

**CITY OF TRUTH OR CONSEQUENCES
PLANNING & ZONING COMMISSION
THURSDAY, NOVEMBER 4, 2021**

AGENDA

REGULAR MEETING

Regular meeting of the Planning & Zoning Commission of the City of Truth or Consequences, New Mexico to be held on Thursday, November 4, 2021 at 5:30 p.m. in the City Commission Chambers, 405 W. 3rd St, Truth or Consequences, NM 87901.

CALL TO ORDER

ROLL CALL:

Michael Hogg, Chairman
Chris Sisney, Vice-Chairman
James Bush, Member

1. APPROVAL OF AGENDA

2. APPROVAL OF MINUTES:

- a. Regular Meeting of October 4, 2021.

3. COMMENTS FROM THE PUBLIC (3 minute rule applies)

4. PUBLIC HEARING:

- a. Public Hearing/Discussion/Action: Request for a Summary Plat Amendment and Variance Request at 128 Broadway, Truth or Consequences, NM pursuant to Chapter 15, Sec. 15-17. Traci Alvarez, Assistant City Manager

5. REPORTS FROM THE BOARD

7. REPORTS FROM STAFF

8. ADJOURNMENT

**CITY OF TRUTH OR CONSEQUENCES
PLANNING & ZONING COMMISSION
MONDAY, OCTOBER 4, 2021**

MINUTES

REGULAR MEETING

Regular meeting of the Planning & Zoning Commission of the City of Truth or Consequences, New Mexico to be held in the City Commission Chambers, 405 W. Third, Truth or Consequences, New Mexico, on Monday, October 4, 2021 at 5:30pm.

CALL TO ORDER: The meeting was called to order by Chairman Hogg.

ROLL CALL:

Michael Hogg, Chairman
Chris Sisney, Vice-Chairman
James Bush, Member

ALSO PRESENT:

Traci Alvarez, Assistant City Manager
Angela A. Torres, City Clerk

1. APPROVAL OF AGENDA:

Member Bush made a motion to approve the agenda. Vice-Chairman Sisney seconded the motion. Motion carried unanimously.

2. APPROVAL OF MINUTES:

- a. Regular meeting of Monday, August 2, 2021.

Member Bush made a motion to approve minutes. Vice-Chairman Sisney seconded the motion. Motion carried unanimously.

3. COMMENTS FROM THE PUBLIC:

There were no comments from the public.

4. PUBLIC HEARING:

- a. Public Hearing/Discussion/Action: Request for a Summary Plat Amendment at 905 Palo Verde Street, Truth or Consequences, NM pursuant to Chapter 15, Sec. 15-17., Amendment of plats. Applicant request to combine lots.**

Traci Alvarez, Assistant City Manager – Presented to the board the request for a Summary Plat Amendment at 905 Palo Verde Street, Truth or Consequences, NM pursuant to Chapter 15, Sec. 15-17., Amendment of plats. In the packet is the finding & facts sheet and the utility sign off sheet. We don't see any issues or concerns with this request. Staff recommends approval.

Chairman Hogg: He drove by the place and everything looked fine to him.

Vice-Chairman Sisney – Asked the applicants what they plan on building on the property.

Traci Alvarez, Assistant City Manager – Explained that it is important to note that this is just for the request to combine the lots, and how they develop the lots would go before Planning & Zoning and there are requirements, and guidelines for that so what they are going to build cannot have any bearing on whether or not you approve this. We are approving this over the 7 findings and facts worksheet that has been provided to you. That area is zoned per our Municipal Code for maybe only site built houses, or it could be zoned for manufactured homes, or it could go for a special use for an RV.

Vice-Chairman Sisney – Asked what the zoning is for that area.

Traci Alvarez, Assistant City Manager – The zoning is R-1 which allows:

R-1 PERMITTED USES. The following uses are permitted by right in R-1 Districts.

- 1. Accessory Building.*
- 2. Accessory Dwelling Unit: Subject to meeting all setback, building and development standards of this Code.*
- 3. Construction Yard or Building (Temporary): Such yard or building shall be removed upon completion of construction or within three (3) years from date of permit, whichever is sooner. Construction yards and buildings shall be maintained in fences at least six (6) feet in height. However, there shall be no fence or wall more than three (3) feet in total height above street-curb level located within the clear sight triangle of a street intersection as defined in Article 8 of this Code.*
- 4. Detached Single Family Dwellings.*
- 5. Dish Antennas: These shall be for the non-commercial reception of satellite signals.*

6. Garage or Yard Sale or Similar Use: Three (3) sales are permitted in a one (1) year period at a single address. A sale shall not exceed three (3) consecutive days.

7. Greenhouse (Non-Commercial), Garden Sheds, Tool Sheds: When detached from the main dwelling such structures are subject to the provisions of Accessory Buildings.

8. Home for Handicapped, Disabled, Retarded, or Retired: Subject to requirements of the New Mexico Statutes, 1978, Section 3-21-1, Paragraph C, as amended. There shall be no more than five (5) persons in one home, and a minimum of two (2) parking spaces must be provided.

9. Home Occupation.

10. Kennel (Private, Residential).

11. Manufactured Homes.

12. Public Park, Playground, Ball Fields or Tennis Courts:

13. Real Estate Office (Temporary): Permitted only in conjunction with a residential subdivision, provided such use shall be discontinued upon the completion of the development or within three (3) years from date permit issued, whichever is sooner.

14. Storage, Residential Vehicles: Storage of personal recreational vehicles, boats, trailers or similar uses shall be limited to a maximum of one (1) per dwelling unit in the side yard, with no limit in the rear yard separated by at least five (5) feet from any property line.

15. Swimming Pool (Private): Permitted only when a protective fence four (4) feet in height is provided around the yard, lot or pool area. The pool shall be no closer than five (5) feet from any property line and approval from all utilities is required to insure overhead safety.

16. Tennis Courts (Private for Residential Use).

Drake Wehrs, Applicant - They are building a single story house on the property with a garage.

Member Bush made a motion to approve the request for a Summary Plat Amendment at 905 Palo Verde Street, Truth or Consequences, NM pursuant to Chapter 15, Sec. 15-17., Amendment of plats. Vice-Chairman Sisney seconded the motion. Motion carries unanimously.

5. NEW BUSINESS:

a. Discussion/Action: New Meeting Date and Time:

Traci Alvarez, Assistant City Manager – When the Planning & Zoning Commission was re-enacted, they chose a meeting date that conflicts with our Recreation Advisory Board that has been in place for a long time. Therefore, her request is that the Planning & Zoning Commission consider holding their meetings on a different day and time so we are not conflicted on which meetings we attend.

Member Bush made a motion to change the Planning & Zoning Meetings to the first Thursday of each month at 5:30 p.m. Vice-Chairman Sisney seconded the motion. Motion carries unanimously.

6. REPORTS FROM THE BOARD:

There were no reports from the board.

7. REPORTS FROM STAFF:

Traci Alvarez, Assistant City Manager – We will have another Public Hearing at the next meeting for another Summary Plat Amendment. She held off on scheduling it until she knew what the new date was going to be. She is currently looking into the Municipal Code, as well as other codes in the Planning & Zoning section as it relates to cannabis. With the new laws that have come out we are going to have to take a look at the manufacturing, production, and retail of cannabis within the city limits. State law does not allow us to prohibit it, and state law does not allow us to make it any more difficult than what it would be required for someone to get an alcohol license. We will have to take a look at the areas within the city to see if we want to limit them within different zones. There is the private growth that they can do within any residential area. We cannot override the state on that. She has had some enquiries about people who want to set up greenhouses so when she gets more information on that she will bring it to the board.

8. ADJOURNMENT:

There being no further business to come before the Planning & Zoning Commission. Chairman Hogg called to adjourn the meeting.

Member Bush made a motion to adjourn the meeting. Vice-Chairman Sisney seconded the motion. Motion carried unanimously.

PASSED AND APPROVED ON THIS 4TH DAY OF NOVEMBER 2021.

Michael Hogg, Chairman
Planning & Zoning Commission



CITY OF TRUTH OR CONSEQUENCES
PLANNING AND ZONING COMMISSION ACTION FORM
DATE: 11-4-2021

ITEM: Discussion/Action – Summary Plat Amendment 128 Broadway and Variance request

BACKGROUND:

Applicant has submitted application and all required supporting documents and applicable fees have been paid. Applicant is requesting to split the lot at 128 Broadway into 2 separate parcels. Parcel 1 would have direct access from Broadway Street only and Parcel 2 would have direct access from alley only. Staff does not recommend approval. Both lots will not have unobstructed legal access to City Water and Wastewater lines. Utility easement may not provide ease of access due to location of existing water, sewer, and electric lines. See attached utility verification form for Electric concerns. Variance is requested for Parcel 2 as it would not have access to an existing City maintained and paved street with curb, gutter and sidewalk. Splitting the lot into the parcels as proposed does not fit within the existing and surrounding lots.

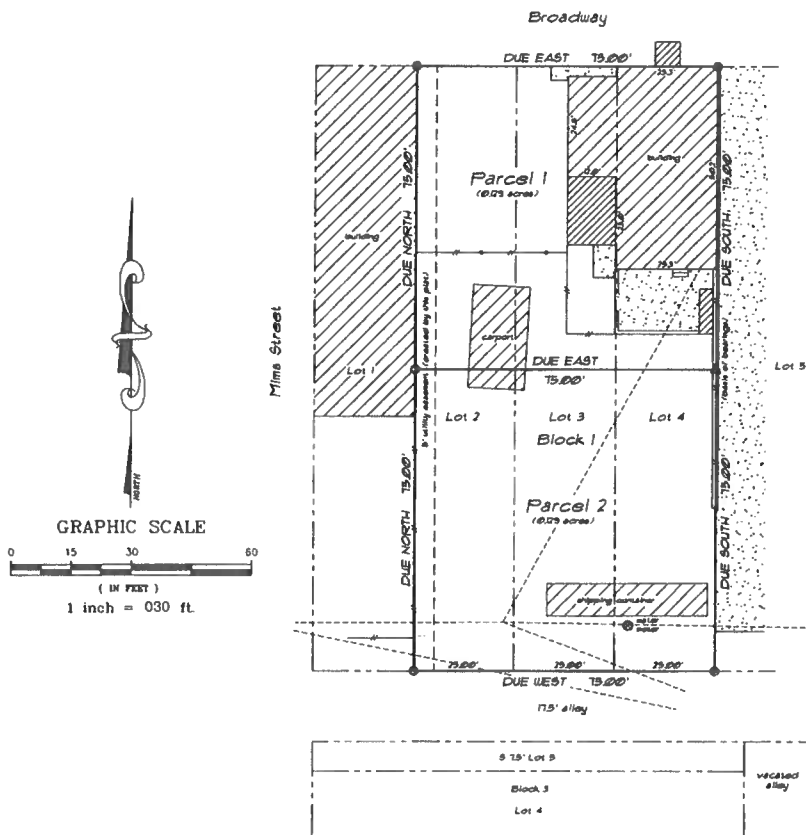
SUPPORT INFORMATION:

**Summary Plat Survey
Assessor Parcel Map
Utility Verification
Notice of Public Hearing
Findings of Facts Checklist
Municipal Code References**

Name of Drafter: Traci Alvarez	:	Meeting date: 11-04-2021
E-mail: talvarez@torcnm.org	Phone: 575-894-6673	

ALTERNATE SUMMARY PROCEDURE-SUMMARY PLAT

of the division of Lots 2, 3 and 4, Block 1, Amended Plat of Block 1 of Thoyt's Addition to Hot Springs, into Parcel 1, (north 1/2 of Lots 2, 3 and 4) and Parcel 2, (south 1/2 of Lots 2, 3 and 4), Block 1, in the City of Truth or Consequences, Sierra County, New Mexico



Legend

- found 1/2" rebar w/survcap stamped "NIFLS 1225" ●
- set 1/2" rebar w/survcap stamped "NIFLS 1225" ○
- set "pk" nail in concrete wall ▲
- board/panel fence ————
- concrete wall ————
- chain link fence ————
- overhead power lines - - - - -

Reference:

- Account No. 1031
- Book 131, Page 1133, (Warranty Deed)
- The City of Truth or Consequences Subdivision Codes, Ordinance No. 555, adopted May 23, 2006
- National Flood Insurance Program, Flood Insurance Rate Map for the City of Truth or Consequences, Sierra County, New Mexico, Community Panel No. 350073 0005 C, map revised to reflect LOMR (effective: April 23, 2018)
- Amended Plat of Block 1 of Thoyt's Addition to Hot Springs, filed on May 21, 1945, (Plat No. 38, Slide No. 13)

Notes:

- These parcels are subject to easements, restrictions and reservations of record
- The parcels shown hereon are located within the boundaries of Flood Zone X, "0.2% annual chance flood hazard, areas of 1% annual chance flood with average depth less than one foot or with drainage areas of less than one square mile"
- The hereon described parcels were created under the City of Truth or Consequences Subdivision Codes, Ordinance Number 555, (Chapter 15, Section 15, Alternate Summary Procedure)
- Property address is 128 Broadway
- Use drawing scale to determine measurements when not labeled.

ACKNOWLEDGEMENT

I, the undersigned owner of the hereon described property do hereby acknowledge, with my free consent and in accordance with my wishes and desires, the division of lots and the utility easement created as shown on this plat.

Charles Perry
Charles Perry

STATE OF NEW MEXICO)
COUNTY OF SIERRA)

The foregoing instrument was acknowledged before me this 8th day of September, 2021, by Charles Perry

My Commission expires: 6-22-2024 David L. McElroy
Notary Public

ACKNOWLEDGEMENT

The City of Truth or Consequences does hereby acknowledge the division of lots as shown on this plat.

Mayor Date

August 30, 2021

Chaparral Surveying, LLC

Professional Land Surveying

P.O. Box 675 Elephant Butte, New Mexico 87535

CERTIFICATE

This is to certify that I am a registered Professional Land Surveyor, that this plat is prepared from notes of field survey made by me or under my supervision, that said survey and this plat are true and correct to the best of my knowledge and belief. I further certify that this survey is an Alternate Summary Procedure of an existing tract or tracts.

This plat meets the minimum requirements of the Standards of Land Surveying in New Mexico.

David L. McElroy
David L. McElroy
New Mexico Professional Surveyor
License Number 025

INDEXING INFORMATION FOR COUNTY CLERK
Charles Perry (1091)
Amended Plat of Block 1 of Thoyt's Addition
Section 4, Tshp. 14 South, Rge. 4 West



CITY OF TRUTH OR CONSEQUENCES

505 Sims Street, Truth or Consequences, New Mexico

Phone: 575-894-6673 ext. 353 Fax: 575-894-6690

UTILITY VERIFICATION

REASON FOR VERIFICATION: 128 Broadway is requesting to split lot into 2 parcels.

Separation of Parcel will cause each lot to have only once entrance/exit point. Front lot only access from Broadway. Real lot will only access in Alley.

Reviewed By:

Electric Department:	<u> </u> Approved	<u>X</u> <u> </u> Denied	Date <u>10/6/21</u>
Water/Wastewater:	<u> </u> Approved	<u>X</u> <u> </u> Denied	Date <u>10-29-21</u>
Streets Department:	<u>X</u> <u> </u> Approved	<u> </u> Denied	Date <u>10-28-21</u>
Planning/Zoning:	<u> </u> Approved	<u>X</u> <u> </u> Denied	Date <u>11-1-21</u>

Utility Review Comments: South Property will have Electric line going across middle of property feeding North property. Owner for North property will have to reroute Electric line so its not going across middle of South property. The Electric Department will need a easement for Electric line going across South property. Access to Water and Wastewater to each separate lot is a concern. Will involve crossing each property and easement issues

*Sandra K. Whitehead
Mayor*

*Amanda Forrister
Mayor Pro-Tem*

*Frances Luna
Commissioner*



*Paul Baca
Commissioner*

*Vacant
Commissioner*

*Bruce Swingle
City Manager*

*505 Sims St.
Truth or Consequences, New Mexico 87901
P: 575-894-6673 ♦ F: 575-894-7767
www.torcnm.org*

NOTICE OF PUBLIC HEARING

NOTICE is hereby given that the City of Truth or Consequences Planning & Zoning Commission will hold a Public Hearing during their regular scheduled meeting on Thursday, November 4, 2021 to receive input regarding the following:

Public Hearing/Discussion/Action: Request for a Summary Plat Amendment and Variance Request at 128 Broadway, Truth or Consequences, NM, pursuant to Chapter 15, Sec. 15-17.

The meeting will be held in the City Commission Chambers, 405 W. Third, Truth or Consequences, New Mexico starting at 5:30 p.m.

Should you have any questions regarding this Public Hearing, please contact our Assistant City Manager Traci Alvarez at (575) 952-0565, or by email to tburnette@torcnm.org.

The agenda may be obtained on Friday, October 29, 2021 on the city website calendar at www.torcnm.org; by contacting the City Clerk's Office at 575-894-6673; or by email to: torcclerk@torcnm.org.

/s/ Angela A. Torres, CMC, City Clerk

Publish on the following date:

- Sentinel– Friday, October 8, 2021

PLANNING AND ZONING COMMISSION

FINDINGS OF FACTS CHECKLIST

Request Date _____ Address _____

Findings of facts for recommendations and decisions.

In considering all requests, the Planning and Zoning Commission shall review applicable plans and determine whether the request will:

1. Impair an adequate supply of light and air to adjacent property;
2. Unreasonably increase the traffic in public streets;
3. Increase the danger of fire or endanger the public safety;
4. Deter the orderly and phased growth and development of the community;
5. Unreasonably impair established property values within the surrounding area;
6. In any other respect impair the public health, safety and general welfare of the City; or
7. Constitute a spot zone and therefore adversely affect adjacent property values.

All actions or recommendations by the Planning and Zoning Commission shall be based on Findings of Facts as to the impacts of the proposal, using the criteria listed in numbers 1 through 7, above. The Planning and Zoning Commission shall review each of the above listed factors and accord each factor the necessary weight on a case-by-case basis in making its determination.

Sec. 11-2-2. - The Planning and Zoning Commission.

- A. *Purpose.* A Municipal Planning and Zoning Commission is hereby established for the purpose of interpretation of this Code, approving certain actions, receiving requests for modifications to this Code and re-zoning, and making recommendations to the City Commission concerning matters pertaining to zoning within the City.
- B. *Administrative review and interpretations.*
1. The Planning and Zoning Commission shall review an administrative action of the designated Zoning Administrator when it is alleged that there is an error in the order, requirement, determination, or refusal made by the designated Zoning Administrator and reverse, affirm, or modify the administrative action.
 2. The Commission shall interpret this Code when the designated Zoning Administrator is in doubt as to the exact meaning of the text.
 3. The Commission shall interpret the Official Planning and Zoning District Map in accordance with the standards set forth in the Comprehensive Planning and Zoning Code when the designated Zoning Administrator is uncertain as to the exact boundary of a District shown on the Official Planning and Zoning District Map.
- C. *Powers and duties.*
1. Recommend to the City Commission either approval, denial or modification of a request for annexation, special use permit, variance, subdivision, zoning, amendment of this Code, or any other land use consideration within the planning and zoning jurisdiction of the City.
 2. Grant final approval or denial of a home occupation or conditional use permit after public meeting, provided there is not an appeal to the City Commission within fifteen (15) days in accordance with Article 7 of this Code.
- D. *Composition of the Planning and Zoning Commission.* The Planning and Zoning Commission shall consist of five (5) members each to be appointed by a simple majority of the City Commission. Eligibility requirements for membership shall be established by the City Commission. Members shall serve staggered terms of two (2) years each. A recording secretary shall be provided to assist the Planning and Zoning Commission by the City. The recording secretary shall not be a member of the Planning and Zoning Commission and shall be only responsible for those duties requested by the Planning and Zoning Commission and approved by the City Manager.
- E. *Organization of the Planning and Zoning Commission.* The Planning and Zoning Commission shall elect a chairman, vice-chairman, and second vice-chairman in July of each year, or as required due to unforeseen vacancies. They shall serve for one (1) calendar year following their elections.
- F. *Voting.* A simple majority vote of a quorum of the Planning and Zoning Commission is required for approval of all Planning and Zoning Commission actions. A quorum requires at least three members of the Commission present.

In order for a vote to be valid on a particular issue, a quorum must actually vote regarding the measure. A member who abstains from voting on an issue is deemed to have not voted on the issue.

- G. *Findings of facts for recommendations and decisions.* In considering all requests, the Planning and Zoning Commission shall review applicable plans and determine whether the request will:
1. Impair an adequate supply of light and air to adjacent property;
 2. Unreasonably increase the traffic in public streets;
 3. Increase the danger of fire or endanger the public safety;
 4. Deter the orderly and phased growth and development of the community;
 5. Unreasonably impair established property values within the surrounding area;

6. In any other respect impair the public health, safety and general welfare of the City; or
7. Constitute a spot zone and therefore adversely affect adjacent property values.

All actions or recommendations by the Planning and Zoning Commission shall be based on Findings of Facts as to the impacts of the proposal, using the criteria listed in numbers 1 through 7, above. The Planning and Zoning Commission shall review each of the above listed factors and accord each factor the necessary weight on a case-by-case basis in making its determination.

- H. *Report to the City Commission.* The Planning and Zoning Commission shall provide written minutes, with recommendations as necessary, to the City Commission on all matters that are brought before the Commission. Such minutes shall include a statement of the findings of facts that were the basis of any decision or recommendation made by the Planning and Zoning Commission.

Sec. 11-9-7. - C-1 General Commercial District.

- A. **PURPOSE.** The intent of the C-1 District is to provide for certain commercial/retail uses which serve both transient and local trade. The District is intended for areas surrounding major arterial or collector streets where a wide range of automobile-related service facilities, convenience goods and personal services are desirable and appropriate as a land use.
- B. **DEVELOPMENT STANDARDS.** Development standards and other requirements are provided in Articles X through XIV of this Code.
- C. **C-1 PERMITTED USES.**

• Accountant Office	• Arts and Crafts Studio
• Advertising Services	• Auditoriums
• Animal Hospital and Clinic	• Automobile Parking Lot
• Auto and Camper Sales, Service and Rental	• Gasoline Pumps
• Automotive Equipment	• Gasoline Stations
• Bakery	• Gift Shop
• Banking and Financial Institution	• Glass Cutting and Finishing
• Barber Shop and Beauty Parlor	• Golf Course
• Bathhouse or Spa	• Grocery Store
• Bicycle Sales and Service	• Gymnasium
• Boat and RV Storage	• Hardware Store
• Bookstores and Stationery Shops	• Heavy Equipment Sales
• Building and Other Construction-Contractor: office only	• Hobby Shop
• Business Service Establishment	• Hospital or Overnight Clinic
• Butcher Shop and Meat Sales	• Hotel and Motel
• Catering	• Household Appliance Sales and Service and

	Repair
• Cigarette and Cigar Shop	• Insurance Services
• Clinic	• Institutions, Public and Quasi-Public
• Clothing Store and Apparel Shop	• Jewelry Store
• Coffee Shop	• Kennel, Commercial
• Columbarium	• Laboratory (medical, dental or engineering)
• Community Center or Public Office Building	• Liquor Store - Taverns and Package Stores
• Convenience Store	• Pet Shop or Grooming Parlor
• Convention or Exhibition Hall	• Photographic Studio and Supply Store
• Country Club	• Plant Nursery
• Dance Hall or Music Academy	• Plumbing and Heating Shop
• Dentist Office	• Pool and Billiard Room
• Department Store	• Post Office
• Dressmaking Shop	• Private Club or Lounge
• Drugstore	• Public Park, Playground and Recreational
• Dry-cleaning and Steam cleaning Establishment	• Radio, Television Broadcasting Studios, Music Store
• Electrical Shop and Electricians	• Real Estate Services
• Farm Machinery	• Restaurant
• Farm and Ranch Products and Supplies	• Retail Sales
• Fast Food Sales including Drive-In Sales	• Roofing and Sheet Metal Shop

• Firewood Sales	• Shoe Repair
• Florist Shop	• Show and Sales Room for Business Products
• Food Store	• Skating Rink
• Frozen Food Locker	• Sporting Goods Store
• Funeral Home, Mortuary (including crematorium)	• Tailoring
• Furniture and Home Furnishings	• Taverns and Cocktail Lounges
• Taxicab Transportation	• Travel Agency
• Telephone Exchange Station	• Upholstery
• Telegraph and Messenger Service	• Variety Store
• Tire Sales and Service	• Warehousing and Storage
• Title and Abstracting Services	• Watch and Clock Sales and Service

D. **PERMITTED USES—WITH CONDITIONS.** The following C-1 uses are permitted in accordance with stated conditions and upon approval by the Planning and Zoning Commission.

1. **Adult Entertainment Uses:** Uses such as adult bookstores, adult movie theaters, and adult news racks, as defined in Article 8 of this Code, shall be permitted provided such use is located a minimum of three hundred (300) feet from a property line of any:
 - a. School;
 - b. Church;
 - c. Public park or recreational facility;
 - d. Residential District;
 - e. Another adult entertainment facility.

There shall be no public display visible outside of the building. In addition, display of adult pictures of other materials within a grocery store, bookstore, or other retail or wholesale store shall be concealed from public view.

2. **Amusement Park or Enterprise:** Subject to any other provisions and requirements of the Municipal Code. Temporary amusement enterprises are prohibited within three hundred (300) feet of any residential zoning District. Permanent amusement enterprises are prohibited within five hundred (500) feet of any residential zoning District.

3. Automobile Body and Repair Shop: Not permitted with one hundred (100) feet of any residential District.
4. Bank Drive-up Windows: Stacking lane(s) of one hundred eighty (180) feet by ten (10) feet for each drive-up must be provided and designed to insure that no bank traffic backs onto the street giving access. Banks must be located on a collector or arterial streets as shown on the City Street Plan.
5. Bowling Alley: Subject to approval of site and related plans. Bowling alleys are prohibited within three hundred (300) feet of any residential zoning District.
6. Bus or Motor Freight Terminal: Only when located on an arterial street as designated on the City Street Plan.
7. Car Washes: There shall be no run-off onto neighboring properties or streets resulting from the use. Any discharge into public liquid waste disposal systems shall be approved by the administrator of the system prior to approval of the business. If the subject property is not served by a public waste disposal system, approval from the New Mexico Environmental Department shall be required.
8. Child Care Center, Nursery or Similar Use: Play areas shall be in accord with State licensing requirements and enclosed by a solid wall or fence five (5) feet in height.
9. Christmas Tree Sales: Temporary, not prior to November 15, provided lots are cleaned and removed by December 31.
10. Church: Only when located on an arterial or collector street as designated on the City Street Plan.
11. Construction or Contractor's Yard: Yard shall be maintained in a neat and orderly fashion and enclosed by a fence at least six (6) feet in height except that the height shall be limited to three (3) feet above street curb within a clear site triangle as defined in this Code.
12. Drive-In Theater: Subject to approval of site and related plans.
13. Firewood Sales: No more than twenty (20) cords stored on site.
14. Flea Market: Subject to any other requirements of the Municipal Code.
15. Furniture Assembly (Accessory Use): Permitted only as an incidental or accessory use to retail sales. Maximum floor area for assembly shall not exceed three thousand (3,000) square feet, not exceed thirty percent (30%) of the total business floor area, and shall be within the same building.
16. Gas Pressure Control Stations: (Public or Private Utility.)
17. Heavy Equipment Repair (Accessory Use): Permitted only as an incidental or accessory use to heavy equipment sales. Floor area for repair shall not exceed three thousand (3,000) square feet and not exceed thirty percent (30%) of the total gross floor area. Welding is permitted only in conjunction with repair and shall not be used for the purpose of heavy equipment assembly.
18. Miniature Golf Course: Subject to approval of site and related plans. Not permitted within one hundred (100) feet of any residential District.
19. Mini Storage Units: Units shall not be used for commercial sales of products, merchandise, service or repair. (This does not preclude a business from using storage units solely for storage of commercial or business related items provide that the actual commercial operation or business is conducted elsewhere, and there is no external evidence of the business at the storage unit.)
20. School, Public, Private or Trade: Sites shall be located on an arterial or collector street as shown on the City Street Plan.

21. Shopping Center: Providing site, drainage, and related plans for the entire development are approved.
 22. Storage of Wrecked or Dismantled Vehicles and Parts (Accessory Use): The storage of wrecked and dismantled vehicles and parts thereof shall be permitted only as an incidental accessory use to a vehicle repair establishment or a body shop:
 - a. Storage shall be within an enclosed building or within a sight-obscuring fence at least six (6) feet in height;
 - b. Vehicles and parts stored at the exterior of the building shall be owned by customers of the business and such storage shall be only for the purpose of repair and return to customer;
 - c. Exterior storage of vehicles shall not remain on the premises for a period exceeding three (3) months;
 - d. A maximum of five (5) wrecked vehicles may be stored at the building exterior during any one time;
 - e. Exterior storage shall be a minimum of one hundred (100) feet from a residential District.
 23. Swimming Pools: Permitted only when a protective fence four (4) feet in height is provided around the yard, lot or pool area. The pool shall be no closer than five (5) feet from any property line, and approval from all utilities is required to insure overhead safety.
 24. Television and Radio Towers and all Other Free Standing Towers (Public and Private Uses): Towers shall have manufacturer's specifications to withstand a 75 mph wind and shall be constructed to meet New Mexico Building Code standards.
 25. Welding (Accessory Use): Welding shall be permitted only as an incidental or accessory use necessary for the repair of vehicles or equipment permitted in the C-1 District. Welding uses shall be approved by the Fire Department and shall be in accord with any other provisions of the Municipal Code.
 26. Wrecker Service: In accord with storage of wrecked vehicle provisions of Item D.22 of this Section.
- E. *SPECIAL USES FOR C-1 DISTRICT.* The following uses require approval of the City Commission. Specific conditions and provisions for special use may be referred to in Article V.
1. Dwelling Unit: Special Use Permits are required for dwellings within the C-1 District upon lots or other parcels located directly adjacent to Broadway Avenue, Main Street or Date Street. Dwellings elsewhere within the C-1 District are permitted by right. Manufactured Homes (MH's) are permitted within the C-1 District subject to the provisions stated herein and in Articles 11 and 14.
 2. Apartments ten (10) unit minimum)
 3. Concrete Sales and Ready Mix
 4. Correctional Facilities and Institutions
 5. Heavy Equipment Repair and Service
 6. Kennel (Commercial)
 7. Manufactured Home Park or Subdivision: Subject to the provisions of Articles 11 and 14.
 8. Propane or Liquefied Petroleum Gas Distribution Point: Up to two thousand (2,000) gallons, not be located within three hundred thirty (330) feet of any residential zoning district, or within the area bounded by Date, Main and Austin Streets.
 9. Racetrack
 10. Residential Vehicle Park

11. Recycle Purchase Center
12. Stadium: Baseball, Football, Soccer or Track.
13. Townhouses (R-2 Development Standards apply)
14. Welding Shop

Sec. 15-15. - Alternate summary procedure.

A. *Approvals by Planning and Zoning Commission:* The Planning and Zoning Commission may approve or deny the following types of subdivisions:

1. A re-plat of a previously filed subdivision when:

- a. No more lots are created than exist in the area at the time of the submittal of the replat application; and,
- b. All lots to be created have direct, legal, unobstructed access to an existing City maintained street;
- c. All lots to be created have direct, unobstructed legal access to existing City water and wastewater lines;
- d. The subdivider files with the City a Letter of Credit for funds adequate to pay for connecting the lots to the City's water and wastewater lines, or, pays to the City the City's fees for connecting the lots to the City's water and wastewater lines;
- e. The new lots comply in all ways with the standards for lots contained within the City's Comprehensive Planning and Zoning Code;
- f. All new lots are laid out in a manner which allows utility service to be provided to the purchasers of said lots;
- g. All lots to be eliminated or created exist within the area of a single block of lots in a previously platted and filed subdivision; and,
- h. No vacation of street dedications or utility easements is proposed; or,
- i. Lots are to be eliminated.

2. The subdivision of previously unsubdivided land when:

- a. No more than two lots are created;
- b. Both lots to be created have direct, legal, unobstructed access to an existing City maintained and paved street with curb gutter and sidewalk;
- c. Both lots to be created have direct, unobstructed legal access to existing City water and wastewater lines;
- d. The subdivider files with the City a Letter of Credit for funds adequate to pay to connect both lots to the City's water and wastewater lines, or, pays to the City funds for connecting both lots to the City's water and wastewater lines;
- e. The new lots comply in all ways with the standards for lots contained within the City's Comprehensive Planning and Zoning Code;
- f. The new lots are laid out in a manner which allows utility service to be provided to the purchasers of said lots; and,
- g. No vacation of street dedications or utility easements is proposed.

B. *Limit on number of summary procedures:* The summary procedure shall be used only once on any one property, or within any group of contiguous or adjacent properties owned by a subdivider, unless the property has been master-planned, legally subdivided, and is zoned for industrial uses, and wherein the streets within those subdivisions have been dedicated to and accepted by the City. No subdivider who has received approval of a subdivision shall utilize the summary procedure to subsequently increase the number of lots within said subdivision.

C. *Elective pre-application procedure:*

1. Prior to filing a summary plat, the subdivider may submit a conceptual plan of the proposed subdivision to the City's Zoning Administrator. The conceptual plan shall provide enough

information for the Zoning Administrator to locate the proposed subdivision and to comprehend its scope and potential impacts. Neither a written application nor an application fee are required for submittal of a conceptual plan.

2. The City's Zoning Administrator shall place the proposed summary subdivision on the next possible agenda of the Planning and Zoning Commission for discussion, when the Planning and Zoning Commission shall consider the proposal with the subdivider or the subdivider's representative and shall indicate changes, if any, that will be required for the submittal process.

D. *Summary plat submittal requirements summary plat submittal requirements are:*

1. Application, signed by all property owners, including all parties having an equitable interest, trustees of an estate and all persons having a specific "power of attorney" in such land;
2. A record of any pending litigation or any final order entered by any court of law regarding the ownership of the subject property;
3. Application fee as established by the City;
4. Documentation from the Sierra County Assessor's Office that the current year's property taxes are paid and that no taxes are owed on the property;
5. A plat conforming to section 15-13.A of this Code; and,
6. Releases by the Public Utilities Advisory Board, and all utility companies which are proposed as providers for the subdivision.

E. *Submittal and review procedures:*

1. Incomplete submittals will not be accepted for review.
2. The subdivider shall submit all required materials to the City's Zoning Administrator.
3. The City's Zoning Administrator shall review all materials, and shall within three working days from the date the application is determined to be complete, request opinions of applicable City departments, other governmental agencies, and utility companies for review, comments and recommendations. City departments shall have ten calendar days in which to review and respond in writing to any such request. Within three working days of receiving any written reports, comments or recommendations from any City department, governmental agency, or utility company, the Zoning Administrator shall make available to the subdivider a copy of such materials.
4. The Zoning Administrator shall have the right to require that the subdivider provide additional information or to make amendments to the plat and supporting information if the Zoning Administrator determines that the information originally submitted by the subdivider was incomplete, incorrect or invalid.
5. The subdivider shall have ten working days in which to make any corrections or additions required by the Zoning Administrator, or to request a postponement of action by the Zoning Administrator for up to 135 days.
6. If a subdivision application does not meet the requirements of this Code within 180 days of its original submittal, the Zoning Administrator shall summarily reject the application and notify the applicant in writing of the reasons for the rejection.
7. At such time as the subdivider meets the requirements of this Code, the subdivider shall provide the Zoning Administrator with a copy of the final plat.
8. At such time as receiving a submittal that meets all requirements of this Code, the Zoning Administrator shall recommend that the Planning and Zoning Commission approve the final plat by consent agenda action during its next regularly scheduled meeting, and the Planning and Zoning Commission shall approve the subdivision by consent agenda action during its next regularly scheduled meeting.

9. The subdivider shall file a signed copy of the final plat in the records of the County Clerk of Sierra County, and shall provide the City with one of the signed copies.
- F. *Divisions for the purpose of mortgage:* Divisions for purposes of mortgage are not allowed. If a property is to be mortgaged it must be done so in its entirety or properly subdivided as required in this chapter.

(Ord. No. 555, 5-23-06)

Sec. 15-17. - Amendment of plats.

- A. *Administrative amendment:* Any change that is required to correct an error in lettering, numbering or other minor detail on a filed plat which does not affect any material aspect of the subdivision will be considered a minor amendment. Administrative amendments may be processed and approved by the City's Zoning Administrator, who shall have the right to require review and approval by the Planning and Zoning. The City's Zoning Administrator shall insure that the corrections are noted on the original filed plat. The fee schedule for administrative amendments shall be as approved by the City of Truth or Consequences.
- B. *Minor amendment of plat:* Any proposed amendment that is greater than an administrative amendment which does not have the effect to significantly alter the impacts on utilities, drainage, or traffic, may be approved as an amendment by the Planning and Zoning Commission.
- C. *Major amendment of plat:* Any proposed correction or amendment of a filed plat that affects material aspects of the subdivision shall be considered by the Planning and Zoning Commission, with approval by the City Commission, the Planning and Zoning Commission shall determine if the subdivider may use the alternate summary procedure or if the subdivider shall be required to vacate a portion or all of the filed plat and follow the procedures appropriate for the approval of a new subdivision. The fee schedule for major amendments shall be as approved by the City of Truth or Consequences.

(Ord. No. 555, 5-23-06)