pleasing built environment."

Chapter 4: Housing

Goal 2: Carlsbad will ensure that local housing protects the health, safety, and welfare of residents and their neighbors.

PLANNING STAFF RECOMMENDATION: Based on the application materials and staff comments, the Planning Staff recommends denial.

DEPARTMENT RECOMMENDATION (please check):

	Approval	Denial	n/a		Approval	Denial	n/a
Public Works			x	Plng., Eng. & Reg. Dept:			
Fire Department	x			Code Enforcement Division			x
Legal Department		x		Engineering Division		x	
Police Department	x			Planning Division		x	
Utilities Department			x	Building & Regulation Division			x
Culture & Rec. Dept.			x				

DEPARTMENT COMMENTS:

Public Works: no comments

Utilities Department: no comments.

Building Department: no comments

Fire Department: no objections or comments.

Code Enforcement: no comments

Legal Department: I recommend denial. The applicant has not shown that the 0' front yard setback meets the minimum requirements for the grant of a variance.

Planning Department: see comments above.

Police Department: Reviewed. Recommend approval, no comments.

Culture and Recreation Department: no comments

City Engineer: recommend denial, no comments.

ATTACHMENTS: Application materials



CITY OF CARLSBAD

*Planning, Engineering,
and Regulation Department*

PO Box 1569, Carlsbad, NM 88221

Phone (575) 887-1191

Fax (575) 885-9871

BOARD OF APPEALS APPLICATION

(VARIANCE FROM SUBDIVISION OR ZONING ORDINANCE)

Sec. 47-7 or Sec. 56-150(c)

PROCESS FOR ACCEPTANCE AND REVIEW OF PLANNING AND ZONING COMMISSION MATTERS

1. The Planning and Zoning Commission's regularly scheduled meetings are on the **FIRST MONDAY OF THE MONTH**. Applicant should obtain an Application Packet for the particular type of request (Zone Change, Subdivision, Variance, Annexation, Conditional Use, etc.) from the City of Carlsbad, Planning, Engineering, and Regulation Office.
2. **Applicant must submit a completed Application to the Planning, Engineering, and Regulation Office on, or before, the FIRST FRIDAY OF THE MONTH prior to the desired Commission meeting.** The minimum application packet submittal is one (1) copy of the Application with original signatures and all required supporting documents. A letter of explanation or clarification may also be provided. The required non-refundable application fee is due with submittal of the application.

The desired maximum size for all documents is 11"x17". **However, if the applicant wishes to support his or her application with larger size documents, an original and fifteen (15) copies need to be provided.** Separate arrangements for copying these large documents may be possible, but will incur additional costs.

3. The Planning, Engineering, and Regulation Office will give the Application an initial cursory review. If deficiencies or questions are noted, the Applicant will be advised and provided an opportunity to supplement the application. If the Applicant fails to complete and resubmit the application prior to the above deadline, the matter will not be heard until the next subsequent Commission meeting. The original application fee will be retained and will suffice for the specific original application for a period of 90-days from the date of the original application.
4. Applications appearing complete will be set for full evaluation by City Staff prior to the Commission meeting. The purpose of this evaluation is to develop and provide a full briefing report for the Commission. Applicants will be advised of deficiencies noted during this review and will be afforded opportunity to supplement their application during their presentation to the Commission, if they so desire.
5. The Planning and Zoning Commission will vote to approve or deny the request. Applicant or his/her representative must be present to address any questions that Planning and Zoning Commissioners may have. Appeals of Planning and Zoning Commission decisions will be heard by the City Council pursuant to Sec. 56-150(c).
6. The applicant shall mail notice of the Planning and Zoning Commission hearing, via certified mail, to all property owners within one-hundred feet (100') of the subject site. Evidence of such notification shall be provided with the application. In addition, the applicant shall post a sign, provided by the City, at the property at least 5 days prior to the public hearing.

**CITY OF CARLSBAD**

*Planning, Engineering,
and Regulation Department*

PO Box 1569, Carlsbad, NM 88221

Phone (575) 887-1191

Fax (575) 885-9871

BOARD OF APPEALS APPLICATION
(VARIANCE FROM SUBDIVISION OR ZONING ORDINANCE)
Sec. 47-7 or Sec. 56-150(c)

Application Date: 7-9-14

Fee Paid (\$50.00): \$50.00

APPLICANT INFORMATION:

Ruben Rodriguez 912 Albert St
NAME ADDRESS
Carlsbad NM 88220 (575) 636-0976 Ruben.Rdgz@9@gmail
CITY STATE ZIP PHONE EMAIL

PROPERTY OWNER INFORMATION (IF DIFFERENT FROM APPLICANT):

NAME ADDRESS
CITY STATE ZIP PHONE EMAIL

LEGAL DESCRIPTION AND/OR STREET ADDRESS OF PROPERTY (FOR WHICH VARIANCE IS REQUESTED): 912 Albert St

TYPE OF REQUEST (CHECK ONE):

 VARIANCE FROM THE **SUBDIVISION REGULATIONS** (CHAPTER 47 - CODE OF ORDINANCES) AS PROVIDED FOR IN SECTION 47-7, VARIANCES.

SPECIFY REGULATION AND/OR SUBSECTION: _____

X VARIANCE FROM THE **ZONING ORDINANCE** (CHAPTER 56 - CODE OF ORDINANCES) AS PROVIDED FOR IN SECTION 56-150(c).

SPECIFY REGULATION AND/OR SUBSECTION: 56-90 (b)

for a front setback of 0' instead of required 30'.

JUSTIFICATION FOR REQUEST AND SITE PLAN: (Describe the topographical uniqueness of the property or extreme practical difficulties or undue hardship that would result from the strict application of the requirement(s) contained in the ordinance section from which the variance is requested. Include a site plan drawn to scale or with accurate dimensions showing property lines, existing and proposed fences and/or walls, setbacks, building and structure locations and parking areas. Attach a separate sheet if necessary.)

See Last Page

Zoning Ordinance

Criteria for Appeals - Sec. 56-150(c)(4):

The purpose of the appeal procedure is to determine if the decision being appealed meets the requirements of this Zoning Ordinance. The City Council or the Planning and Zoning Commission, when hearing an appeal, is limited to the following determinations:

- (a) The decision-maker made an error in reviewing whether a standard was met, by a misreading of the facts, plans, regulations or an error in judgment.
- (b) Where conflicting evidence exists, the appeal is limited to determining what evidence or testimony bears the greatest credibility.
- (c) The decision-maker made the decision on standards not contained in this or other City ordinances, regulations or state law; or a standard was applied more strictly or broadly than is appropriate to implement the City's Comprehensive Plan and this Zoning Ordinance.

Subdivision Regulations

Criteria for Appeals – Sec. 47-7

Whenever, in the opinion of the board of appeals, the strict application of the requirements contained in this chapter would result in extreme practical difficulties or undue misuse of property, the board may modify such requirements as are necessary so that the subdivider is allowed to develop his/her property in a reasonable manner providing that the public interests of the community and its citizens are protected and the general intent and spirit of these regulations are preserved. **The board shall grant such a variance or modification only upon determination that:**

1. The variance will not be detrimental to the public health, safety and general welfare of the community;
2. The variance will not adversely affect the reasonable development of adjacent property;
3. The variance is justified because of topographic or other special conditions unique to the property involved in contradistinction to mere inconvenience or financial disadvantage;
4. The variance is consistent with the objectives of this chapter and will not have the effect of nullifying the intent or purpose of this chapter or the comprehensive plan;
5. The variance has been shown to be in the best interest of the general public and not only of interest to the developer, land owner or other interested party;
- 6 The hardship must not be pecuniary and must be a direct result of the land location, topography or other characteristic;
- 7 Where a variance is requested from the required provision of sidewalks, and ADA compliant, alternative route to the nearest bus stop or school is required. If an alternative route cannot be provided, a variance shall not be approved.

FOR OFFICIAL USE ONLY:

Required prior to P & Z:

Complete Application Including:

- | | | | |
|--|---|--|---|
| <input type="checkbox"/> Site Plan | <input checked="" type="checkbox"/> Fee | <input checked="" type="checkbox"/> Notification | <input checked="" type="checkbox"/> Letter of Explanation |
| <input checked="" type="checkbox"/> Sign Posting Agreement | | | <input checked="" type="checkbox"/> Sign Posted |
| <input type="checkbox"/> ABM | <input type="checkbox"/> Staff Comments | | <input type="checkbox"/> Application Packet |

P & Z Action: ☐ Approved

☐ Denied

☐ Other

Date: _____

CITY OF CARLSBAD
AFFIDAVIT BY PROPERTY OWNER(S)

**IF AN APPLICATION IS MADE BY SOMEONE OTHER THAN THE PROPERTY OWNER
THIS FORM MUST ACCOMPANY THE APPLICATION MATERIALS.**

APPLICATION TYPE:

☐ **ZONING CHANGE** ☐ **CONDITIONAL USE** ☐ **VARIANCE** ☐ **TEMPORARY USE**

I (WE) HEREBY CERTIFY that I am (we are) the owners of record of the property described as follows:

ADDRESS OF PROPERTY: _____
STREET ADDRESS

LEGAL DESSCRPTION: _____
SUBDIVISION BLOCK LOT OR TRACT

I (WE) HAVE AUTHORIZED the following individuals to act as my (our) agent with regard to this application.

AGENT: _____
NAME PHONE

ADDRESS

I (WE) UNDERSTAND, CONCUR AND AFFIRM:

That this application may be approved, approved with conditions or denied and that, as the property owner, it is my responsibility to ensure that any conditions are complied with and to ensure that the property is maintained in a condition so as not to jeopardize the health, safety or welfare of others and that compliance with all applicable City ordinances is required, and

I (WE) HEREBY EXECUTE THIS AFFIDAVIT in support of the proposed application as presented:

OWNER 1:

BY: _____
SIGNATURE
BY: _____
PRINTED NAME
DATE: _____
DATE SIGNED

NOTARY SEAL

OWNER 2: (IF APPLICABLE)

BY: _____
SIGNATURE
BY: _____
PRINTED NAME
DATE: _____
DATE SIGNED

NOTARY SEAL

ADDITIONAL OWNERS: ATTACH SEPARATE SHEETS AS NECESSARY

NOTIFICATION SIGN POSTING AGREEMENT

Notification of Public Hearings before the City of Carlsbad Planning and Zoning Commission is required pursuant to Sec. 56-140(i).

- Signs shall be posted a minimum of 5 days prior to and shall be removed a maximum of 5 days after the public hearing.
- If the sign is not posted as required, the application will be delayed and will not be considered at the public hearing as scheduled.
- The sign shall be posted at the street side property line with a secure stake provided by the applicant.

I have read and understand these requirements. I understand where the sign is to be located and my obligation to post the sign prior to the public hearing and remove it afterwards.

Ruben Rodriguez
APPLICANT SIGNATURE

7-9-14
DATE

Sign issued by: 
Staff Member

Date: 7-9-14

Dear Property Owner,

This letter serves as legal notification of a pending action before the City of Carlsbad Planning and Zoning Commission in accordance with Code of Ordinances Sec. 56-140(i). You are being notified because you are a property owner within one-hundred feet (100') of the subject site.

Applicant: Ruben Rodriguez 912 Albert St (575) 636-0976
Name Address Phone

Subject Site Location: 912 Albert St.

The proposed action is a:

☐ Zoning Change from _____ to _____ in accordance with Sec. 56-150(b).

☒ Variance/Appeal from Sec. 56-90(b) in accordance with Sec. 56-150(c).

The purpose of the variance/appeal is:

install a mobile carport in the driveway and
have a front setback of 0' instead of required 30'

☐ Conditional Use Permit in accordance with Sec. 56-150(f). The purpose of the permit is for a:

☐ Home Occupation: _____

☐ Other Use: _____

The Planning and Zoning Commission will consider this request at a Public Hearing on:

Date: Sept. 8

Time: 5:00pm

Place: City Hall Planning Room, 2nd Floor

101 N. Halagueno St.

Carlsbad, NM 88220

The Code of Ordinances can be found on the City's website www.cityofcarlsbadnm.com.

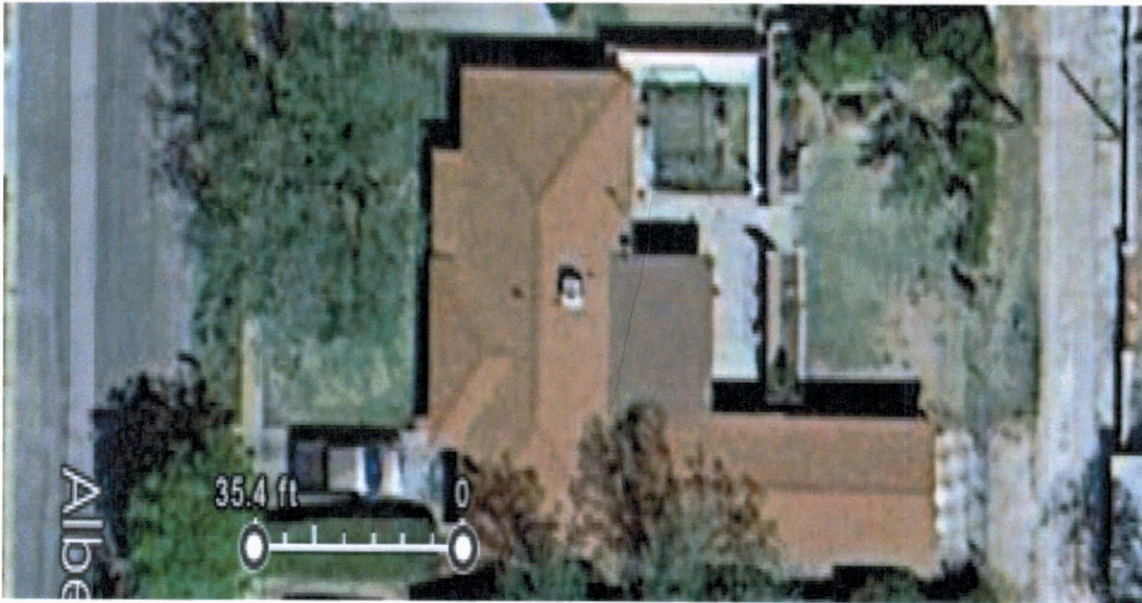
For details about this request contact the applicant OR contact the City Planner at
575-885-1185 or via email at seshumsky@cityofcarlsbadnm.com.

Sincerely,

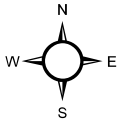
Ruben Rodriguez

Applicant/Agent

912 Albert St



The purpose of this variance is to request a permission to install a mobile carport for my two vehicles in my personal driveway at 912 Albert St. The problem that I am facing is that I do not have the sufficient space recommended between the city property and my private property. If install, the carport will be at the edge of my property and the 5 or 15 ft recommended by the city will be excluded since the carport will take all the space. The need for the carport came after the hail storm we had in the region in month of May which cause significant damage to my two vehicles.



Variance - 912 Albert St.



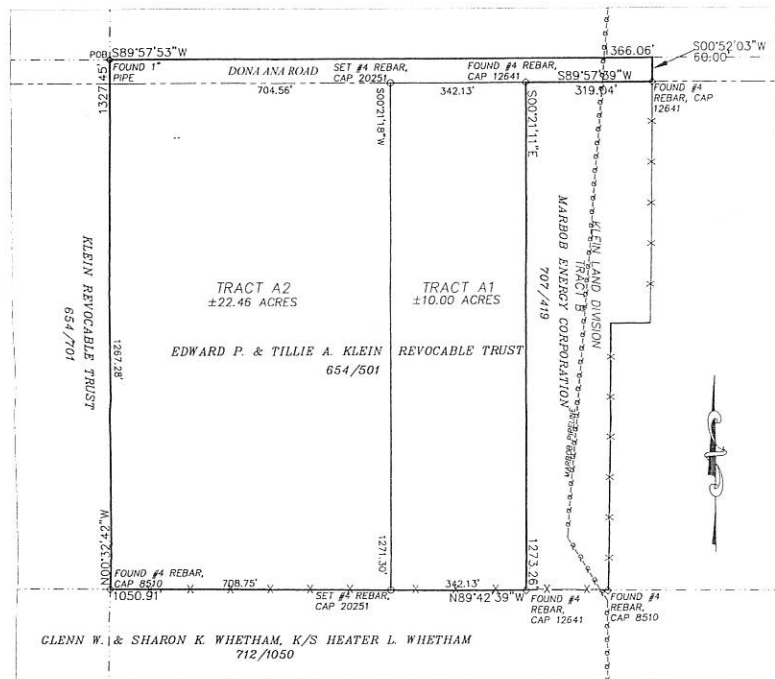
0 15 30 60 Feet

Agenda Item #7-Report Regarding Plats Approved Through Summary Review Process

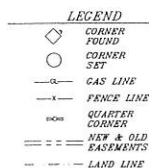
KLEIN LAND DIVISION

A REPLAT OF KLEIN LAND DIVISION AS RECORDED IN CABINET 4, SLIDE 910-1, OF THE EDDY COUNTY RECORDS, SITUATED IN THE NORTH HALF OF THE SOUTHEAST QUARTER OF SECTION 14, TOWNSHIP 22 SOUTH, RANGE 26 EAST, N.M.P.M., EDDY COUNTY, NEW MEXICO, WHICH TRACT A

BEGINNING AT THE NORTHWEST CORNER OF TRACT A, OF CALLED KLEIN LAND DIVISION, ALSO THE NORTHWEST CORNER OF ANA ROAD FOR 1366.06', TO THE EAST LINE OF CALLED KLEIN LAND DIVISION; THEN S00°52'03"W, ALONG SAID EAST LINE, ROAD, FOR 319.04', TO THE WEST LINE OF TRACT B OF CALLED LAND DIVISION; THEN S00°21'11"E, ALONG THE WEST LINE OF TRACT A OF CALLED LAND DIVISION; THEN N00°32'42"W, ALONG THE WEST LINE OF TRACT A OF CALLED LAND DIVISION



Scale 1" = 200'



BASIS OF BEARINGS AND DISTANCES:

1. BEARINGS SHOWN HEREON ARE REFERENCED TO THE NORTH AMERICAN DATUM OF 1983 (NAD 83), NEW MEXICO EAST ZONE (NM ZONE 3001).

2. A COMBINED FACTOR OF 0.999765704 IS USED TO CONVERT DISTANCES FROM GRID TO SURFACE.

3. AREAS AND DISTANCES ARE SURFACE MEASUREMENTS.

4. ALL MEASUREMENTS WERE MADE ON JULY 28, 2014. THE DISTANCES ARE MEASURED IN THE US SURVEY FOOT.

VISION REPLAT #1 AMENDED

MAPPING RECORDS, SITUATED IN THE NORTH HALF OF THE SOUTHEAST QUARTER OF SECTION 14, TOWNSHIP 22 SOUTH, RANGE 26 EAST, N.M.P.M., EDDY COUNTY, NEW MEXICO, WHICH TRACT A

E SOUTHEAST QUARTER OF SECTION 14, T22S, R26E, N.M.P.M.; THEN S89°57'53"W ALONG THE NORTH R.O.W. OF DONA ANA ROAD, TO THE SOUTH R.O.W. OF DONA ANA ROAD; THEN S89°57'39"W, ALONG THE SOUTH R.O.W. OF DONA ANA ROAD, FOR 1273.26', TO THE SOUTH LINE OF CALLED LAND DIVISION; THEN N89°42'39"W FOR 1050.91', TO THE WEST LINE, FOR 1327.45', BACK TO THE POINT OF BEGINNING. CONTAINING ±32.46 ACRES MORE OR LESS.

THIS PLAT IS TO AMEND THE OWNERSHIP ON KLEIN LAND DIVISION REPLAT #1, FILED IN CABINET 6, SLIDE XXX-1, OF THE MAPPING RECORDS FOR EDDY COUNTY, NEW MEXICO.

RO P. & TILLIE A. KLEIN REVOCABLE TRUST
RO P. KLEIN, TRUSTEE OF EDWARD P. & TILLIE A. REVOCABLE TRUST

RO P. & TILLIE A. KLEIN REVOCABLE TRUST
A KLEIN, TRUSTEE OF EDWARD P. & TILLIE A. REVOCABLE TRUST
OWNERS STATEMENT AND AFFIDAVIT
OF NEW MEXICO
TY OF EDDY

ABOVE SIGNED BEING FIRST DULY SWORN ON OATH, STATE, IF OWNERS AND PROPRIETORS WE HAVE OF OUR OWN FREE WILL AND ENT CAUSED THIS PLAT WITH ITS TRACTS TO BE PLATED. THE PROPERTY RISED ON THIS PLAT LIES WITHIN THE PLATING JURISDICTION OF EDDY COUNTY AND CARLSBAD EXTRATERRITORIAL ZONE.

SWORN, SIGNED AND ACKNOWLEDGED BEFORE ME
16 DAY OF SEPTEMBER, 2014
Edward P. Klein AND Tillie A. Klein

OFFICIAL SEAL
Tara M. Pyeatt
NOTARY PUBLIC
STATE OF NEW MEXICO
My Commission Expires 05/17/2016

APPROVAL BY THE CITY PLANNING COMMISSION
THIS IS TO CERTIFY THAT THIS PLAT HAS BEEN APPROVED BY THE PLANNING COMMISSION, OR ITS DESIGNEE, OF THE CITY OF CARLSBAD, COUNTY OF EDDY, STATE OF NEW MEXICO ON THIS 26th DAY OF September, 2014

Commission Designee

THIS PLAT IS EXEMPT FROM THE STATE SUBDIVISION ACT, AND THE COUNTY SUBDIVISION ORDINANCE UNDER 4-6-2 P.J.S DEFINITIONS (EFFECTIVE JULY 7, 1996). THE SALE OR CONVEYANCE OF A SINGLE PARCEL FROM A TRACT WITHIN A 5 YEAR PERIOD (NOT A PREVIOUSLY APPROVED SUBDIVISION).

ENTITLEMENT EXEMPTION FILED ON
THE DAY OF 20 A.D.
IN BOOK PAGE OF THE (ECR).

APPROVED AND ACCEPTED BY THE EDDY COUNTY BOARD OF COMMISSIONERS OR AGENT

THIS DAY OF 20

BY AGENT ATTEST COUNTY CLERK

I, MELVIN R. PYEATT, JR., A NEW MEXICO REGISTERED PROFESSIONAL SURVEYOR, CERTIFY THAT I AM RESPONSIBLE FOR THIS SURVEY, AND THAT THIS SURVEY IS TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE AND BELIEF. THIS SURVEY AND PLAT MEET THE MINIMUM STANDARDS FOR SURVEYING IN NEW MEXICO.

MELVIN R. PYEATT, JR., 423 W. GREENE ST. SUITE 1, CARLSBAD, N.M., 88220, CERTIFICATE NO. 20251, TEL. 885-6867, FAX 885-6867



R&R SURVEYING LLC
A LAND SURVEYING COMPANY
INDEXING INFO. FOR CO. CLERK

SEC. 14 T22S R26E N.M.P.M.
SUBDIVISION: KLEIN LAND DIVISION REPLAT #1 AMENDED
OWNER: EDWARD P. & TILLIE A. KLEIN REVOCABLE TRUST
CITY: CARLSBAD
COUNTY: EDDY
STATE: NEW MEXICO
DATE: SEPTEMBER 15, 2014
ACCESS: JES
AREA: 1.12 AC. ACRES

STATE OF NEW MEXICO, COUNTY OF EDDY, I HEREBY CERTIFY THAT THIS INSTRUMENT WAS FILED FOR RECORD ON THE DAY OF 20 A.D. AT O'CLOCK M. CABINET SLIDE DARLENE ROSPRIM-COUNTY CLERK BY DEPUTY

Agenda Item #8: Adjourn