

**CITY OF TRUTH OR CONSEQUENCES
PLANNING & ZONING COMMISSION
THURSDAY, MAY 19, 2022**

AGENDA

REGULAR MEETING

Regular meeting of the Planning & Zoning Commission of the City of Truth or Consequences, New Mexico to be held on Thursday, May 19, 2022 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 April 7, 2022.

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

4. PUBLIC HEARING:

- a. Public Hearing/Discussion/Action: Request for a Summary Plat Amendment at 1500 E. Riverside. Traci Alvarez, Assistant City Manager
- b. Public Hearing/Discussion/Action: Request for a Variance at 1500 E. Riverside. Traci Alvarez, Assistant City Manager
- c. Public Hearing/Discussion/Action: Request for a Summary Plat Amendment at 825 W. 9th Street, Truth or Consequences. Traci Alvarez, Assistant City Manager
- d. Public Hearing/Discussion/Action: Request for a Variance at 355 S. Foch; 365 S. Foch; and 375 S. Foch. Traci Alvarez, Assistant City Manager
- e. Public Hearing/Discussion/Action: Request for a Variance 11-5-5 pertaining to the 4/7/2022 approved request for a Summary Plat Amendment on Parcel 3022079415169 Palomas Hot Springs Townsite, Block 30, Lots 1 – 12. Traci Alvarez, Assistant City Manager

5. NEW BUSINESS:

- a. Discussion/Action: Recommendation to the City Commission to consider the appointment of Eduardo Alicea to serve as a member on the Planning & Zoning Commission. City Clerk Torres

5. NEW BUSINESS Continued...

- b. Discussion/Action: Recommendation to the City Commission to consider the appointment of Robert Carey to serve as a member on the Planning & Zoning Commission. City Clerk Torres
- c. Discussion/Action: Recommendation to the City Commission to consider the appointment of Esther Luchini to serve as a member on the Planning & Zoning Commission. City Clerk Torres
- d. Discussion/Action: Recommendation to the City Commission to consider the appointment of Susan Buhler to serve as a member on the Planning & Zoning Commission. City Clerk Torres

6. REPORTS FROM THE BOARD

7. REPORTS FROM STAFF

8. ADJOURNMENT

**CITY OF TRUTH OR CONSEQUENCES
PLANNING & ZONING COMMISSION
THURSDAY, APRIL 7, 2022**

MINUTES

REGULAR MEETING

Regular meeting of the Planning & Zoning Commission of the City of Truth or Consequences, New Mexico to be held at the City Commission Chambers at 405 W. Third Street, Truth or Consequences, New Mexico, on Thursday, April 7, 2022 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 Torres, City Clerk-Treasurer
Dawn C. Barclay, Deputy 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 February 17, 2022.

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

3. COMMENTS FROM THE PUBLIC:

Martin Mijal approached the Planning & Zoning Commission with comments related to the property on Wyona Street.

Kyle Smith approached the Planning & Zoning Commission with comments related to the property on Wyona Street and the development of the property.

Diane Gunning approached the Planning & Zoning Commission with comments related to her opposition of the planned development on Wynona Street. She feels that removing the berm by the property will cause flooding issues to the surrounding area.

Kate Hall approached the Planning & Zoning Commission with comments related to the development on Wynona Street. She also expressed that work is being done on the property at very early hours of the morning.

Jonathan Carson approached the Planning & Zoning Commission with comments related the removal of the berm by the property on Wyona Street. He feels that it may cause flooding to the surrounding area and that may be a liability to the city.

Scott Boyd approached the Planning & Zoning Commission with comments related to the fact that he would like to see some development in the community and he doesn't think that we should be discouraging people who are investing in the community.

George Henson approached the Planning & Zoning Commission with comments related to the way the newspaper printed information regarding the property on Wyona. He also commented about the berm next to the property.

4. PUBLIC HEARING:

a. Public Hearing/Discussion/Action: Request for a Summary Plat Amendment on Parcel 3022079415169 Palomas Hot Springs Townsite, Block 30, Lots 1 – 12:

Chairman Hogg – We have two public hearings. He asked that anyone who will be speaking during the Public Hearing please raise their right hand for swearing in under the "Battershell Procedure".

Dawn C. Barclay, Deputy City Clerk swore in all persons that spoke during the public hearings.

Chairman Hogg – Ms. Alvarez will you please stat your first item for consideration.

Traci Alvarez, Assistant City Manager –This first public hearing is for a Summary Plat Amendment on Parcel Code No. 3022079415169. The applicant is requesting to amend his parcel by reducing the number of lots. Currently, this parcel has twelve lots, and he would like to reduce it down to six lots for potential development, if he chooses to do so. One of the lots is not a developable lot. At this time it's referred to as lot twelve. The amendment doesn't have any effect significantly altering any of the impacts on utilities, drainage or traffic at this time because there are no plans submitted for any development at this time. Any development of this property will have to abide by all City and State, Planning, Zoning, and Building as well as the oversite by the Sierra County Flood Director. At this time we are requesting approval to amend the parcel into the lots as requested, and the applicate is here for any questions.

Chairman Hogg opened the public hearing.

Proponents:

Nate Stevens – The reason for the plat amendment is because when they put the drainage ditch in which alleviated the cost of flood insurance for a lot of our community, they used lot 12 which is the lot that is in question here tonight. Lot 12 is undevelopable because it is a levy for that ditch that saves everybody money. The reason he has to change the lot lines is so that the rest of land that is not being used as a levy can be developed, and he can build on at some point in the future. That is what the meeting tonight is about, and he has answers for all of the other questions and concerns, but he won't do that here tonight.

Vice Chairman Sisney - What is the purpose of reducing it from 12 to 6 lots.

Nate Stevens – So he can address them properly. To build any property the smallest buildable property is 45x120. With lot 12 being gone it will leave him with one empty lot at the end of the other site, so he would not only lose lot 12, but he would lose lot 1 as well because he can split the remaining 10 into five 50x120 lots, but he would have 25 ft. on the other side. So rather than losing two lots, he would rather lose lot no. 12 to that levy that protects the community.

Opponents:

Rick Dumiak – Mr. Dumiak's comments are attached hereto and made a part hereof.

Martin Mijal – He asked is lot 12 is a gift to the city or is it an easement.

Nate Stevens – It is a formal easement to maintain that ditch.

Martin Mijal – The idea of the flood zone is not appropriate for the overall building code of this city. This is a spot zone, and this developer has to spend a massive amount of money so it makes no sense that he is going to have 300 ft. by 120 ft. He doesn't think that it will be affordable.

Vice-Chairman Sisney- Ms. Alvarez can you please address Mr. Dumiak's comment on whether or not this is a code violation.

Traci Alvarez, Assistant City Manager – The request for the Summary Plat Amendment has been reviewed by our city attorney, and it meets all requirements within the code aspect, but without further research she does not feel comfortable giving a straight answer because she did not hear everything that Mr. Dumiak asked.

Rick Dumiak

Rick Dumiak
705 Charles
Truth or Consequences

Regarding item 4 on today's agenda,

a. Public Hearing/Discussion/Action: Request for a Summary Plat Amendment on Parcel 3022079415169 Palomas Hot Springs Townsite, Block 30, Lots 1 – 12.

I am speaking in opposition to this plat amendment.

I respectfully request you do not approve this plat amendment as it does not meet the standards stated in Sec. 11-2-2 and Sec. 15-15 (page 13 and page 15)

Sec 11-2-2 subsection G. Lines 2 and 5. (Page 13)

G. Findings of fact for recommendations and decisions. (Determine whether the request will;)

Item 2 . Unreasonably increase the traffic in public streets.

As there currently is no street access to this property how does the applicant plan to provide access? This is a concern as some kind of bridge would need to be built across an existing arroyo / storm water run off ditch and this would increase traffic to Wyona and Post Street.

Item 5. Unreasonably impair established property values within the surrounding area.

Wyona St is currently a dead end street and the existing property owners (some as long as 15 years) have an understandable belief that they live on a dead end street. Will granting this plat amendment change those beliefs? How will the applicant provide access to these properties?

Will there be a bridge built on Wyona Street?

A bridge on Wyona Street will negatively impact the existing property owners property valuation.

In addition this plat amendment also fails to meet the criteria in Sec. 15-15 (Page 15)

Sec. 15-15.

Section A 2 line b

b. States the following:

b. Both lots to be created have direct, legal, unobstructed access to an "existing City maintained and paved street with curb gutter and sidewalk."

Wyona St is currently a dead end with a tall berm that acts as part of a drainage arroyo, this parcel does not have any current access so this amendment should not be approved until there is access via a City maintained and paved street with curb gutter and sidewalk as stated in Sec 15-15 A2 line b.

Thank you
Rick Dumiak

3022079432142

709 Wy
our hou

3022079436150

3022079439155

21 WYONA AVE

21 WYONA AVE

716 WYON

Proposed Bridge

WYONA AVE

302.21 ft

121.80 ft

Area: 0.84 ac
Perimeter: 847.06 ft

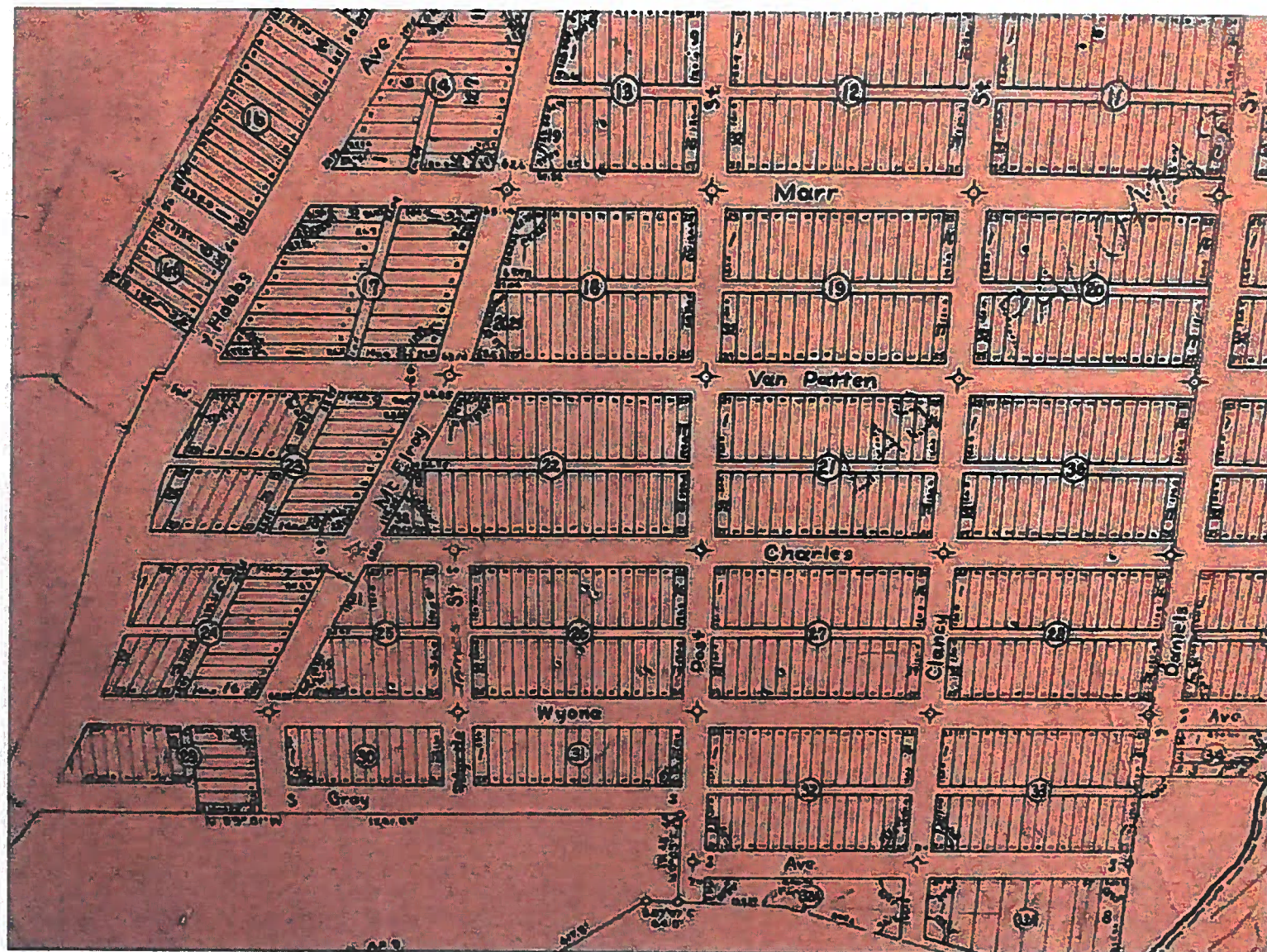
119.34 ft

3022079374169

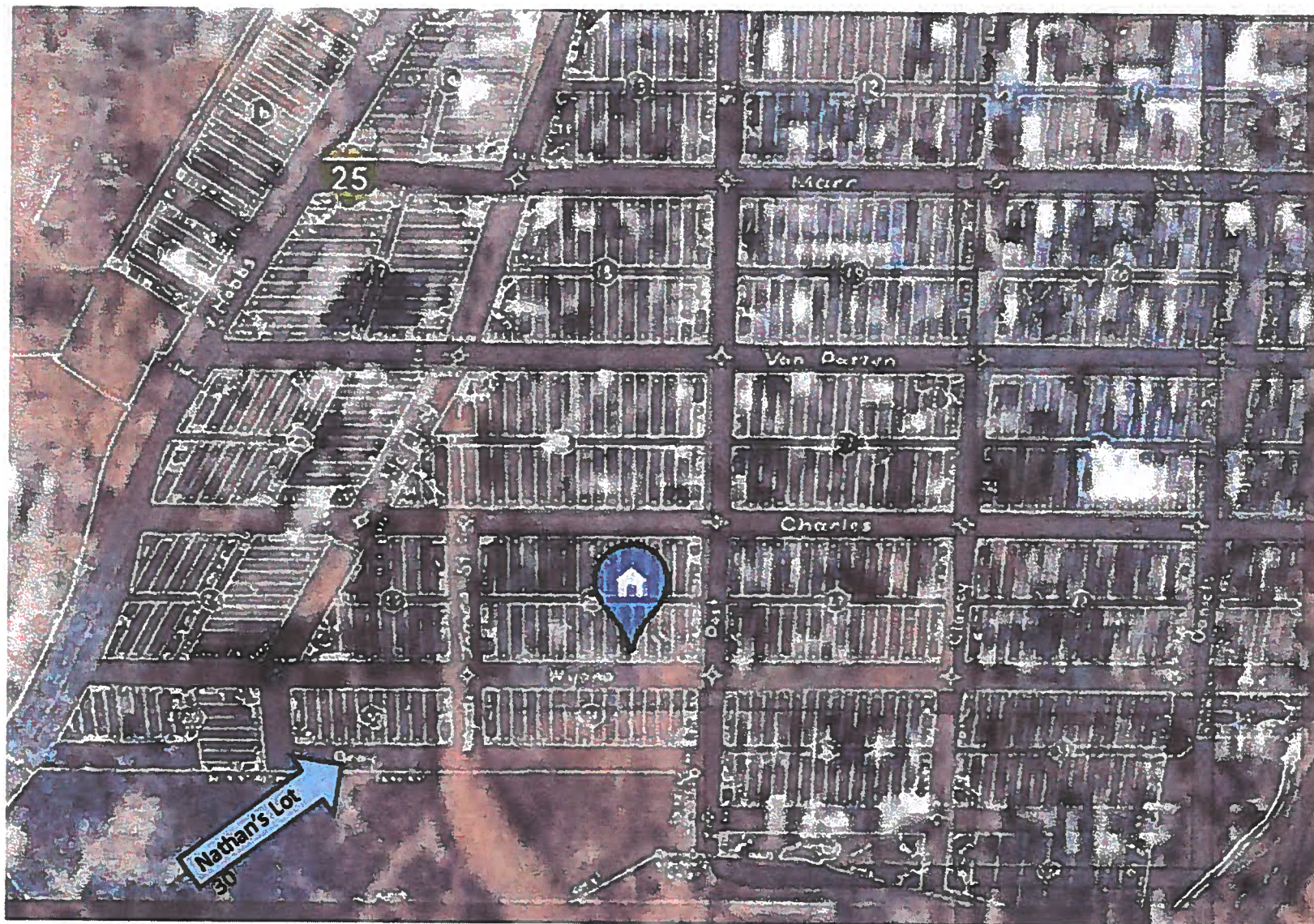
30

2079442172

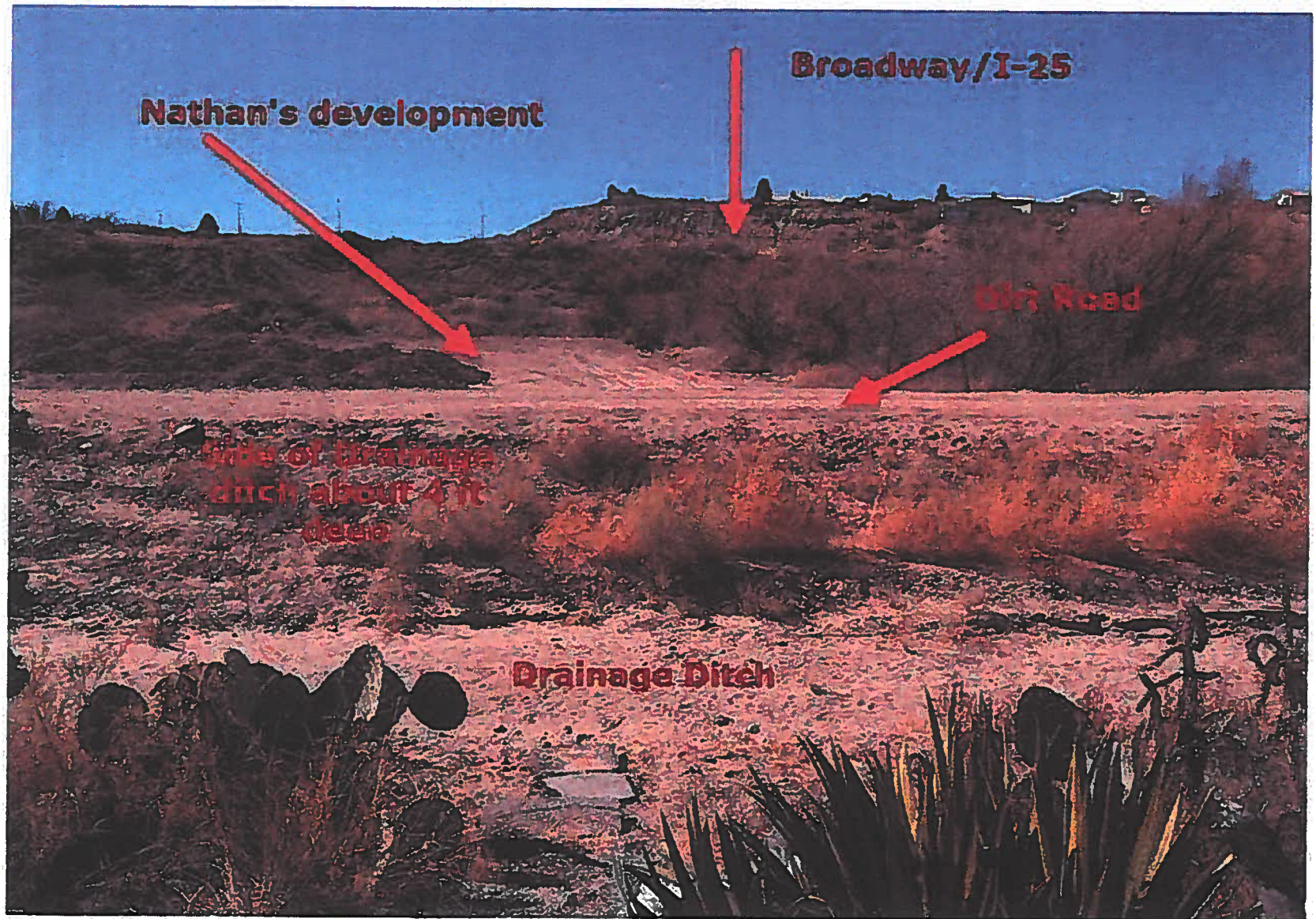
301.40 ft



Portion of 1929 City Plan Map photographed from County Clerk Bldg. wall



1929 City Plan Map overlaid on current Google Map



View from top of dirt berm looking towards Nathan's plot and Broadway/I-25

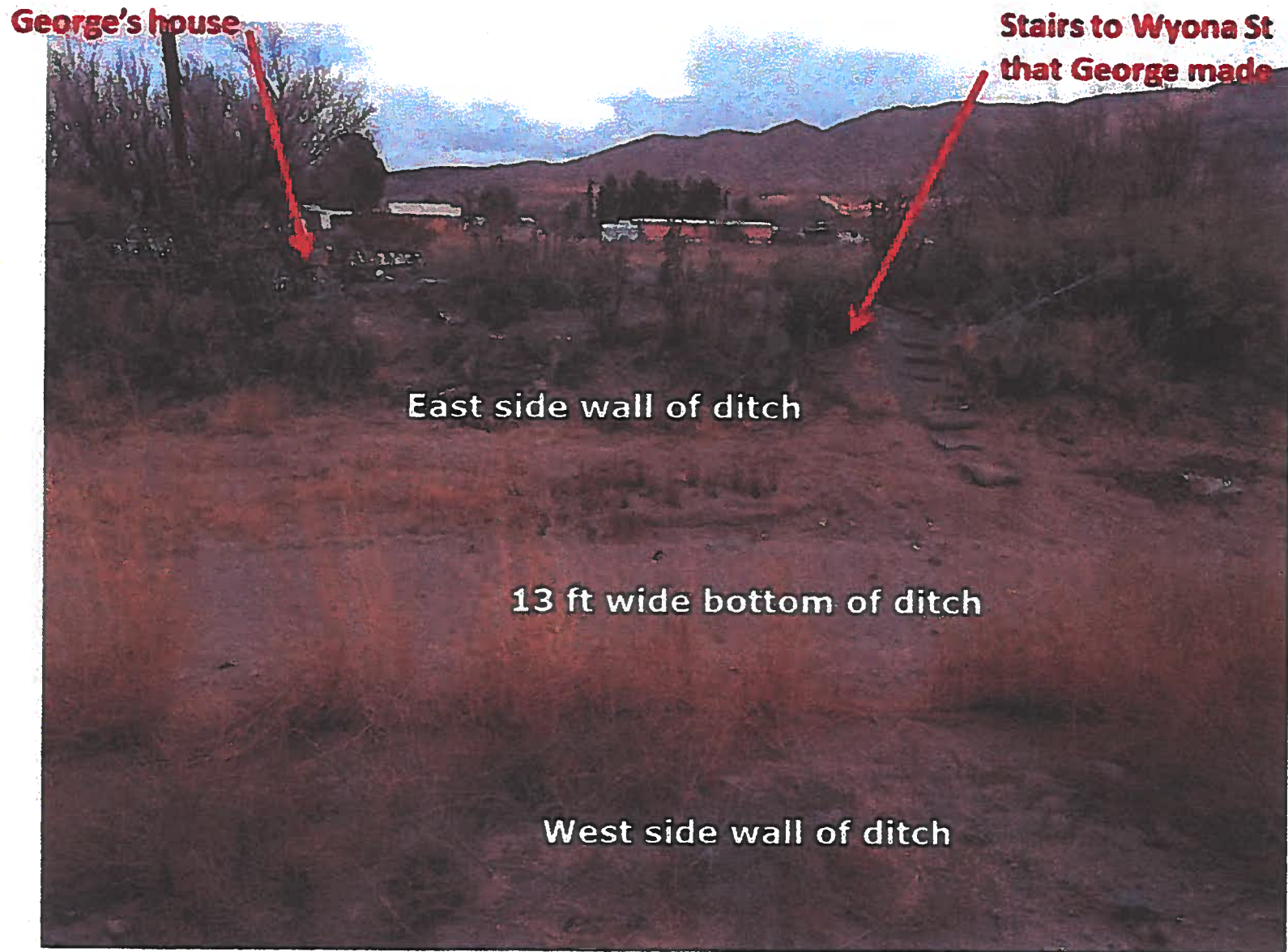


Note: Elevation of I-25 behind Nathan's development plot

Broadway



Nathan's plot with NM Veterans Home in background



George's house

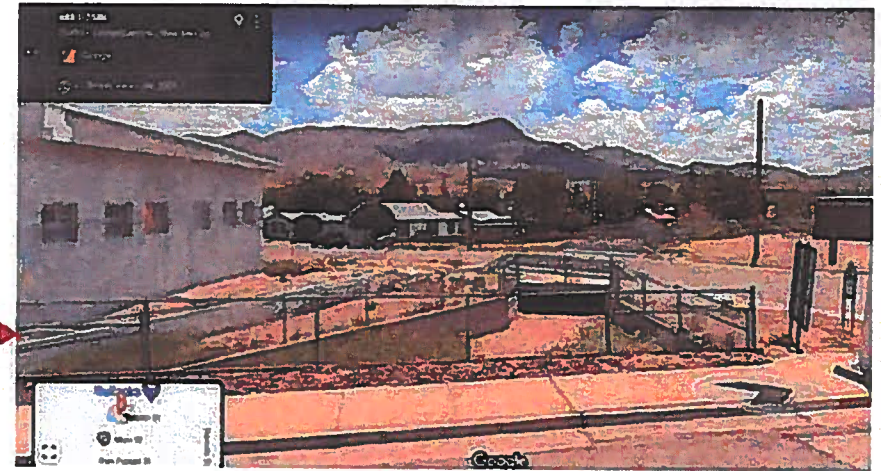
Stairs to Wyona St
that George made

East side wall of ditch

13 ft wide bottom of ditch

West side wall of ditch

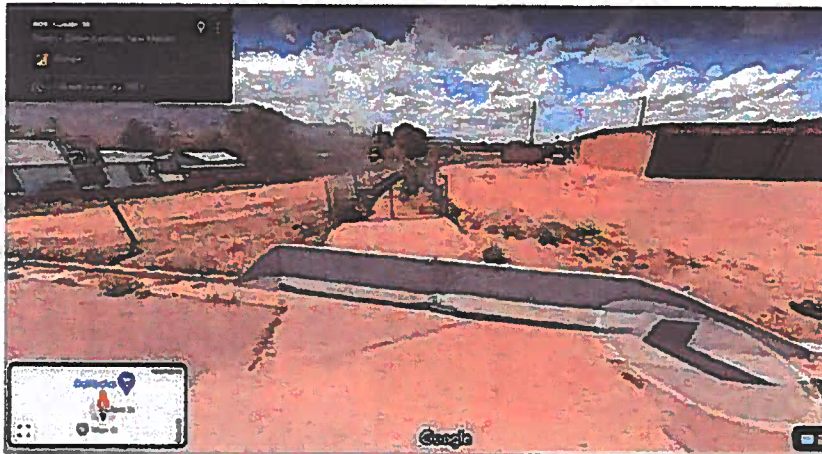
Dirt berm from ditch side, and drainage ditch 13 ft wide at this point



Drainage pit and bridge Broadway and Austin

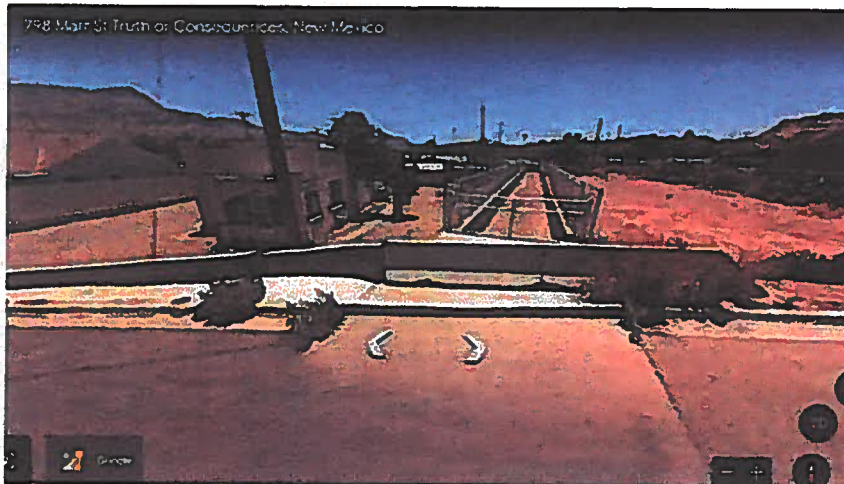


Drainage ditch and bridge Marr facing North



Drainage ditch and bridge Austin facing South





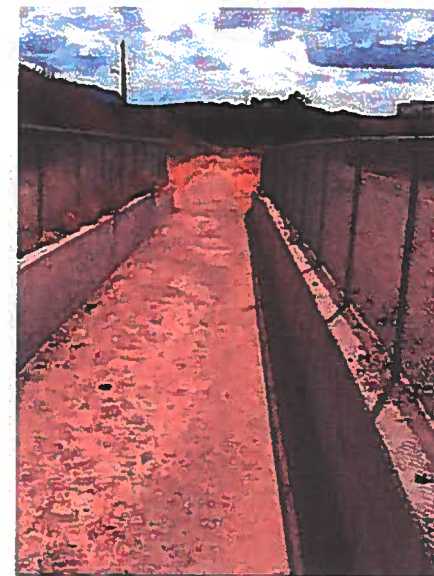
Drainage ditch and bridge Marr facing South



Drainage ditch and bridge Van Patten facing North



Drainage ditch and bridge Van Patten facing South





Map #3 Google Earth 1996 showing drainage ditch

Vice-Chairman Sisney – He referenced Section. 11-2-2 and Section. 15-15. regarding there being no current street in the area being presented.

Traci Alvarez, Assistant City Manager – For further development of the property, this would have to meet all codes, and he would have to make sure that the property has sidewalk, curb and gutter if he were to decide to develop. He can split the lot right now.

Chairman Hogg closed the public hearing.

Member Bush – There seems to be a lot of stir going on because of this Plat Amendment, and according to Ms. Alvarez, that is all we are addressing at this time which is the division of this lot.

Member Bush made a motion to approve the request for a Summary Plat Amendment on Parcel 3022079415169 Palomas Hot Springs Townsite, Block 30, Lots 1 – 12. Vice-Chairman Sisney seconded the motion. Roll call was taken. Motion carried unanimously.

b. Public Hearing/Discussion/Action: Request to Vacate on Hyde Street between South Broadway and Cook Street:

Traci Alvarez, Assistant City Manager – Sierra County is requesting to vacate Hide Street located between South Broadway and Cook Street. Specifically, this is the small section of Hide that runs between the Fair Barn and the Albert J Lyon Center. They would like to vacate it so they can have their entire parcel that the Fair Barn and the Albert J Lyon Center are on. They would like to at some point limit the traffic going in between the two. This still leaves access for everybody on Cook Street to have access the street through Myrtle Avenue, as well as Cook Street and South Broadway.

Member Bush – He sees that the Electric Department approves, Water Department approves, but the Street Department disapproves because they said it is a street, and I think that is kind of their job.

Traci Alvarez, Assistant City Manager – We are still in the process of doing a location of exactly where potential water or sewer lines are, but we will request that the County give full easement access to those lines. That won't be an issue with the County.

Dawn C. Barclay, Deputy City Clerk swore in all persons that spoke during the public hearings.

Chairman Hogg opened the public hearing.

Proponents:

None.

Opponents:

None.

Public Comment:

Martin Mijal – The Fairgrounds are mostly empty and then they have events where it would be nice for local traffic to come in. Why not just have a City Ordinance saying that the County can close it up. It's always a City road until the County needs the Fairgrounds to be more secure.

Nate Steven – He thinks that it is funny that when we are talking about other things, the flood issue isn't an issue. This street is exactly what flooded last year and took out Williamsburg so he just thinks that it is funny that everyone did their due diligence to talk about flooding. He is definitely a proponent of it, and he would be in favor of the city looking into developing the other access for the people on Hyde Street.

Chairman Hogg closed the public hearing.

Member Bush made a motion to approve the request to vacate on Hyde Street between South Broadway and Cook Street. Vice-Chairman Sisney seconded the motion. Roll call was taken.

Michael Hogg voted Aye.

Chris Sisney voted Nay.

James Bush voted Aye.

Motion carried with a 2 to 1 vote.

5. NEW BUSINESS:

- a. Discussion/Action: Recommendation to appoint Rick Dumiak to serve as a member on the Planning & Zoning Commission board:**

Angela A. Torres – Rick Dumiak has submitted an application to serve as a member on the board. He is here in the audience if you would like to ask him any questions.

Member Bush – Mr. Dumiak, didn't serve on this board in the past?

Rick Dumiak – Yes sir. I resigned under protest under the previous City Manager. There were some conflicts we had in public so I resigned my position, and I would now like to be re-appointed.

Member Bush made a motion to recommend to the City Commission the appointment of **Rick Dumiak** to serve as a member on the board. **Vice-Chairman Sisney** seconded the motion. Motion carried unanimously.

6. REPORTS FROM THE BOARD:

Member Bush reported that he will be resigning from the board June 31st when his term expires. He will have a formal letter submitted to the Commission.

7. REPORTS FROM STAFF:

There were no reports from staff.

8. ADJOURNMENT:

There being no further business to come before the Planning & Zoning Commission. **Member Bush** made a motion to adjourn the meeting. **Vice-Chairman Sisney** seconded the motion. Motion carried unanimously.

PASSED AND APPROVED ON THIS 19th DAY OF MAY 2022.

Michael Hogg, Chairman
Planning & Zoning Commission



CITY OF TRUTH OR CONSEQUENCES
PLANNING AND ZONING COMMISSION ACTION FORM
DATE: 05/19/2022

ITEM: Public Hearing/Discussion/Action – Summary Plat Amendment and Variance request 1500 E Riverside

BACKGROUND:

Applicant requests to split parcels 3021078088510 and 3021079121003. Current parcels include lots 1-7 and adjacent riverfront property. Applicant requests to split into 4 parcels (Parcels 1,2,3 and 4) (no new lots are being created) and assign each parcel riverfront property to be identified as Parcels 1A, 2A, 3A, and 4A. Riverfront parcels will not be allowed to be sold separately and will be for recreational purposes only, and no residential, commercial or storage will be permitted on said parcels. Riverfront parcels will not have access to water and wastewater, nor will they meet standards for lots contained within the City's Comprehensive Planning and Zoning Code therefore a variance is required. All applicable documents and fees have been submitted. All property owners within a 300ft radius have received certified mailings. Utility Verification to be updated at meeting.

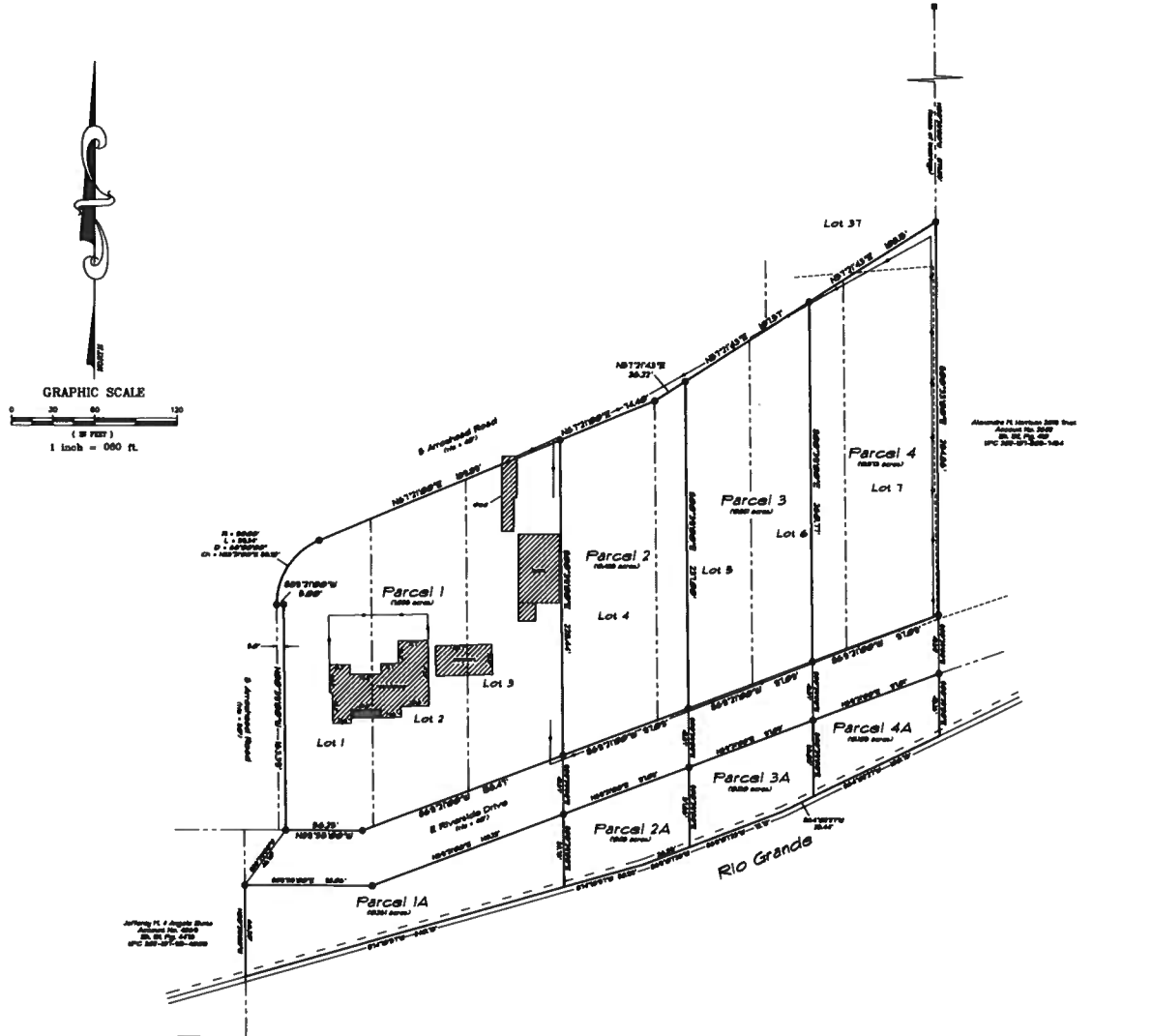
SUPPORT INFORMATION:

**Plat Survey
Assessor Map
Code References**

Name of Drafter: Traci Alvarez	:	Meeting date: 05/19/2022
E-mail: talvarez@torcnm.org	Phone: 575-894-6673	

ALTERNATE SUMMARY PROCEDURE-SUMMARY PLAT

of the division of Lots 1 through 7, Hollywood Homesites and a 0.604 acre tract of land between E. Riverside Drive and the north bank of the Rio Grande, into Parcels 1, 2, 3 and 4 and Parcels 1A, 2A, 3A and 4A, in Section 34, Township 13 South, Range 4 West and Section 3, Township 14 South, Range 4 West, N.M.P.M., in the City of Truth or Consequences, Sierra County, New Mexico



Legend:
 found iron pipe, (no survey identification) —●—
 found 1/2" rebar sturwarp stamped "NPLS 028" —●—
 set 1/2" rebar sturwarp stamped "NPLS 028" —●—
 chain link fence ————
 pipe fence ————
 overhead power line ————

Notes:

These parcels are subject to easements, restrictions and reservations of record.

The parcels shown herein are located within the boundaries of Flood Zone AE, "Special Flood Hazard Area" designated by FEMA, with base flood elevations determined.

The herein described parcels are created under the City of Truth or Consequences Subdivision Codes, Ordinance No. 906, Chapter 9, Section 9, "Alternate Summary Procedure".

Parcels 1A, 2A, 3A and 4A are considered part of Parcels 1, 2, 3 and 4, and if use of said parcels is conveyed with corresponding parcels, never to be sold separately.

Parcels 1A, 2A, 3A and 4A shall be used for recreational purposes only, and no residential, commercial or storage shall be permitted on said parcels.

Use drawing scale to determine measurements when not labeled.

ACKNOWLEDGMENT

We, the undersigned owners of the herein described property do hereby acknowledge, with our free consent, and in accordance with our value and desires, the division of land as shown on this plat.

Witness: William I. Suhler Betty Ann Suhler

STATE OF NEW MEXICO)
 COUNTY OF SIERRA)

The foregoing instrument was acknowledged before me this _____ day of _____, 2022, by William I. Suhler & Betty Ann Suhler.

Notary Public: _____
 My Commission Expires: _____

Reference:

Account No. 398

Book 6, Page 183

UPC 360-197-000-0000, (Hollywood Homesites Lots)

UPC 360-197-000-0000, (Tract south of E. Riverside Drive)

Hollywood Homesites Subdivision Plat filed on August 1, 1947, (Plat No. 3, Slide No. 39)

City of Truth or Consequences Subdivision Codes, Ordinance Number 906, (adopted May 23, 2006)

National Flood Insurance Program, Flood Insurance Rate Map Community-Parcel Number 360673 0000 C, (map re-issued July 16, 1995)

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

Witness: _____ Date: _____

April 4, 2022

Chaparral Surveying, LLC
 Professional Land Surveying

P.O. Box 679 Elgin, New Mexico 87625

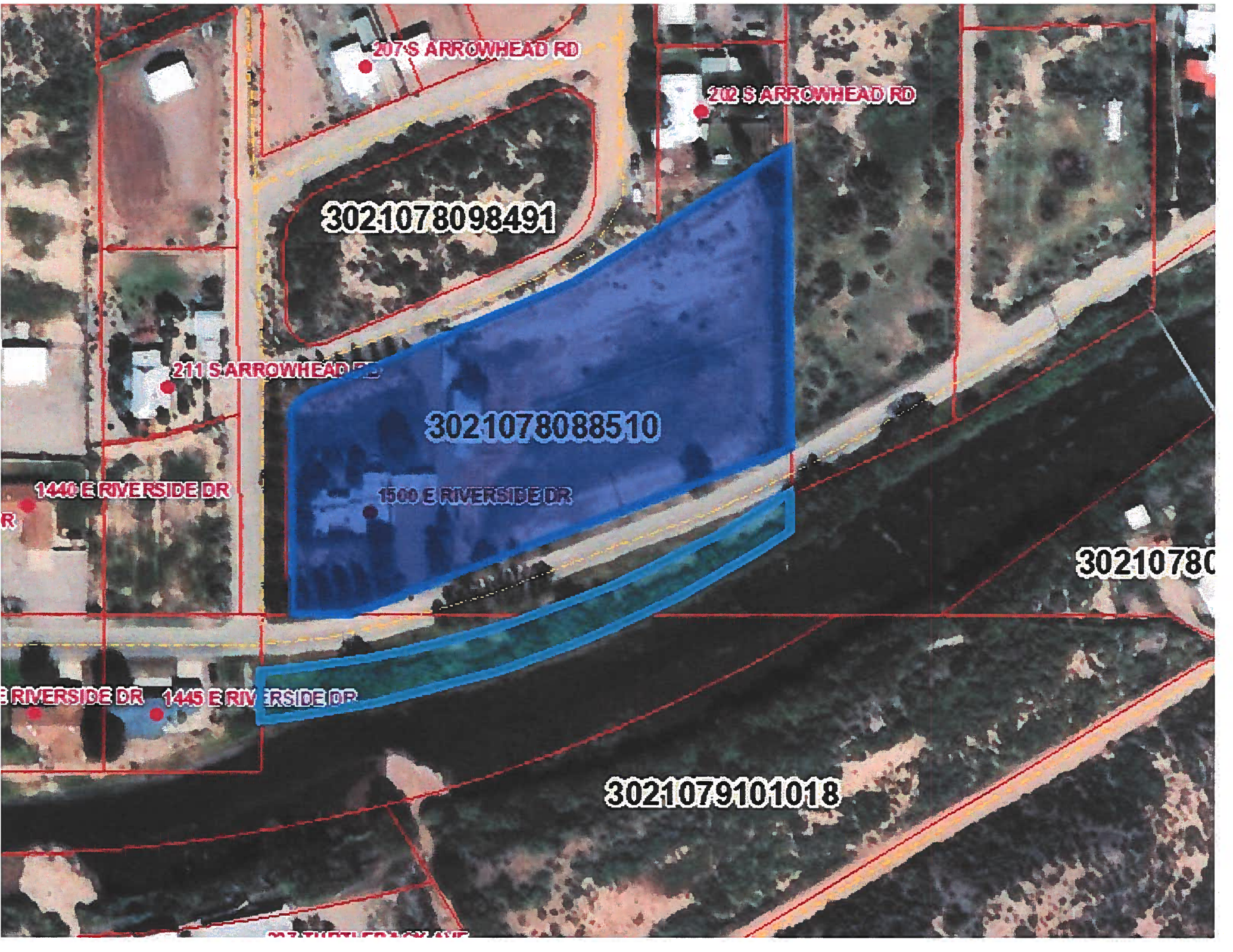
CERTIFICATE

This is to certify that I, as a registered Professional Land Surveyor, have this plat in my possession and have examined the same and find it to be a correct and true representation of the land as surveyed and shown on the plat, and I have no objection to its use for the purposes intended.

I hereby certify that I am a duly Licensed Surveyor of the State of New Mexico.

David R. Rasmussen
 New Mexico Professional Surveyor
 License Number 5975

INDEXING INFORMATION FOR COUNTY CLERK
 William I. Suhler (398)
 Hollywood Homesites
 Section 34, Twp. 13 South, Rgs. 4 West
 Sections 3, Twp. 14 South, Rgs. 4 West



3021078098491

3021078088510

30210780

3021079101018

207 S ARROWHEAD RD

202 S ARROWHEAD RD

211 S ARROWHEAD RD

1440 E RIVERSIDE DR

1500 E RIVERSIDE DR

1445 E RIVERSIDE DR

1446 E RIVERSIDE DR

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)



CITY OF TRUTH OR CONSEQUENCES
PLANNING AND ZONING COMMISSION ACTION FORM
DATE: 05-19-2022

ITEM: Discussion/Action - Request for Summary Plat Amendment at 825 W 9th

BACKGROUND:

Applicant is requesting an amendment to their plat at 825 W 9th Street to remove the property boundary that divides their lots and combining it as 1 parcel. (see attached assessor map). Removal of property boundary does not impact any of the following findings of facts:

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 required documents have been submitted and fees paid. All property owners within 150-foot radius have been notified by certified mail. Amendment does not effect access to electric, water, sewer or streets.

SUPPORT INFORMATION:

Plat Survey
Assessor Map
Municipal Code References

Name of Drafter: Traci Alvarez	:	Meeting date: 05-19-2022
E-mail: talvarez@torcnm.org	Phone: 575-894-6673	

INDEXING INFORMATION FOR COUNTY CLERK
 Marlyssa G. Neal (196 & 14049)
 Country Club Heights
 Section 33, Tshp. 13 South, Rge. 4 West

LOCUST ST

W 9TH AVE

3022078386107

3022078368110

3022078348109

30220783

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905 LOCUST ST

906 KOPRA ST

907 KOPRA ST

905 KOPRA ST

875 W 9TH AVE

825 W 9TH AVE

711 W 9TH AVE

850 W 9TH AVE

827 KOPRA ST

818 KOPRA ST

815 KOPRA ST

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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)



CITY OF TRUTH OR CONSEQUENCES
PLANNING AND ZONING COMMISSION ACTION FORM
DATE: 05-19-2022

ITEM: Public Hearing/Discussion/Action – Request for Variance – 355/365/375 S Foch Street

BACKGROUND:

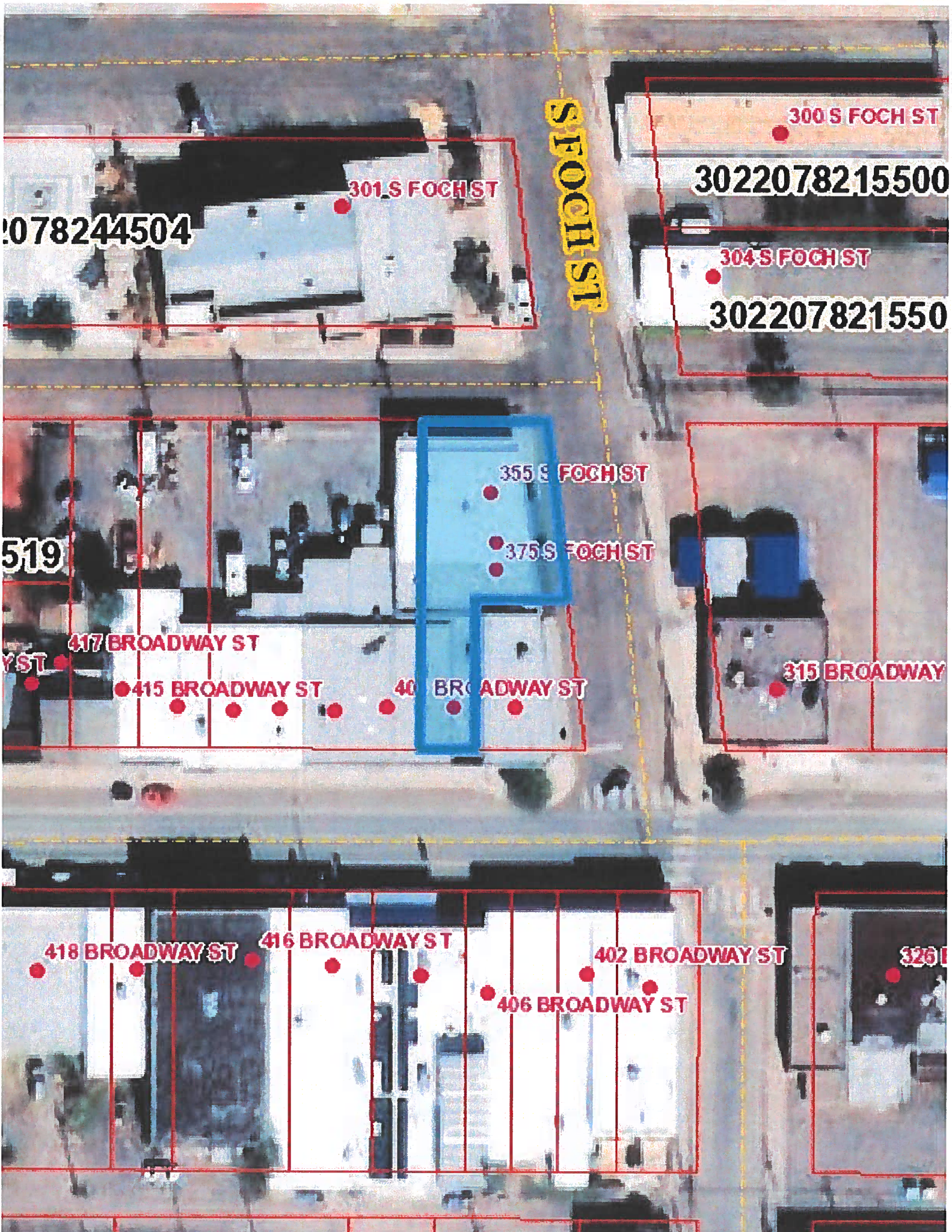
Applicant owns/operates businesses located at 355/365/375 S Foch Street as shown on attached map. There is no designated parking lot for these businesses. Applicant is requesting to be allowed to designate street side parking on South Foch Street directly adjacent to his businesses for customers occupying his business only. Applicant is requesting a variance from the existing requirements for designated parking and would like approval or possible conditional or special use permit to allow designated parking.

All property owners within a 300-foot radius of said property have been notified of public hearing by certified mail. All applicable fees have been paid for variance request and requested documents have been submitted. (Conditional or Special Use fees to be applied if Commission designates use).

SUPPORT INFORMATION:

Assessor Map showing property location
Various applicable sections of the Municipal Code

Name of Drafter: Traci Alvarez	:	Meeting date: 05-19-2022
E-mail: talvarez@torcnm.org	Phone: 575-894-6673	



078244504

519

Y ST

S FOCH ST

300 S FOCH ST

3022078215500

304 S FOCH ST

302207821550

355 S FOCH ST

375 S FOCH ST

417 BROADWAY ST

415 BROADWAY ST

40 BROADWAY ST

315 BROADWAY

418 BROADWAY ST

416 BROADWAY ST

402 BROADWAY ST

406 BROADWAY ST

326

ARTICLE IV. - NON-CONFORMING USES, BUILDINGS, AND LOTS

Sec. 11-4-1. - Definition of Non-conforming Uses and Continuity of Use.

A non-conforming use is any existing use of land, building, or structure that does not conform to the land use provisions of this Code at the time of its passage.

- A. *Non-conforming use of land.* The legal non-conforming use of land, existing at the time this Code became effective, may be continued, provided that no such non-conforming land use shall in any way be expanded, extended or increased in intensity of use, either on the same or adjoining property, and provided that if such non-conforming use of land or any portion thereof, is abandoned for a period of one (1) year or more, any future use of such land shall be in conformity with the provisions of this Code.
- B. *Legal non-conforming uses, lots, buildings, structures.* Uses, lots, buildings, and structures existing lawfully prior to the effective date of this Code which, by reason of this Code, are no longer conforming, shall be considered as legally non-conforming and shall be subject to all regulations imposed hereafter.
- C. *Illegal non-conforming uses, lots, buildings, and structures.* Uses, lots, buildings, and structures existing unlawfully prior to the effective date of this Code, and which remain unlawful, shall be considered illegal and unless remedial action is taken (e.g. special use authorized or brought into conformance by another acceptable zoning device permitted by this Code) shall be amortized in conjunction with Section 11-4-10 hereinafter.
- D. Previous non-conforming, uses, lots, buildings, and structures which become conforming as a result of the Comprehensive Code amendment. Uses, lots, buildings, and structures existing lawfully or unlawfully prior to the effective date of this Code, which are made lawful as a result of the provisions of this Code, shall be considered as conforming.

Unless otherwise specifically provided for in this Code, non-conforming uses and lots that were otherwise lawful on the effective date of this Code may be continued regardless of ownership until the current use changes.

Sec. 11-4-2. - Maintenance Permitted.

A legal non-conforming building or structure may be maintained and the occupancy of such building or structure may be continued, however, the non-conforming use shall not be changed or expanded, unless such changes or expansions brings the use further into compliance with this Code.

Sec. 11-4-3. - Repairs and Alterations.

Repairs and structural alterations may be made to a non-conforming manufactured or mobile home, building or to a building housing a non-conforming use, however, the non-conforming use shall not be expanded or changed, unless such changes or expansions brings the use further into compliance with this Code.

Sec. 11-4-4. - Restoration of Damaged Buildings.

A legal non-conforming building, manufactured or mobile home or a building housing a non-conforming use which is damaged or destroyed by fire, flood or other calamity or act of nature may be restored and the building, structure or use of such building, structure or part thereof may be continued or resumed, provided that such restoration is started within a period of one (1) year from the date of destruction. Such restoration shall not increase the floor space devoted to the non-conforming use over that which existed at the time the building came into non-conforming status. A building permit or manufactured home installation permit shall be obtained and countersigned by the designated Zoning Administrator or other zoning official designated by the City noting any restrictions and/or requirements to enable the non-conforming use to continue without violation of this Code.

Sec. 11-4-5. - Discontinuance or Abandonment.

A legal non-conforming use, building, manufactured or mobile home or structure or portion thereof, or a lot occupied by a non-conforming use which is or which hereafter becomes abandoned or which is discontinued for a continuous period of one (1) year, shall not thereafter be occupied except by a use which conforms to the regulations of the District in which it is located.

Sec. 11-4-6. - Transfer of Ownership.

If a legal non-conforming use is sold, leased or otherwise transferred, the use may continue with no change or expansion of use, unless the change is to a conforming use.

Sec. 11-4-7. - Change of Use.

The legal non-conforming use of a building or structure may not be changed except to a conforming use, but where such change is made, the use shall not thereafter be changed back to a non-conforming use.

Sec. 11-4-8. - Non-conforming Lots.

When a legal non-conforming lot can be used in conformity with all of the regulations applicable to the intended use, except that the lot is smaller than the required minimum set forth in Article 14 of this Code, the lot may be used as if it were conforming.

Sec. 11-4-9. - Subdivisions in Process Prior to aAoption of this Code.

A subdivision on which an application was submitted to the City Planning and Zoning Commission prior to the adoption of this Code shall be allowed in any District, regardless of any new District requirements of lot size, if the requirements for final approval have been met and the plat approved within fifteen (15) months of the adoption of this Code.

Sec. 11-4-10. - Amortization of Non-conforming or Unlawful Buildings, Structures, Lots, or Uses.

Non-conforming building, structure, lot or use, as detailed below, which existed at the adoption of this Code and which remains non-conforming, and any such building, structure, or use which shall become non-conforming upon the adoption of this Code or of any subsequent amendment thereto, shall be discontinued and cease in accordance with the following.

- A. It shall be the responsibility of the owner of any illegal non-conforming buildings, structures, lots, or uses, to remove to bring such into conformance with the ordinances of this City within one (1) year of the effective date of this Code.
- B. It shall be the responsibility of the owner of any legal non-conforming commercial or industrial buildings, structures, or uses that exceed the home occupancy use standards of this ordinance, that exist in any of the residential zones at the time of adoption of this Code, to remove or bring them into compliance with this Code according to the schedules defined below:
 1. Where all or substantially all of the improvements employed in a non-conforming building, structure, or use, which have an assessed valuation on the effective date of this Code of less than twenty thousand dollars (\$20,000), the use shall be discontinued or brought into compliance within five (5) years.
 2. Where all or substantially all of the improvements employed in a non-conforming building, structure, or use, which have an assessed valuation on the effective date of this Code of more than twenty thousand dollars (\$20,000), the use shall be discontinued or brought into compliance within ten (10) years.

ARTICLE XII. - PARKING REQUIREMENTS

Sec. 11-12-1. - Purpose.

Parking requirements shall be based on the use or type of business. Uses not specified herein shall follow the parking requirements within the category most appropriate to that use. Off-street parking is permissible in all front yards except as otherwise specified. Number of spaces shall be rounded to the nearest whole number. All parking spaces shall be provided on the same lot as the structure served, except as otherwise allowed in this Code.

Sec. 11-12-2. - Parking Spaces For The Handicapped.

The minimum number of designated parking spaces are as follows:

Total Spaces in Parking Lot	Minimum Designated Parking Spaces	Number Required to be Van Accessible
0—25	1	1
26—35	2	1
36—50	3	1
51—100	4	1
101—300	8	1
301—500	12	2
501—800	20	2
801—1,000	20	3
Over 1,000	20 spaces plus 1 space for every 100 spaces or fraction thereof or 1,000	1 of every 8 accessible parking spaces or fraction thereof

The designated parking spaces shall be located so as to provide the most convenient access to entryways or to the nearest curb cut.

Sec. 11-12-3. - Space Criteria.

A. RESIDENTIAL AND LODGING USES.

1. *One-Family and Two-Family Dwellings*: One and one-half (1½) off-street parking spaces per dwelling unit shall be provided. One-third (1/3) of any part of a front yard of a dwelling may be used for parking, except in cases of cul-de-sac where two-thirds (2/3) of a front yard is permissible, and on existing fifty (50) foot lots where twenty (20) foot width parking is permissible.
2. *Multi-Family Dwellings (three (3) or More Units)*: One and one-half (1½) spaces per dwelling unit shall be provided.
3. *Boarding Houses and Similar Uses*: Two (2) spaces in addition to one (1) space for each person, resident or member.
4. *Hotels and Motels*: One (1) space for each guest room in addition to requirements for auxiliary uses such as restaurants or shops.

B. OFFICES AND PERSONAL SERVICE ESTABLISHMENTS.

1. *Professional Services—(Medical and dental offices, barbers, hairdressers, and similar uses)*: One (1) space for each two hundred fifty (250) feet of gross floor area.
2. *Small Office Establishment—(Law, accounting, engineering, and real estate offices)*: Two (2) spaces plus one (1) space for each three hundred (300) square feet of gross floor area.
3. *Large Business Offices—(Banks, telephone, electric companies, and other similar offices)*: One (1) space for each company-owned vehicle, in addition to one (1) space for each three hundred (300) square feet of gross floor area.
4. *Low Volume Service Establishment—(Dry cleaning, equipment rentals, small and large item repair shops and similar uses)*: One (1) space for each three hundred (300) square feet of floor space.
5. *High Volume Service Establishment—(Coin-operated laundry)*: One (1) space for each two hundred fifty (250) square feet of floor space.
6. *Drive-In Bank*: One (1) space for each full-time employee plus stacking lane requirements stated in Item B (9) below for each drive-in window.
7. *Child Care Center—(Institutional home, nursery and similar use)*: One (1) space per employee per shift in addition to one (1) space for each ten (10) children of maximum occupancy.
8. *Funeral Homes*: One (1) space for each fifty (50) square feet of floor area in funeral service and slumber rooms. Parking lane(s) shall be provided, fifteen (15) feet in width, and a total length of one hundred (100) feet.
9. *Drive-up Window Service Establishment*: Establishments having drive-up window services shall provide lane(s) ten (10) feet in width, and a total length of one hundred eighty (180) feet, and all service traffic and parking shall be maintained off-street.

C. RETAIL ESTABLISHMENTS.

1. *Large Volume Retail Sales—Large volume retail sales of small domestic products and groceries, and shopping centers*: One (1) space for each two hundred (200) square feet of gross floor area.
2. *Small Volume Retail Sales—(Small volume retail sales of domestic and specialized products such as plumbing, electrical and hardware stores, furniture stores, parts stores, cabinet stores, carpet stores, clothing and shoe stores, and similar business)*: Three (3) spaces, plus one (1) space for each three hundred (300) square feet of gross floor area.
3. *Retail Sales of Vehicles, Heavy Equipment and Other Large Products—(Automobile, boats, manufactured/modular home and recreation vehicle sales, farm equipment and similar business)*: One (1) space for each company vehicle, in addition to one (1) space for each three hundred fifty (350) square feet of gross interior floor area, or five (5) spaces, plus one (1) space for each employee, whichever is greater.

4. *Storage Area in Retail Business*: When a building used for retail sales has an area larger than twenty percent (20%) of its gross floor area, being used specifically for storage or products sold within the store, eighty percent (80%) of the total area used for storage may be subtracted from the gross floor area used for off-street parking computations.

D. *RESTAURANTS AND ENTERTAINMENT ESTABLISHMENTS.*

1. *Food and Beverage Establishments—(Restaurants, cafes, bars and lounges, coffee shops, donut shops and similar uses)*: One (1) space for each one hundred (100) square feet of gross floor area, in addition to one (1) space for each two (2) employees on the maximum shift. One (1) space is required for each two hundred (200) square feet of outdoor patio area. Drive-up window establishments are required to provide lane(s) ten (10) feet in width and one hundred eighty (180) feet in length.
2. *Entertainment and Amusement Enterprise—(Auditoriums, theaters, sports areas, dance halls, private clubs and lodges, meeting halls, skating rinks, and similar uses)*: One (1) space for each one hundred (100) square feet of gross floor area, in addition to one (1) space for each employee on the maximum shift.
3. *Court or Alley Entertainment—(Uses which involve courts and alleys such as tennis courts, handball courts, basketball courts, bowling alleys, and similar uses)*: Four (4) spaces for each court or alley, in addition to one (1) space for each employee on the maximum shift.

E. *SCHOOLS, CHURCHES, COMMUNITY CENTERS AND HOSPITALS.*

1. *Schools*: High Schools and Junior High Schools must provide one (1) space for each two hundred fifty (250) square feet of floor area, including seventy (70) percent of the area used for gymnasiums and auditoriums. Elementary Schools must provide one (1) space for each classroom, plus one (1) space for each employee on the maximum shift.
2. *Community Buildings, Libraries, Museums, Administration Buildings, Art Galleries and Centers*: One (1) space for two hundred fifty (250) square feet of floor area.
3. *Churches*: One (1) space for four (4) seats of maximum occupancy in the principal assembly room.
4. *Hospitals and Nursing Homes*: One (1) space for each two (2) beds, in addition to one (1) space for each employee on the maximum shift.

F. *INDUSTRY, MANUFACTURING, WAREHOUSE AND WAREHOUSE ESTABLISHMENTS.*

1. *Production Line Industries—Industries and businesses employing large numbers of office and production workers*: One (1) space per maximum number of employees per shift, plus one (1) space for each company-owned truck/vehicle, in addition to one (1) visitor space for each one thousand (1,000) square feet of floor area, up to twenty thousand (20,000) square feet.
2. *Warehouse—(Facilities for which the primary use is storage and requires few employees)*: One (1) space for each employee, plus one (1) space for each two thousand (2,000) square feet of floor area up to thirty thousand (30,000) square feet, plus one (1) space for all company-owned trucks and vehicles. Spaces for company trucks and vehicles shall be sized as necessary.
3. *Wholesale Establishments—(The primary use of which is wholesale sales)*: One (1) space for each five hundred (500) square feet of floor area.
4. *Storage Areas*: One (1) space for each one thousand (1,000) square feet of floor area.

Sec. 11-12-4. - Loading Space Requirements.

Loading space shall be provided for appropriate uses to accommodate the specific needs for a business, as determined by the designated Zoning Administrator or his/her designee.

Sec. 11-12-5. - Enlargement of Existing Business or Use.

Whenever an existing building or use is enlarged to the extent of thirty percent (30%) or more of the original floor area, the entire building shall then and thereafter comply with the parking requirements set forth herein. Whenever a building or use is enlarged in floor area less than thirty (30) percent of the original floor area, additional spaces shall be provided upon the basis of only the enlargement.

Sec. 11-12-6. - Joint Use of Parking Areas.

When it can be established that two (2) business located on adjacent property operate at different hours, parking requirements may be shared jointly according to the maximum parking requirements of the two (2) properties, provided there is a written agreement thereby assuring retention for such purposes and stating hours of operation. The agreement shall be properly executed by the owners of both properties, and approved as to content and form by the City Attorney and Planning and Zoning Commission and filed with the application for a building permit.

Sec. 11-12-7. - Size of Parking Spaces.

Parking spaces shall be provided according to the following criteria:

Parking Angle	Stall Width	Stall Base	Stall Depth	Width of Aisles	
				1-Way Traffic	2-Way Traffic
45°	9'	14'	21'	13'	24'
60°	9'	12'	22'	18'	24'
90°	9'	9'	19'	27'	27'
Parallel Parking	9'	9'	22'	12'	24'

A parking space is further defined as having ingress and egress to a public street without moving any other automobile. Ingress and egress to an alley is permissible only for a single family or duplex dwelling. All other parking must ingress and egress to a public street.

Sec. 11-2-8. - Parking Plan Approval.

Detailed plans for on street or off-street parking and driveway openings shall be submitted to the designated Zoning Administrator for approval prior to construction. All curb cuts require approval from the designated Zoning Administrator.

Sec. 11-12-9. - Construction Standards.

All parking spaces and areas provided under the provisions of this Code shall:

- A. Be paved with asphalt, double-penetration chip-seal or other appropriate surface as approved by the designated Zoning Administrator.

- B. Afford adequate drainage. A drainage plan will be required for major developments, including parking, as determined by the designated Zoning Administrator, and said plan must be approved by the City Commission prior to issuance of a building permit.
- C. Have bumper guards where needed.
- D. Be provided with necessary space and aisle safety markings.

Sec. 11-5-3. - Conditional Use Permit.

A permit may be authorized by the Planning and Zoning Commission for uses stipulated as conditional within specific Districts and as presented in Article IX of this Code.

A. *Provisions for conditional use.*

1. The use must be desirable or essential to the public welfare, safety, health, morals or convenience of the residents in that District.
2. The use must be compatible to the existing uses in that District.
3. The use may be important to the development of an undeveloped area.
4. The applicant shall notify all property owners of his/her intent in a manner specified in Section 11-7-2 and shall be subject to a public hearing as specified therein.

B. *Fee.* A non-refundable application as set by City Commission Resolution must accompany each application.

C. *Submission requirements.* The application for a conditional use permit shall be in the format stipulated by the City and shall contain plans and other information as required by the City. The completed application for a conditional use permit, shall be submitted to the City Clerk for placement upon the agenda of the Planning and Zoning Commission.

D. *Review.* A conditional use permit shall be subject to review on each annual anniversary following its approval. If it is determined from the review that the current use is significantly different or larger in scale than that originally approved, the conditional use permit may be revoked by the Planning and Zoning Commission.

E. *Transferal.* Conditional use permits shall not be transferable from location to location, building owner to building owner, or applicant to other party.

Sec. 11-5-5. - Variance.

A Variance may be authorized by the City Commission after hearing the recommendation of the Planning and Zoning Commission. The variance shall provide relief from the strict application of dimension, distance, parking or setback requirements of this Code.

A. *Provisions for variance.*

1. The subject property must be irregular, narrow, shallow, or steep or otherwise, have physical conditions where application of the requirements of this Code would result in practical difficulty or unnecessary hardship to the owner in the use of his land or building.
2. The applicant shall notify all property owners of his/her intent in a manner specified in Section 11-7-2 and shall be subject to a public hearing as specified therein.
3. Variance shall not be granted in such cases where it would adversely affect adjoining properties, impair established property values, or endanger public safety.
4. Variances shall not be granted where spot zoning would occur.

B. *Fee.* A non-refundable application fee as set by City Commission Resolution must accompany each application.

C. *Submission requirements.* The application for variance shall be in the format stipulated by the City and shall contain plans and other information as required by the designated Zoning Administrator. The completed application for a variance, shall be submitted to the City Clerk for placement upon the agenda of the Planning and Zoning Commission.

D. *Revocation.* A variance shall be automatically revoked in the event of building permit for the approved Variance has not been obtained within ninety (90) days, or construction has not begun

within one hundred eighty (180) days after the building permit has been issued. The Planning and Zoning Commission may grant ninety (90) days extension if deemed appropriate.

- E. *Re-application for variance.* In the event of a denial decision by the City Commission, there shall be no re-application for the same variance for a period of one (1) year after the date of the decision of the Commission.

Sec. 11-5-6. - Special Use Permit.

A special use permit may be authorized by the City Commission after hearing the recommendation of the Planning and Zoning Commission. A special use permit is required for a special land use, which is not permitted by right within the District wherein it is requested.

A. *Provisions for special use permit.*

1. In making a decision on a Special Use Permit, the Planning and Zoning Commission and the City Commission shall review the following factors and accord each factor the necessary weight on a case-by-case basis.
 - a. The increase in congestion of streets and other rights-of-way;
 - b. Diminishment of safety from fire, panic and other dangers;
 - c. Diminishment to the health and general welfare of the public;
 - d. Degradation of light and air for all properties in the immediate area of the proposed Permit; increases of overcrowding of land and undue concentrations of populations;
 - e. Adverse affects on provisions for transportation, water, sewer, schools, parks and other public facilities or increases in the effects of natural hazards;
 - f. Increases or facilitation of the unlawful use of structures, buildings or land; and
 - g. Promote the use or waste of energy in the use of structures, buildings, and land.
2. Special Use Permits shall not be granted in such cases where the use will result in negative impacts, which substantially outweigh the positive impacts of the purposed use.

B. *Fee.* A non-refundable application fee to be set by City Commission Resolution must accompany each application.

C. *Submission requirements.* The application for a special use permit shall be in the format stipulated by the City. There shall be a comprehensive statement included with each application indicating in detail the reason for the request, the purpose and proposed use of the property, all improvements to be made, and a site plan including the following:

1. Location of existing and proposed structures including the dimensions of setbacks;
2. Existing and proposed vehicular circulation systems, including parking areas, storage areas, service areas, loading areas, and major points of access, including street pavement width and right-of-way;
3. Location and treatment of open spaces including landscaping plan and schedule;
4. Lighting;
5. Signage;

A drainage plan, site plan and grading plan shall be required for all developments exceeding one (1) acre and to all new and all re-development within the C-1 and M-1 Planning and Zoning Districts, to all manufactured home parks, manufactured home subdivisions, recreational vehicle parks, and to all special and conditional uses in other Districts. For lesser developments when the designated Zoning Administrator determines said plans to be necessary, the designated Zoning Administrator shall so inform the applicant prior to accepting an application.

- D. *Public hearing and notice procedure.* A public hearing shall be held by the Planning and Zoning Commission for all special use permits. All property owners shall be notified in accordance with the provisions of Article 7 of this Code.
- E. *Review and approval.* The City Commission may deny special use permits, or may grant final approval in accord with certain conditions, with right of appeal in accordance with Article VII of this Code. Approval may also be granted with additional conditions imposed, which are deemed necessary to insure that the purpose and intent of this Code is met and to protect and provide safeguards for persons and property in the vicinity.
- F. *Time limitation and revocation.* If a special use is not initiated within one (1) year following approval or if a special use is discontinued for a period of one (1) year, said permit shall be automatically revoked. The City Commission may impose a different time limitation on a special use permit. All improvements shall be in accord with the development standards of the District except as otherwise authorized by the special use permit. Significant variation from the approved special use and related improvements shall result in the automatic revocation of the special use permit.
- G. *Re-submittal of application for special use permit.* Application for a special use permit shall not be resubmitted or reconsidered for a period of one (1) year after it has been acted upon by the City Commission except that an application may be made for a different special use permit on the same parcel of land six (6) months after such previous action has been taken.
- H. *Special use.* Special uses shall not be considered a District boundary change.



CITY OF TRUTH OR CONSEQUENCES
PLANNING AND ZONING COMMISSION ACTION FORM
DATE: 05/19/2022

ITEM: Public Hearing/Discussion/Action – Variance Request Parcel: 3022079415169

BACKGROUND:

Applicant/Property owner is requesting a variance request pertaining to his previously approved summary plat amendment. Amendment has been approved by both P & Z Commission and City Commission subject to approval of variance request. Variance request was not originally submitted with previous request due to lack of clarification of unobstructed access. Property has access to Van Patten Street currently, but it can not be considered unobstructed as access is by way of a undeveloped/unnamed dirt access along a drainage ditch that crosses private property lines. Property owner also plans to develop a street providing unobstructed access. Variance could be considered temporary until development occurs.

Public Hearing and request pertains to applicants request for a Variance only

Per code a replat of a previously filed subdivision requires all lots to be created have direct, legal, unobstructed access to an existing City maintained street; Property does not currently have access, however development of property will require owner to develop paved street per the City Code requirements as approved by the City Streets Department. Once developed, street will be a City Street and maintained by the City.

All applicable documents have been submitted, fees paid and certified mailings sent to property owners within 300 ft.

SUPPORT INFORMATION:

Plat Survey
Assessor Map

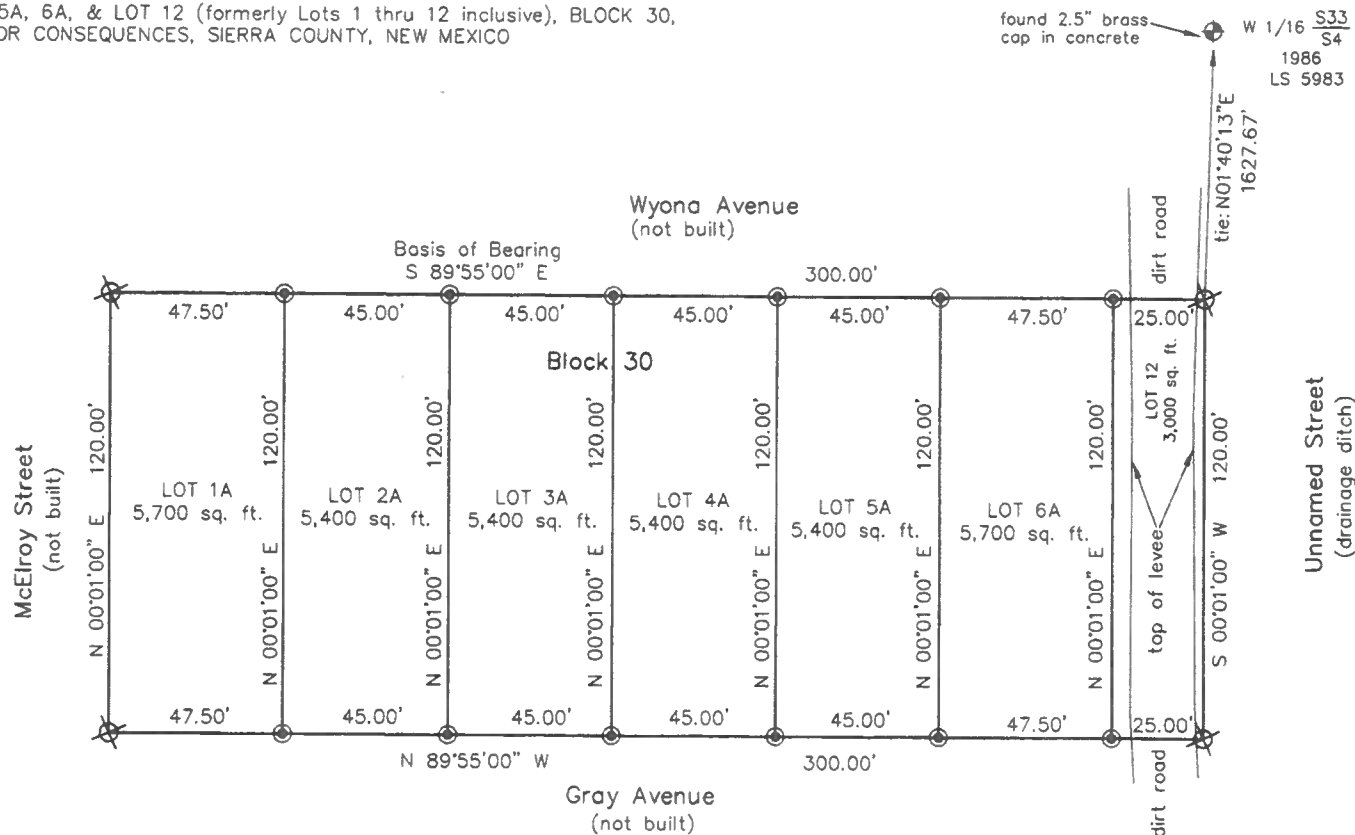
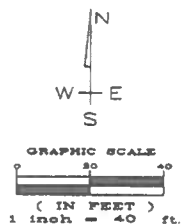
Name of Drafter: Traci Alvarez	:	Meeting date: 05/19/2022
E-mail: talvarez@torcnm.org	Phone: 575-894-6673	

Reference

Basis of Bearing:
Boundary Survey Plat filed 1/13/2022
in Book 137 Page 3901

All lots within Block 30 are contiguous.

Record dimensions equal field measurements.



oil monument dimensions are "outside diameter"

SHEET 2 OF 2
SEE SHEET 1 OF 2 FOR SURVEYOR'S CERTIFICATE,
ACKNOWLEDGEMENTS, AND APPROVAL BLOCK.

RICHTER LAND SURVEYING

614 BROADWAY, P.O. BOX 1648
TRUTH OR CONSEQUENCES, NM 87901
575 894-2348

22007
INDEXING INFORMATION FOR COUNTY CLERK

Nathanael & Kacie Stephens
Sec 4, T14S, R4W
Palomas Hot Springs Townsite

VAN PATTEN AVE

710 S BROADWAY ST

804 VAN PATTEN AVE

724 VAN PATTEN AVE

708 VAN PATTEN AVE

725 CHARLES AVE

711 CHARLES AVE

CHARLES AVE

726 CHARLES AVE

710 CHARLES AVE

731 WYONA AVE

715 WYONA AVE

3022079415169

3022079374169

POST ST



City of Truth or Consequences

City Boards Application

Name: Eduardo Alicea Address: 110 Broadway Street
Phone: 575-894-0572 Email: riobravofa@gmail.com

I am interested in serving as a member of one the following Boards:

- | | | |
|--|--|---|
| <input type="checkbox"/> Airport Advisory Board | <input type="checkbox"/> Public Arts Advisory Board | <input type="checkbox"/> Golf Course Advisory Board |
| <input type="checkbox"/> Public Utility Advisory Board | <input type="checkbox"/> Library Advisory Board | <input type="checkbox"/> Recreation Advisory Board |
| <input type="checkbox"/> Lodger's Tax Advisory Board | <input checked="" type="checkbox"/> Planning & Zoning Commission | <input type="checkbox"/> Impact Fee Board |
| <input type="checkbox"/> Other: _____ | | |

My qualifications are:

I am a resident and business owner in the Historic Hot Springs District of Truth or Consequences, NM. My business, of which I am Owner and Director, is RioBravoFineArt, Inc., which operates RioBravoFineArt Gallery.

RioBravoFineArt Gallery is a nationally and internationally known gallery that represents contemporary and historic fine art. The gallery supports and enhances the local arts community, an important part of the economic life of Truth or Consequences, and it also promotes Truth or Consequences as a destination tourist location with its online and print advertising. As a longtime business owner in the Historic Hot Springs District, I would bring experience to the Planning and Zoning Commission important to the ongoing vitality and redevelopment of the business district. I currently serve on the Public Arts Advisory Committee.

I hereby certify that my appointment to this board neither creates, nor should create, any conflict of interest for myself or the Board. I further confirm that any possible conflict of interest that may arise will be reported to the Board and the City Clerk.

Signature: Eduardo Alicea Date: 2 May 2022



City of Truth or Consequences

City Boards Application



Name: ROBERT CAREY Address: 820 W 4th AVE
Phone: 917.699.9493 Email: ROBTCAREY@GMAIL.COM

I am interested in serving as a member of one the following Boards:

- | | | |
|--|--|---|
| <input type="checkbox"/> Airport Advisory Board | <input type="checkbox"/> Public Arts Advisory Board | <input type="checkbox"/> Golf Course Advisory Board |
| <input type="checkbox"/> Public Utility Advisory Board | <input type="checkbox"/> Library Advisory Board | <input type="checkbox"/> Recreation Advisory Board |
| <input type="checkbox"/> Lodger's Tax Advisory Board | <input checked="" type="checkbox"/> Planning & Zoning Commission | <input type="checkbox"/> Impact Fee Board |
| <input type="checkbox"/> Other: _____ | | |

My qualifications are:

I AM A GOOD LISTENER
I HAVE BEEN A MEMBER OF THE COMMUNITY AND A PROPERLY
OWNED HOME IN TORC FOR 8 YEARS NOW AND AM FAMILIAR
WITH SOME ISSUES AND CONCERNS
I CAN COMMUNICATE WELL AND AM A FAIR AND OPEN
MINDED INDIVIDUAL.

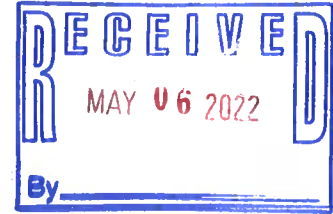
THANK YOU FOR YOUR CONSIDERATION.

I hereby certify that my appointment to this board neither creates, nor should create, any conflict of interest for myself or the Board. I further confirm that any possible conflict of interest that may arise will be reported to the Board and the City Clerk.

Signature: [Signature] Date: 4.6.22



City of Truth or Consequences
City Boards Application



Name: Ether Luchini Address: _____
Phone: 575.740.7372 Email: eluchini@yahoo.com

I am interested in serving as a member of one the following Boards:

- | | | |
|--|--|---|
| <input type="checkbox"/> Airport Advisory Board | <input type="checkbox"/> Public Arts Advisory Board | <input type="checkbox"/> Golf Course Advisory Board |
| <input type="checkbox"/> Public Utility Advisory Board | <input type="checkbox"/> Library Advisory Board | <input type="checkbox"/> Recreation Advisory Board |
| <input type="checkbox"/> Lodger's Tax Advisory Board | <input checked="" type="checkbox"/> Planning & Zoning Commission | <input type="checkbox"/> Impact Fee Board |
| <input type="checkbox"/> Other: _____ | | |

My qualifications are:

- City of TorC property owner
- lifelong Sierra County resident

I hereby certify that my appointment to this board neither creates, nor should create, any conflict of interest for myself or the Board. I further confirm that any possible conflict of interest that may arise will be reported to the Board and the City Clerk.

Signature: Date: 3 May 2022



City of Truth or Consequences

City Boards Application

Name: SUSAN E. BUHLER Address: 303 MAIN ST. AND 29 PISTACHIO RD.
Phone: 281-615-9654 Email: SUZYTET@OUTLOOK.COM

I am interested in serving as a member of one the following Boards:

- | | | |
|--|--|---|
| <input type="checkbox"/> Airport Advisory Board | <input type="checkbox"/> Public Arts Advisory Board | <input type="checkbox"/> Golf Course Advisory Board |
| <input type="checkbox"/> Public Utility Advisory Board | <input type="checkbox"/> Library Advisory Board | <input type="checkbox"/> Recreation Advisory Board |
| <input type="checkbox"/> Lodger's Tax Advisory Board | <input checked="" type="checkbox"/> Planning & Zoning Commission | <input type="checkbox"/> Impact Fee Board |
| <input type="checkbox"/> Other: _____ | | |

My qualifications are:

WORKED FOR THREE MAJOR AIRLINES FOR 37 YEARS.
SERVED ON WIMBLEDON PINES CONDOMINIUM
BOARD FOR 4 YEARS DURING THAT TIME WORKED ON
A 300,000.00 REMODEL JOB OF THE UNITS. COMPLETING
THE PROJECT IN TWO YEARS. FIRST YEAR MONEY/SECOND WORK.
RETIRED FROM THE AIRLINES SEVEN YEARS AGO - 2016.
REMODELED LOCAL BUILDING AT 303 MAIN STREET.
RECEIVING A VARIANCE FOR A LIVING/BUSINESS ARRANGEMENT.
CURRENTLY WORKING ON 307 MAIN, THE BUCKHORN PARK.
P.S. SERVING ON THE SIERRA COUNTY ARTS COUNCIL AS VICE PRESIDENT.
I STRIVE TO SHARE IDEAS AND WORK TO SOLVE PROBLEMS.

I hereby certify that my appointment to this board neither creates, nor should create, any conflict of interest for myself or the Board. I further confirm that any possible conflict of interest that may arise will be reported to the Board and the City Clerk.

Signature: Susan E. Buhler Date: 4-13-22