

**CITY OF TRUTH OR CONSEQUENCES  
PLANNING & ZONING COMMISSION  
AGENDA  
MONDAY, MAY 3, 2021**

**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, May 3, 2021 at 5:30 p.m.

**CALL TO ORDER**

**ROLL CALL:**

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

**1. APPROVAL OF AGENDA**

**2. APPROVAL OF MINUTES:**

- a. Regular meeting of Monday, April 5, 2021.

**3. COMMENTS FROM THE PUBLIC (3 Minute Rule Applies)**

**4. RESPONSE TO COMMENTS FROM THE PUBLIC**

**5. NEW BUSINESS:**

- a. Discussion/Action: Re-organization of Chairman and Vice-Chairman.

**6. PUBLIC HEARINGS:**

- a. Public Hearing/Discussion/Action: Summary Plat Amendment - 109 E. 1<sup>st</sup> Street, Truth or Consequences, NM. Traci Alvarez, Community Development Director
- b. Public Hearing/Discussion/Action: Variance Request - 109 E. 1<sup>st</sup> Street, Truth or Consequences, NM. Traci Alvarez, Community Development Director

**7. COMMENTS FROM THE PLANNING & ZONING COMMISSION**

**8. COMMENTS FROM STAFF**

**9. ADJOURNMENT**

**Due to the current revised status from turquoise to yellow, the City Commission Chambers will not be open to the public. However, the meeting will be available via teleconference using the information listed below:**

**Planning & Zoning Meeting  
Mon, May 3, 2021 5:30 PM**

**Please join my meeting from your computer, tablet or smartphone.  
<https://global.gotomeeting.com/join/202322213>**

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**CITY OF TRUTH OR CONSEQUENCES  
PLANNING & ZONING COMMISSION  
MINUTES  
MONDAY, APRIL 5, 2021**

**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, April 5, 2021 at 5:30pm.

**CALL TO ORDER:**

The meeting was called to order by Vice-Chairman Sisney.

**ROLL CALL:**

Chris Sisney, Vice-Chairman  
James Bush, Member  
Steven Zeschke, Member

**ALSO PRESENT:**

Traci Alvarez, Acting City Manager  
Dawn C. Barclay, Deputy City Clerk

**1. APPROVAL OF AGENDA:**

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

**2. APPROVAL OF MINUTES:**

- a. Regular meeting of Monday, February 1, 2021.

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

**3. COMMENTS FROM THE PUBLIC: (3 Minute Rule Applies)**

No responses from the public.

**4. RESPONSE TO COMMENTS FROM THE PUBLIC:**

No responses were made to comments from the public.

## **5. NEW BUSINESS:**

### **a. Discussion/Action: Recommendation of P&Z Application – Michael Hogg**

Mr. Hogg was present at the meeting to answer any questions from the board. Member Zeschke asked how long he has been a resident, and inquired about his business background. Mr. Hogg replied, he has lived in T or C about 10 ½ years, and his background was mostly related to the field of business analysis, and at times he did some project management and counseling. Member Zeschke stated he had no objections to Mr. Hogg becoming a board member. Vice-Chairman Sisney had no questions at this time for Mr. Hogg. Member Bush stated he had reviewed the resume, and had no questions or problems with Mr. Hogg becoming a board member and recommended the board accept Mr. Hogg as a new board member.

**Member Bush made a motion to recommend the appointment of Mr. Hogg as a new board member. Member Zeschke seconded the motion. Motion carried unanimously.**

Acting City Manager, Traci Alvarez advised the board, this decision must now go to the City Commission for final approval.

## **6. COMMENTS FROM THE PLANNING & ZONING COMMISSION:**

Member Zeschke reiterated Mr. Hogg's acceptance process, and asked about the voting of a new Chairman and Vice-Chairman. Deputy Clerk Barclay responded with confirmation that the City Commission will go through their review process for Mr. Hogg. If approval is granted, the board can then add Mr. Hogg to the election process.

## **7. COMMENTS FROM STAFF:**

No comments from the staff.

## **8. ADJOURNMENT:**

There being no further business to come before the Planning & Zoning Commission.

**Vice-Chairman Sisney moved to adjourn meeting. Member Zeschke seconded the motion. Motion carried unanimously.**

PASSED AND APPROVED ON THIS 3<sup>th</sup> DAY OF MAY 2021.

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Chris Sisney, Vice-Chairman  
Planning & Zoning Commission

# **PLANNING & ZONING COMMISSION**

**Monday, May 3, 2021**

## **5. PUBLIC HEARING:**

- a. Public Hearing/Discussion/Action: Summary Plat Amendment –  
109 E. 1<sup>st</sup> Street, Truth or Consequences, NM. Traci Alvarez,  
Community Development Director



**CITY OF TRUTH OR CONSEQUENCES**  
**PLANNING AND ZONING COMMISSION ACTION FORM**  
**DATE: MAY 3, 2021**

**ITEM: Public Hearing/Discussion/Action – Summary Plat Amendment 109 E First Street**

**BACKGROUND:**

Property owner/representative is requesting a summary Plat Amendment at 109 E First to split the parcel into 2 lots.

Property is located in the C-1 Zone – General Commercial District.

All required documents have been submitted and fees have been paid. Certified mailings were sent to required property owners. Taxes are paid and no taxes are owed on the property;

**SUPPORT INFORMATION:**

- **Summary Plat Amendment**
- **Legal Description**
- **Google Map**
- **Notice of Public Hearing**
- **Municipal Code References**

Name of Drafter: Traci Alvarez	:	Meeting date: 05-03-2021
E-mail: <a href="mailto:tburnette@torcnm.org">tburnette@torcnm.org</a>	Phone: 575-894-6673	



# **Chaparral Surveying, LLC**

**P.O. Box 629**

**Elephant Butte, New Mexico 87935**

**(575) 740-0334**

**March 18, 2020**

## **LEGAL DESCRIPTION-TRACT 1**

**(0.063 ACRES)**

A tract of land situate in Lots 5, 6 and 7, Block 88, Original Townsite of Hot Springs, a subdivision in the City of Truth or Consequences, Sierra County, New Mexico, and more particularly described as follows, to-wit;

Beginning at the NE corner of this tract, a ½" rebar w/survcap stamped "NMPLS 12129", a point on E. First Avenue, whence the NE corner of Lot 1, Block 88, Original Townsite of Hot Springs, a ½" rebar w/survcap stamped "NMPLS 12129", bears DUE EAST, a distance of 120.35 feet;

Thence, DUE SOUTH, a distance of 42.70 feet to the SE corner of this tract, a ½" rebar w/survcap stamped "NMPLS 12129";

Thence, DUE WEST, a distance of 64.50 feet to the SW corner of this tract, a ½" rebar w/survcap stamped "NMPLS 12129";

Thence, DUE NORTH, a distance of 42.70 feet to the NW corner of this tract, a fence post in concrete, a point on E. First Avenue;

Thence, continuing along E. First Avenue, DUE EAST, a distance of 64.50 feet to the point of beginning of the tract hereon described, containing 0.063 acres of land, more or less.

This legal description was prepared from a field survey by David M. Senn, NMPLS 12129, (rc: Chaparral Surveying, LLC, Boundary Survey Plat dated March 16, 2020).



# **Chaparral Surveying, LLC**

**P.O. Box 629**

**Elephant Butte, New Mexico 87935**

**(575) 740-0334**

**March 18, 2020**

## **LEGAL DESCRIPTION-TRACT 2**

**(0.531 ACRES)**

A tract of land situate in Lots 1 through 7, Block 88, Original Townsite of Hot Springs, a subdivision in the City of Truth or Consequences, Sierra County, New Mexico, and more particularly described as follows, to-wit;

Beginning at the NE corner of this tract, a ½" rebar w/survcap stamped "NMPLS 12129", a point on Cedar Street, said corner being the NE corner of Lot 1, Block 88, Original Townsite of Hot Springs;

Thence, continuing along Cedar Street, DUE SOUTH, a distance of 140.00 feet to the SE corner of this tract, a ½" rebar w/survcap stamped "NMPLS 12129", said corner being the SE corner of Lot 1, Block 88, Original Townsite of Hot Springs;

Thence, DUE WEST, a distance of 184.85 feet to the SW corner of this tract, a 5/8" rebar w/survcap stamped "DSL PS 541";

Thence, DUE NORTH, a distance of 97.30 feet to an angle point in this tract, a ½" rebar w/survcap stamped "NMPLS 12129";

Thence, DUE EAST, a distance of 64.50 feet to an angle point in this tract, a ½" rebar w/survcap stamped "NMPLS 12129";

Thence, DUE NORTH, a distance of 42.70 feet to an angle point in this tract, a ½" rebar w/survcap stamped "NMPLS 12129", a point on E. First Avenue;

Thence, continuing along E. First Avenue, DUE EAST, a distance of 120.35 feet to the point of beginning of the tract hereon described, containing 0.531 acres of land, more or less.

This legal description was prepared from a field survey by David M. Senn, NMPLS 12129, (re: Chaparral Surveying, LLC, Boundary Survey Plat dated March 16, 2020).



E 1st Ave

E 1st Ave

109 E 1st Ave, Truth  
or Consequences, NM...

103

144

N Date St



*Sandra K. Whitehead  
Mayor*

*Amanda Forrister  
Mayor Pro-Tem*

*Frances Luna  
Commissioner*



*Paul Baca  
Commissioner*

*Randall Aragon  
Commissioner*

*Traci Alvarez  
Acting City Manager*

**505 Sims St.  
Truth or Consequences, New Mexico 87901  
P: 575-894-6673 ♦ F: 575-894-7767  
[www.torcnm.org](http://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 Meeting scheduled on Monday, May 3, 2021 in the Commission Chambers, 405 W. Third, Truth or Consequences, New Mexico to receive input regarding the following:

**Public Hearing/Discussion/Action: Summary Plat Amendment and Variance Request at 109 E. 1<sup>st</sup> Street, Truth or Consequences, NM, pursuant to Chapter 15, Sec. 15-17, Amendment of Plats.**

If you are an interested party, please note that a limited amount of in-person attendance will be allowed in the Commission Chambers based on COVID safe practices. You may also attend the meeting via teleconference, or submit your comments via email to [torcpubliccomment@torcnm.org](mailto:torcpubliccomment@torcnm.org). Please submit any public comment via email no later than Friday, April 30, 2021.

The agenda and information to join the meeting via teleconference may be obtained on Friday, April 30, 2021 on the city website calendar at [www.torcnm.org](http://www.torcnm.org); by contacting the City Clerk's Office at 575-894-6675; or by email to: [aatorres@torcnm.org](mailto:aatorres@torcnm.org).

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

Publish on the following date:

- Sentinel– Friday, April 9, 2021

**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. 11-14-2. - Standards For Districts.

District	Lots: Minimum Front Setback	Yards: Minimum Rear Setback	Yards: Minimum Side Setback
R-1	25'	25'	8'
R-2	25'	20'	6' or 0'*
R-3	20'	15'	5' or 0'*
R-4	25'	25'	5'
RR-1	25'	15'	5'
C-1	20'	15'	5' or 0'*
M-1	25'	25'	5' or 0'*
T-1	25'	25'	15'

\* As permissible per Section 11-14-3 and 11-14-4.

District	Lots: Minimum Area	Lots: Minimum Width	Dwelling: Minimum Area	Maximum Height
R-1	9,000 s. f.	60'	1,200 s. f.	26'
R-2: Single-Family	5,000 s. f.	60'	900 s. f.	26'
R-2: Two-Family	4,000 s. f./unit	60'	650 s. f./unit	35'
R-2: Multiple-Family	3,500 s. f./unit	60'	600 s. f./unit	35'
R-2: Apartments	3,500 s. f./unit	60'	500 s. f./unit	35'

R-2: MH*	5,000 s. f.	60'	900 s. f.	26'
R-3: Single-Family	4,500 s. f.	45'	700 s. f.	35'
R-3: Two-Family	3,000 s. f./unit	45'	500 s. f./unit	35'
R-3: Multiple-Family	3,000 s. f./unit	45'	450 s. f./unit	35'
R-3: Apartments	2,000 s. f./unit	45'	400 s. f./unit	35'
R-3: NM*	4,500	45'	550 s. f.	26'
R-4	1 acre	75'	1,200 s. f.	26'
RR-1	5,000 s. f.	50'	800 s. f.	26'
C-1	5,000 s. f.	60'	" "	35'
C-1: MH*	4,000 s. f.	45'	550 s. f.	26'
M-1	" "	60'	" "	35'
T-1	21,780 s. f.	100'	800 s. f.	35'
T-1: MH*	21,780 s. f.	60'	550 s. f.	26'

\* Not located within MHP

**Sec. 11-14-3. - Residential and Transition Districts: Additional Provisions and Exceptions.**

The following provisions shall apply to all development in a residential or transition District:

**A. SETBACK EXCEPTIONS:**

1. A minimum side yard setback of zero (0) feet in a residential District only, providing all the following requirements are met:
  - a. The setbacks are authorized by the City Commission as part of an approved development.
  - b. There shall be no less than ten (10) feet, including roof overhang, between structures, except approved condominium and townhouse developments with common wall construction.
  - c. All zero (0) lot lines shall be on the same side of all lots in a development.

2. The minimum setback distance shall be maintained for both front yards of a corner lot. A lesser setback for one front yard of a triple frontage lot shall be considered upon application for variance to the Planning and Zoning Commission.
  3. New dwellings may be erected as close to a front property line as the average distance established by existing dwellings on that side of the block, provided the lots on the same side of the block are fifty (50) percent developed.
  4. An addition to a main dwelling shall be permitted as an extension of existing building lines, which have non-conforming setbacks. Setbacks for such addition shall be the same as the main dwelling.
  5. There shall be a minimum setback of one (1) foot for each foot in height of any building, other than a single or two family dwelling, abutting on R-1 or R-2 District.
- B. *FRONT-YARD PARKING.* Parking areas shall not cover over one-third (  $1/3$  ) of any open area between the front of a dwelling and the front property line; except in cases of a cul-de-sac, two-thirds (  $2/3$  ) of a front yard can be used; and on existing lots less than fifty (50) feet, a twenty (20) feet parking area is permitted. Townhouses and apartment lots may use three fourths (  $3/4$  ) of the front yard for parking.
- C. *MINIMUM DISTANCE BETWEEN STRUCTURES.* There shall be no less than ten (10) feet between buildings or structures located on the same lot, tract, or parcel.
- D. *EASEMENT ENCROACHMENTS.* There shall be no permanent structures located on easements without written approval of the City Commission.

Sec. 11-14-4. - Commercial and Manufacturing Districts: Additional Provisions and Exceptions.

The following provisions shall apply to all development in a commercial or manufacturing Districts:

- A. *SETBACK EXCEPTION.*
1. A zero (0) foot side yard shall be permitted only when:
    - a. A building on the abutting side is at least five (5) feet from the property line; or
    - b. Both buildings share a common wall on the side property line; or
    - c. When the abutting property is undeveloped. Otherwise, a five (5) foot setback is required.
  2. There shall be a minimum setback of one (1) foot for each foot in height of any building abutting a residential District. There shall be at least a minimum distance of thirty (30) feet maintained between any residential dwelling and any commercial or industrial structure.
- B. *MINIMUM DISTANCE BETWEEN STRUCTURES.* There shall be no less than ten (10) feet between buildings or structures located on the Same lot, tract, or parcel.
- C. *PRIVATE STREETS.* All non-dedicated streets or private drives shall be a minimum of twenty-four (24) feet in width.

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. 15-16. - Replats.

- A. *Occurrence:* Replatting occurs when changes take place to the layout or number of lots in a filed subdivision plat.
- B. *Creation of lots when the summary subdivision process is not applicable:* When a replat is proposed that does not meet the standards for a summary procedure, the subdivider shall follow the procedures required for approval of preliminary and final plats. The fee schedule for replats shall be as approved by the City of Truth or Consequences.

(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)

# 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.***



# **PLANNING & ZONING COMMISSION**

**Monday, May 3, 2021**

## **5. PUBLIC HEARING:**

- b. Public Hearing/Discussion/Action: Variance Request - 109 E. 1<sup>st</sup> Street, Truth or Consequences, NM. Traci Alvarez, Community Development Director



CITY OF TRUTH OR CONSEQUENCES  
PLANNING AND ZONING COMMISSION ACTION FORM  
DATE: MAY 3, 2021

**ITEM: Public Hearing/Discussion/Action –Variance Request 109 E First**

**BACKGROUND:**

Property owner/representative has applied for a Summary Plat Amendment at 109 E First and is requesting a variance from Sec. 11-14-2. - Standards For Districts – Lots Minimum Area; Sec. 15-15. -A.2. b - Both lots to be created have direct, legal, unobstructed access to an existing City maintained and paved street with curb gutter and sidewalk;

Proposed lot Tract 1 will not meet the lots minimum area C-1 5000 square feet.

Proposed lots will not have direct, legal, unobstructed access to an existing City maintained and paved street with curb gutter and sidewalk;

No sidewalk/curb/gutter is adjacent to current or proposed parcel or any existing parcels on that street and therefore would cause undue hardship on the applicant to develop sidewalk/curb/gutter to the required NMDOT Specifications.

**SUPPORT INFORMATION:**

- **Public Hearing Notice**
- **Municipal Code References**

Name of Drafter: Traci Alvarez	:	Meeting date: 05 -03-2021
E-mail: <a href="mailto:tburnette@torcnm.org">tburnette@torcnm.org</a>	Phone: 575-894-6673	

Sec. 11-14-2. - Standards For Districts.

District	Lots: Minimum Front Setback	Yards: Minimum Rear Setback	Yards: Minimum Side Setback
R-1	25'	25'	8'
R-2	25'	20'	6' or 0'*
R-3	20'	15'	5' or 0'*
R-4	25'	25'	5'
RR-1	25'	15'	5'
C-1	20'	15'	5' or 0'*
M-1	25'	25'	5' or 0'*
T-1	25'	25'	15'

\* As permissible per Section 11-14-3 and 11-14-4.

District	Lots: Minimum Area	Lots: Minimum Width	Dwelling: Minimum Area	Maximum Height
R-1	9,000 s. f.	60'	1,200 s. f.	26'
R-2: Single-Family	5,000 s. f.	60'	900 s. f.	26'
R-2: Two-Family	4,000 s. f./unit	60'	650 s. f./unit	35'
R-2: Multiple-Family	3,500 s. f./unit	60'	600 s. f./unit	35'
R-2: Apartments	3,500 s. f./unit	60'	500 s. f./unit	35'

R-2: MH*	5,000 s. f.	60'	900 s. f.	26'
R-3: Single-Family	4,500 s. f.	45'	700 s. f.	35'
R-3: Two-Family	3,000 s. f./unit	45'	500 s. f./unit	35'
R-3: Multiple-Family	3,000 s. f./unit	45'	450 s. f./unit	35'
R-3: Apartments	2,000 s. f./unit	45'	400 s. f./unit	35'
R-3: NM*	4,500	45'	550 s. f.	26'
R-4	1 acre	75'	1,200 s. f.	26'
RR-1	5,000 s. f.	50'	800 s. f.	26'
C-1	5,000 s. f.	60'	" "	35'
C-1: MH*	4,000 s. f.	45'	550 s. f.	26'
M-1	" "	60'	" "	35'
T-1	21,780 s. f.	100'	800 s. f.	35'
T-1: MH*	21,780 s. f.	60'	550 s. f.	26'

\* Not located within MHP

**Sec. 11-14-3. - Residential and Transition Districts: Additional Provisions and Exceptions.**

The following provisions shall apply to all development in a residential or transition District:

**A. SETBACK EXCEPTIONS:**

1. A minimum side yard setback of zero (0) feet in a residential District only, providing all the following requirements are met:
  - a. The setbacks are authorized by the City Commission as part of an approved development.
  - b. There shall be no less than ten (10) feet, including roof overhang, between structures, except approved condominium and townhouse developments with common wall construction.
  - c. All zero (0) lot lines shall be on the same side of all lots in a development.

2. The minimum setback distance shall be maintained for both front yards of a corner lot. A lesser setback for one front yard of a triple frontage lot shall be considered upon application for variance to the Planning and Zoning Commission.
  3. New dwellings may be erected as close to a front property line as the average distance established by existing dwellings on that side of the block, provided the lots on the same side of the block are fifty (50) percent developed.
  4. An addition to a main dwelling shall be permitted as an extension of existing building lines, which have non-conforming setbacks. Setbacks for such addition shall be the same as the main dwelling.
  5. There shall be a minimum setback of one (1) foot for each foot in height of any building, other than a single or two family dwelling, abutting on R-1 or R-2 District.
- B. *FRONT-YARD PARKING.* Parking areas shall not cover over one-third ( 1/3 ) of any open area between the front of a dwelling and the front property line; except in cases of a cul-de-sac, two-thirds ( 2/3 ) of a front yard can be used; and on existing lots less than fifty (50) feet, a twenty (20) feet parking area is permitted. Townhouses and apartment lots may use three fourths (¾) of the front yard for parking.
- C. *MINIMUM DISTANCE BETWEEN STRUCTURES.* There shall be no less than ten (10) feet between buildings or structures located on the same lot, tract, or parcel.
- D. *EASEMENT ENCROACHMENTS.* There shall be no permanent structures located on easements without written approval of the City Commission.

Sec. 11-14-4. - Commercial and Manufacturing Districts: Additional Provisions and Exceptions.

The following provisions shall apply to all development in a commercial or manufacturing Districts:

- A. *SETBACK EXCEPTION.*
1. A zero (0) foot side yard shall be permitted only when:
    - a. A building on the abutting side is at least five (5) feet from the property line; or
    - b. Both buildings share a common wall on the side property line; or
    - c. When the abutting property is undeveloped. Otherwise, a five (5) foot setback is required.
  2. There shall be a minimum setback of one (1) foot for each foot in height of any building abutting a residential District. There shall be at least a minimum distance of thirty (30) feet maintained between any residential dwelling and any commercial or industrial structure.
- B. *MINIMUM DISTANCE BETWEEN STRUCTURES.* There shall be no less than ten (10) feet between buildings or structures located on the Same lot, tract, or parcel.
- C. *PRIVATE STREETS.* All non-dedicated streets or private drives shall be a minimum of twenty-four (24) feet in width.

Sec. 15-8. - Variances.

- A. *Cause:* Where, in the case of a particular proposed subdivision, it can be shown that strict compliance with the requirements of this Code would result in a substantial or unreasonable hardship to the subdivider because of exceptional topographic, soil or other surface or subsurface conditions, or that strict compliance with this Code would result in inhibiting the achievement of the objectives of this Code, the Planning and Zoning Commission may recommend and the City Commission may approve variances, modification or waivers of this Code's requirements. No variance shall be granted simply because the subdivider disagrees with or does not wish to meet the goals, objectives or standards of this Code.
- B. *Required findings:* Before recommending approval of a variance to the Planning and Zoning Commission, the City's Zoning Administrator shall make the following findings of fact. These same findings must be made by the Planning and Zoning Commission before it may recommend approval to the City Commission. The same findings must be made by the City Commission before it may approve a subdivision with variances and must form the basis of its decision when acting on an appeal regarding a variance. Granting a variance:
  - 1. Shall not constitute a grant of special privilege inconsistent with the limitations on other properties in the area of notice;
  - 2. Shall not result in detriment to the public health, safety, or welfare, or be materially injurious to properties or improvements in the area of notice;
  - 3. Is justified because a physical hardship to the applicant is caused by existing size or shape of the lot, by existing structures, topographic or physical conditions on the site or in the area of notice, or if a physical hardship to the applicant would result from strict compliance with this Code;
  - 4. Upholds the spirit and intent of this Code, public safety and welfare will be secured, and substantial justice done;
  - 5. Will not result in the City being caused to absorb costs over and above those typically associated with subdivision approval;
  - 6. Is not contrary to the requirements of state law;
  - 7. Will not cause negative impacts on adjoining properties, properties in the area of notice, or to the public well being.
- C. *Procedures and requirements:* The following procedures and requirements shall apply to all requests for variances under this Code.
  - 1. Requests for variances and the review fee shall be submitted in writing prior to or at the time of request for preliminary plat approval.
  - 2. Variances will be reviewed and acted on as separate agenda items from the subdivision as a whole, however, approval or denial of a subdivision by the City may be determined by the results of a vote on a variance.
  - 3. The request shall describe in detail the specific sections of this Code from which a variance is being requested, and shall describe in detail the specific reasons that justify a variance. It is the subdivider's responsibility to address and prove each and every finding of fact.
  - 4. Variance requests shall be reviewed by the City Planning and Zoning Commission in public hearings prior to or concurrent with public meetings that are held for recommendations for approval or denial of the subdivision.
  - 5. Notice of the request for variance shall be given to all owners of record of property within 300 feet of the area proposed for subdivision, excluding streets, alleys, channels and other rights-of-way, and shall be published in the same manner as notice is provided for any public hearing required in this Code, and shall comply with the Open Meetings Act of the State of New Mexico

6. Variance requests shall be submitted to any reviewing agencies having expertise with respect to the subject matter for which the variance is sought. Comments on variances by such agencies shall be received by the City before the City acts on the subdivision requiring the review. In cases where a variance to the standards of any other entity is requested as part of a subdivision application, the City shall not approve the subdivision until it has received certification from that entity, in writing, that the entity has approved the variance request.
- D. *Conditions on variances:* In granting variances, the City may impose conditions regarding further expansions, maximum height limits, time limits, types of construction, and other standards that will ensure that approval of the variance results in substantial conformity with the intent of this Code.
- E. *Notification of action:* The City's Zoning Administrator shall notify the subdivider in writing within five working days following consideration of a variance by the Planning and Zoning Commission and/or the City Commission. Said letter shall state the nature and conditions of approval of variances, or alternately, shall state the reasons for denial of a variance. Said letter shall also explain the next action required or available to the applicant.

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

# PLANNING AND ZONING COMMISSION

## FINDINGS OF FACTS CHECKLIST

Request Date\_\_\_\_\_ Address\_\_\_\_\_

Findings of facts for recommendations and decisions.

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