

M I N U T E S
PLANNING AND ZONING COMMISSION
January 10, 2013

The Planning and Zoning Commission met in a regular session on January 10, 2013 at 2:00 p.m., in the City Council Chambers, 800 Municipal Drive, Farmington, New Mexico.

P&Z Members Present:	Chairman: Commissioners:	Dennis Ivie Bruce Buchanan Joyce Cardon Clint Freeman Kristin Langenfeld Paul Thompson Amy Ziesmer Daniel Arnold (Alt) Del Washburn (Alt)
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P&Z Members Absent:	Commissioners:	Rory Jaques Cheryl Ragsdale
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Staff Present:	Fran Fillerup Mary Holton Cindy Lopez Dee Dee Moore
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Others Present:	Robert K. Campbell Lorraine Cosby John Edwards Bonnie Gardenhire Denise Lovato Tony Lovato Paul Martin Bea Saavedra Milo Saavedra
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Call to Order

The meeting was called to order at 2:00 p.m. by Chairman Ivie and there being a quorum present the following proceedings were duly had and taken.

Presentation of the Agenda

Chairman Ivie requested that the Election of Officers be moved to the end of the agenda. Senior Planner Cindy Lopez stated there were no other changes to the agenda.

Approval of the Minutes

A motion was made by Commissioner Cardon and seconded by Commissioner Freeman to approve the minutes of the November 15, 2012 P&Z Meeting. This motion was approved unanimously by a 7-0 vote.

Swearing in for Quasi-Judicial Process

All of the attendees desiring to speak on the behalf of the petitions were sworn in by Secretary Dee Dee Moore.

<p>COMMUNITY DEVELOPMENT PETITION REPORT ZC 12-14 - W. Main Street & Kerney LNC, Local Neighborhood Commercial to GC, General Commercial</p>

Planning and Zoning Commission Discussion of ZC 12-14 on January 10, 2013

Senior Planner Cindy Lopez stated that the Community Development Department had received a request from Mr. Waverly Lamb to postpone this petition until the April 25, 2013 Meeting.

Commissions Buchanan and Arnold arrived at 2:05pm.

There was no discussion on this petition and staff recommended postponement until the petitioners' requested date.

Planning and Zoning Commission Action of ZC 12-14 on January 10, 2013

A motion was made by Commissioner Cardon, seconded by Commissioner Ragsdale, to **postpone** Petition ZC 12-14, a request from Waverly Lamb for a zone change from LNC, Local Neighborhood Commercial District to GC, General Commercial for 3.76 acres located at the southeast corner of W. Main Street and Kerney Drive, to the April 25, 2013 regular Planning & Zoning Commission Meeting as requested by the petitioner.

AYE: Chairman Ivie, Commissioners Buchanan, Cardon, Freeman, Ragsdale, Thompson and Ziesmer, Arnold (Alt) and Washburn (Alt)
 NAY: None
 ABSTAINED: None
 ABSENT: Commissioners Jaques and Langenfeld

Motion passed 9-0.

**COMMUNITY DEVELOPMENT PETITION REPORT
 ZC 12-16 - 900 San Juan Boulevard
 IND to GC**

Planning and Zoning Commission Discussion of ZC 12-16 on January 10, 2013

Senior Planner Cindy Lopez stated that this property is bordered on the north and the west by properties currently in the GC, General Commercial district. She added that the Future Land Use Plan and the Comprehensive Plan both call for this area to be a commercial type property. The petitioner has stated that this zone change allows for more types of retail office and businesses, which are the types of requests he receives for that property. Ms. Lopez stated that staff is recommending approval of ZC 12-16.

Commissioner Freeman asked if the small building to the north, which has the same address of 900 San Juan Boulevard was part of this request. Ms. Lopez stated that is not part of this petition. Mr. Paul Martin of Sakura Engineering located at 125 W. Main Street stated that the smaller lot to the north was actually owned by Armstrong. Ms. Lopez added that the smaller parcel to the north takes its access from the property located at 902 San Juan Boulevard. Commissioner Buchanan asked if this would be spot zoning, because the 902 address and the properties to the south are currently in the IND, Industrial District. Ms. Lopez identified that because this petition meets the Comprehensive Plan and Land Use Map and is adjacent to GC properties to the west, this would not be considered spot zoning. Chairman Ivie asked what the benefit to the petitioner would be if this petition was approved. Ms. Lopez stated that the petitioner could rent to more office and retail type businesses. Chairman Ivie asked if there is currently a non-compliance business at this location. Ms. Lopez stated that currently the petitioner rented to a loan company, which is not an allowed use in the IND District.

Mr. Martin stated that he had read and approves of staff's recommendation for approval. There were no concerns by the petitioners' representative and no questions from the commission on this petition. No one else spoke in favor or opposition to this petition.

Planning and Zoning Commission Action on ZC 12-16 on January 10, 2013

A motion was made by Commissioner Freeman, seconded by Commissioner Buchanan, to **approve** Petition ZC 12-16, a request from Roger Shay for a zone change from the IND, Industrial District to the GC, General Commercial District for 0.56 acres located at 900 San Juan Boulevard, as recommended by staff.

AYE: Chairman Ivie, Commissioners Buchanan, Cardon, Freeman, Ragsdale, Thompson and Ziesmer, Arnold (Alt) and Washburn (Alt)
 NAY: None
 ABSTAINED: None
 ABSENT: Commissioners Jaques and Langenfeld

Motion passed 9-0.

In response to Commissioner Thompson's inquiry regarding the other properties asking for a zone change, Mr. Martin stated that he had had a conversation with Armstrong and that they too were considering the same type of zone change. Ms. Lopez added that the city does not initiate zone changes, only a request from the property owner will initiate that process.

**COMMUNITY DEVELOPMENT PETITION REPORT
SUP 12-09 - 5807 Foothills Drive
Horsekeeping**

Planning and Zoning Commission Discussion of SUP 12-09 on January 10, 2013

Associate Planner Fran Fillerup presented the staff report which is a request from Denise and Tony Lovato to keep one horse on their property of more than one acre located at 5807 Foothills Drive. The petitioner provided copies of the area and buildings where the horse corral would be located. Mr. Fillerup stated that he had received a written protest from Ms. Lorraine Cosby of 5501 Evergreen, the property directly to the west of the petitioners' property. Ms. Cosby also included photos taken from her back yard and the proximity to the corral. Additionally, there were three other neighbors who called regarding this petition; two were opposed to this special use permit.

Chairman Ivie asked if the existing carpet shown in the corral on a picture was to be removed. Mr. Fillerup said the petitioners informed him it would. Commissioner Freeman questioned if the tack shed had been built before the tract was subdivided. Mr. Fillerup answered that he was not sure. Chairman Ivie stated that the tack shed was built very close to the property line. Commissioner Freeman also asked if there was a special use permit on this property. Mr. Fillerup stated there was not; however, two properties located nearby to the north of this location did have special use permits for keeping horses. Mr. Fillerup also stated it is possible that the tack shed may have been built prior to annexation. He said that this lot is not located in a subdivision that has been platted since the annexation.

Chairman Ivie asked about fencing and screening requirements and does this property meet those requirements. Mr. Fillerup stated that the UDC does not explicitly say that there needs to be screening, like it does with some other uses. However, there is currently a fence between the corral and for a portion of the distance along Ms. Cosby's east property line.

Commissioner Buchanan asked what size a property would need to be to keep horses. Mr. Fillerup stated that the UDC identifies one "animal unit" per acre and that this property is greater than the one acre required. Chairman Ivie asked if there were distances required between structures. Ms. Lopez stated that the old code may have described required distance, but the current UDC does not get that specific. Commissioner Cardon stated that in Ms. Cosby's letter she referred to goats at this location and asked if there was a special use permit for goats. Mr. Fillerup stated that there was no record of a permit for goats at this address.

Commissioner Thompson stated that there is currently a noise ordinance, is there a comparable ordinance in reference to smells. Mr. Fillerup said Section 5.11 of the UDC lists the standards in place for meeting that requirement, which essentially says it should not be smelled. Commissioner Thompson asked if that should be part of the recommendation. Mr. Fillerup stated that the petitioner has to comply with all sections of the UDC so it does not need to be specifically spelled out in the recommendation. He added that the petitioner provided a statement of how they planned to spray for flies, keep the manure picked up and place the feed inside the tack shed. Staff recommendation was based on the petitioners' information and that the applicant would be able to comply with the standards to keep the area sanitary. Commissioner Buchanan asked if there were other horses in this area. Mr. Fillerup stated that he had not observed any horses in this immediate area. However, there are buildings on the property to the south that appear to be a tack shed and corral.

Bonnie Gardenhire of 69 CR 3239 spoke on behalf of the petitioners. She stated that she has witnessed her mother-in-law cleaning up after the horse (Sophie), in the morning and in the afternoon. The petitioners are very considerate of others. Chairman Ivie asked if this property was owned or rented. The petitioner bought the property. Ms.

Gardenhire stated that this is a one-time request and Sophie is therapy for her mother-in-law and she needs to have this horse with her. She added that the petitioners are also willing to place additional fencing if the neighbors don't want to view the horse area and to keep the dogs from barking at the horse. Commissioner Cardon stated that it appeared, with the horse keeping facilities already in place that horses were grandfathered in parts of this area. Commissioner Ragsdale asked how long horses typically live. Ms. Gardenhire stated that probably 30 years, and Sophie is about 26 years old. Commissioner Thompson stated that he is not a horse person but wondered if the space allotted was large enough. Ms. Gardenhire stated that Sophie is more like a large dog than a horse in size. You take care of a horse like you would a dog, by making sure they have water and feed. She shared that Sophie is not really active because she is so old. Commissioner Freeman asked if the petitioners would be okay with the special use permit being tied to just that horse. Ms. Gardenhire stated that limiting the permit to just this horse was not a problem.

Denise and Tony Lovato of 5501 Foothills addressed the Commission. Mrs. Lovato stated that the circumstances for this special use permit are to allow her elderly mother to keep her horse. Both her parents moved into this home and since that time her father just recently passed. They purchased this property with the intent to re-locate the horse. The Real Estate Multiple-listing MLS showed horses were allowed but she thought she may need a permit. She said they would not want another horse, just to keep Sophie with my mother, and so this is a one-time request.

Mr. Lovato added that there is plenty of space available for her to move around. There is also an existing concrete water trough. He added that the tack barn is fully closed in and the hay and grain will be stored inside. Mr. Lovato added that they are not interested in additional horses and that if the commission wants to put in the recommendation that the special use permits expires once "Sophie", the horse, does, than that is okay with them.

Ms. Lorraine Cosby of 5501 Evergreen Drive stated that she had purchased her home in 1992 and has lived there ever since. She added that this horse area was there at the time she bought her home. She also stated that previously this property has been a rental and she has seen old cars, goats and, she believes the carpet was part of a dog kennel. She is concerned about the space allotted for the horse. She stated that the code mentions a minimum of 10,000 square feet and that the 165x35 foot area, is only 5,940 square feet. The back portion of the corral is her back fence, which is a cedar fence and is approximately two feet from the wire fence located at the tack shed. Ms. Cosby added that she thought there was a recommended distance of 100 feet to principal structures and this is within 75 feet from her back door. She stated that she felt if this special use permit was approved it would be denying her the use of her property.

Commissioner Freeman asked how Ms. Cosby would describe the word "adequate", with regard to "adequate screening" being required by the Code. She stated that her patio sits up about 3 feet and she can currently see over the fence into the neighbors' property. She added that her backyard is about three-quarters fenced but couldn't describe what "adequate" would be. Chairman Ivie asked if it would be an improvement to have the whole adjoining property line fenced. Commissioner Freeman asked if an 8 foot high fence would be "adequate". Ms. Cosby stated that her cedar fence is approximately 15 inches from the wire fence and believes that the wire fence existed when her fence was built. Chairman Ivie stated you can't really be protected from seeing into the neighbor's yard. Ms. Cosby stated that over the years, with all the goats, cars, and dogs, that enough is enough. Commissioner Ragsdale asked if Ms. Cosby had ever complained to the City about the goats or the dogs. Ms. Cosby stated she had not, because she was trying to get along with the neighbor. Commissioner Freeman added that anyone has the ability to call Code Compliance if there are problems. Commissioner Ragsdale asked what the size of Ms. Cosby's property was. Ms. Cosby stated that it is about 0.8 acres. Commissioner Arnold asked if she was aware of the age of this animal before her letter. Ms. Cosby stated she had been out of town, and when she returned she saw the sign and called the city. She was under the belief that this property was still a rental. Commissioner Arnold asked how she felt now after hearing the petitioners' statement. Ms. Cosby stated that she is torn in her decision, she was sorry for the petitioners' loss of their father, and she said people would have to live with animals, if they are dogs, but she is overall still against this petition for a horse.

John Edwards of 5400 Evergreen opened his comments by offering his condolences to the Lovato's for their loss. He stated he loves and admires the iconic horse, and added that there was a reason he had 80 yards distance, between his home and horses

growing up; the distance does a good job of eliminating the odors. He added that the fly problem can be overwhelming and create a hardship for the immediate neighbors. He stated that he is concerned that this may create precedence and is therefore against the horse keeping at this property.

Milo and Bea Saavedra of 5555 Evergreen stated that they adjoin this property on the north. They are currently separated by a wire fence, the same type that was mentioned by Ms. Cosby. They stated that they also can see directly into the neighbors' yard. Mr. Saavedra stated that they currently have dogs that are out during the day but are kept in kennels in the garage at night. He was concerned about the odor being bad enough to smell from his yard. He also stated that there was a terrible fly problem, especially this last summer and feels that manure will worsen that problem. Commissioner Ragsdale asked if they had called the city about the noise from the goats and dogs. Mrs. Saavedra stated she didn't know they could call. Mr. Saavedra added that he knew you could but didn't call because he thought the dogs belonged to a relative of the home owners and didn't want to stir up any trouble. Commissioner Buchanan asked if the fly problem has been worse than before. Mr. Saavedra stated that the fly problem was the worst he has seen in the last 16 years. Commissioner Buchanan stated that they too have expressed the concerns of the other neighbors, and asked which issue was the most important to them; the flies; the smell; or the visual. Mrs. Saavedra stated that the visual impact is not as important as the smell and the flies.

Robert K. Campbell of 5425 Hill-N-Dale stated that his concerns mirror the concerns of the neighbors that have already addressed the commission, especially the odor and the insects, including gnats. He added that he did not think that one horse would make a lot of noise. He too expressed his condolences to the Lovato's. However, he added that he did not think this is a suitable area for a horse.

Commissioner Washburn asked about the smell from the urine and controlling any small rodents or animals. Ms. Gardenhire stated that there is a lyme based product that you spread on top of the area where a horse has urinated and it eliminates the odor and that all of the food will be kept in metal containers inside the tack shed. She added that horses don't leave food lying around on the ground, they eat it, that's all they do is eat. She added that her mother-in-law has observed that there are horse droppings twice in the morning and twice in the evening and her mother-in-law cleans up after Sophie in the morning and the evening. She said that the quality of the food equals less clean up. She felt that there are fewer flies around the horse droppings than dog droppings, because the manure is always being cleaned up.

Chairman Ivie explained to the attendees that part of the reason the City has Code Compliance is that anyone has the option and the right and responsibility to call if things are not in compliance. He added that this Commission is always cautious about trying not to dictate the rights of property owners. There were no other individuals that wished to speak in favor of or in opposition to this petition. The public session for comments was closed for discussion.

Commission discussion was started by Commissioner Buchanan who wanted to clarify his understanding of this application and testimony. First, he stated that he understood that this property was of an appropriate size to meet the requirement set forth in the code. Next, he addressed the size of the corral that Ms. Cosby mentioned being required to be at least 10,000 square feet, and/or the distances where things are located, and other issues such as including smell, flies and visual impacts, with regards to privacy. Chairman Ivie clarified that the corral size distances, or setbacks, are not part of the current UDC. Ms. Lopez concurred stating that there are no specific distances required by the UDC. Commissioner Buchanan stated that this is not an easy decision for him. He appreciates all the people that testified and in turn wants them to appreciate that the commission is representing the citizens of Farmington. Chairman Ivie asked staff if conditions can be placed on this special use permit and Commissioner Ziesmer stated she would like for this particular situation to be tied to the life of the horse, and that once the horse is gone the special use permit would be invalid. Commissioner Washburn asked if this was something the Commission felt it could live with for 5 years or more. Chairman Ivie thought that he could, and Commissioner Cardon agreed.

Commissioner Freeman made a motion to approve SUP 12-09 to keep one 26-year old horse named Sophie and require a six-foot fence across the property line between 5807 Foothills Drive and 5501 Evergreen Drive. The motion was seconded by Commissioner Cardon. Commissioner Cardon asked about modifying the motion to include an eight-

foot fence because of the height of Ms. Cosby’s patio. Ms. Lopez stated that an eight-foot fence would need to be engineered, but was still possible. Commissioner Cardon amended the motion to include a 6-foot fence. Commissioner Thompson pointed out that even an 8-foot fence will not protect from the smells and stated he is not in favor of an 8-foot fence. He said he lives in the foothills area and one of the best parts is the view of sunrise and sunset. Commissioner Buchanan agreed stating that the privacy was not the biggest issue and an 8-foot fence might not even be tall enough.

With regards to the visual impact from the neighboring property at 5555 Evergreen, Commissioner Cardon amended her second to the motion to include the placement of fencing the depth of the corral along the northern property line and limiting the SUP to the life of the specific horse.

Chairman Ivie reopened the public session to hear additional testimony. He asked Mr. Saavedra if he was willing to share the cost of a privacy fence along the adjoining north property line. Mr. Saavedra stated no, not at this time.

There was no further discussion from the commission or the public.

Planning and Zoning Commission Action on SUP 12-09 on January 10, 2013

A motion was made by Commissioner Freeman, seconded by Commissioner Cardon, to **approve** Petition SUP 12-09 requesting a special use permit for horsekeeping in the RE-1, Residential Estate District located at 5807 Foothills Drive, with the following conditions:

- a) The petitioners install a 6-foot privacy fence along the entire length of the west property line adjoining 5501 Evergreen and also along the north property adjoining 5555 Evergreen for the length of the corral (approximately 36 feet); and
- b) The Special Use Permit will remain in effect only for the life of the horse.

AYE: Chairman Ivie, Commissioners Buchanan, Cardon, Freeman, Ragsdale, Thompson, Ziesmer and Arnold (Alt)
 NAY: Commissioner Washburn (Alt)
 ABSTAINED: None
 ABSENT: Commissioners Langenfeld and Jaques

Motion passed 8-1.

Chairman Ivie explained to the citizens that this recommendation will be forwarded to City Council and be heard at their January 22, 2013 meeting. He invited all to attend that meeting. Commissioner Thompson shared that he lives farther south on Foothills and that his neighbors have horses and he prefers horses to dogs, so he asked the public to give Sophie a chance.

**COMMUNITY DEVELOPMENT PETITION REPORT
 PP 12-04 - Little Creek Subdivision, Phase II**

Planning and Zoning Commission Discussion of PP 12-04 on January 10, 2013

Community Development Director Mary Holton presented the report stating that she had just spoke with Mr. Joe Kozimor and his representative Mr. Robert Echols of Cheney-Walters-Echols, Inc. regarding staff’s recommendation for postponement and that both parties have agreed to that postponement. Chairman Ivie asked if it would be postponed until the January 24, 2013 meeting, and Director Holton stated that was correct.

Planning and Zoning Commission Action on PP 12-04 on January 10, 2013

A motion was made by Commissioner Cardon, seconded by Commissioner Ziesmer, to **postpone** Petition PP 12-04 a request for a preliminary plan of the Little Creek Subdivision Phase II, a 52-lot subdivision of 18.96 acres along Piedras Street and west of the Martin Mesa Arroyo in the SF-7 Single-family Residential District.

AYE: Chairman Ivie, Commissioners Buchanan, Cardon, Freeman,
 Ragsdale, Thompson, Ziesmer, Arnold (Alt) and Washburn (Alt)
 NAY: None
 ABSTAINED: None
 ABSENT: Commissioners Jaques and Langenfeld

Motion passed 9-0.

Election of Officers: Secretary Moore stated that nominations would be held separately for Chairman and for Vice-Chair for the 2013 term. Commissioner Thompson stated that he felt Chairman Ivie was doing a good job and made a motion to re-elect him for this year. The motion was seconded by Commission Buchanan and passed by an 8-0 vote (with Chairman Ivie not voting). Chairman Ivie thanked everyone but added that he would be serving only until May 30th at which time he will be resigning to begin a mission in Ghana, Africa.

Commissioner Buchanan made a nomination that Vice-Chair Cardon be re-elected to the position of Vice-Chair. The nomination was seconded by Commissioner Washburn and passed by an 8-0 vote (with Vice-Chair Cardon not voting).

Business from the Floor: There was no business from the floor.

Business from the Chairman: There was no business from the chairman.

Business from the Members: There was no business from the members.

Business from Staff: Ms. Lopez informed the commission about the upcoming NMLZO New Mexico League of Zoning Officials commissioner training that will be in May. She stated that the City is willing to pay for the registration for any commissioners who wanted to attend. It is usually held on a Thursday in Albuquerque from 8:00 am to 5:00 pm and she added that Randy VanVleck would be one of the speakers for that training. Chairman Ivie confirmed that this is a great opportunity for the commissioners and encouraged them to attend if possible.

Commissioner Buchanan wished to discuss general information about the mini-storage facility that was on the agenda. Ms. Lopez stated that she could not discuss the application but could answer general questions from the code. Commissioner Buchanan asked if storage units were allowed in the LNC district. Ms. Lopez stated that they were an allowed use and that the code requires they are built out of masonry material. Commissioner Buchanan asked if the setback requirement for LNC and GC had difference distances. Ms. Lopez stated they did. Chairman Ivie suggested that the UDC be read to provide an understanding of the differences.

Adjournment

With no further business the Planning and Zoning Commission meeting of January 10, 2013 was adjourned at 3:47 p.m.

Dennis Ivie
Chairman

Dee Dee Moore
Office Manager

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