

**M I N U T E S**  
**PLANNING AND ZONING COMMISSION**  
 April 10, 2014

The Planning and Zoning Commission met in a regular session on April 10, 2014, at 3:00 p.m., in the City Council Chambers, 800 Municipal Drive, Farmington, New Mexico.

P&Z Members Present:	Chair:	Joyce Cardon
	Commissioners:	Paul Thompson
		Rory Jaques
		Kristin Langenfeld
		Cheryl Ragsdale
		Daniel Arnold (Alt)

P&Z Members Absent:	Commissioner:	Shay Davis
		Clint Freeman
		Del Washburn (Alt)

Staff Present:	Mary Holton
	Cynthia Lopez
	Sam Montoia
	Dee Dee Moore

Others Who Addressed the Commission:	Larry Garcia
	Kenny Kendrick
	Robert McEwan

**Call to Order**

The meeting was called to order at 3:04 p.m. by Chair Cardon. There being a quorum present the following proceedings were duly had and taken.

**Presentation of the Agenda**

There were no changes to the agenda.

**Approval of the Minutes**

A motion was made by Commissioner Ragsdale and seconded by Commissioner Jaques to approve the minutes of the March 27, 2014 P&Z Meeting. This motion was approved unanimously by a 6-0 vote.

**Approval of the Open Meeting Resolution**

A motion was made by Commissioner Thompson and seconded by Commissioner Langenfeld to approve the Open Meeting Resolution. This motion was approved unanimously by a 6-0 vote.

<p><b>COMMUNITY DEVELOPMENT PETITION REPORT</b>  <b>ANX 14-01 – Southwest Annexation</b></p>
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**Planning and Zoning Commission Discussion of ANX 14-01 on April 10, 2014**

Community Development Director Mary Holton presented the staff report which is proposed for annexation of 888.09 acres located to the southwest of the current city limits. She identified an update since the report was published on page 6 of the agenda. The annexation has now been referred to P&Z formally by the City Council. The Comprehensive Plan identifies this area as the #1 area to be considered for annexation. Director Holton stated that in 2007 there was a preliminary plan to develop approximately 40 lots in an Industrial Park in the area. She identified that the area located west and south of the San Juan River as primarily Industrial (IND) in use, and the areas closest to the city and within the MRA's Animas District are more Mixed Use (MU) or Office Professional (OP) District uses.

Director Holton provided clarifications regarding comments provided by PRCA which suggested using the area near the sewer treatment plant as a park, and the Remote Control Park, which is an allowed use within an Industrial Zoning District. Director Holton stated that in answer to other comments received from Public Works that staff was directed in October 2013 to exclude some properties from this proposal by the City

Council based on survey responses. There is a short- and long-term cost benefit analysis which identified that the current budget and projected revenues could absorb the costs of providing services.

Director Holton identified Area 1 on Figure 5.1 of the Comprehensive Plan, and the land use recommendations for the area on Figure 4.2 of the Future Land Use Plan Map. She stated that she is continuing to meet with owners to discuss zoning their properties to meet their current and future needs. The Totah Behavioral Health Site on Ojo Court (parcels 19 and 30) should be zoned as MU Mixed-Use in order to allow a group care facility by right. Chair Cardon asked if this change to MU for the Totah Behavioral Site would need to be handled separately. Director Holton answered no, the change is now a part of this annexation proposal. Director Holton stated that staff is recommending approval of the annexation of approximately 888.09 acres as presented in the staff report, and stands for questions from the Commission.

Chair Cardon mentioned that the report also included general information of the benefits to owners. Director Holton referenced average response times for Police and Fire as benefits. Commissioner Arnold asked about the areas outside of the proposed annexation and who responds to those calls. Director Holton stated that the San Juan County Sheriff's office is responsible for all non-emergency calls, but that assistance agreements are in place between the jurisdictions for emergencies.

Commissioner Thompson asked for clarification regarding the expenses and the revenues in the cost-benefit analysis. Director Holton explained that a very conservative method was used in the preparation of the revenue estimates and projections. On page 29 of the agenda, the estimated and projected annual costs and revenues are explained. She identified that assumptions are based on current businesses in the area. With additional land for growth, there is the potential for more revenue.

There was no one in attendance that wished to speak in favor of this petition.

Mr. Larry Garcia of 215 W. Quince had concerns about having to meet the city rules if the annexation was approved. Director Holton explained that what you have currently is grandfathered in, but if you wish to change something you would need to visit with the Community Development Department to discuss what would be required. Chair Cardon asked if the grandfather status would still be in effect if the property was sold. Director Holton stated that as long as the current use continues, the grandfather status continues. Mr. Garcia stated that the county has been in charge of the properties, but Director Holton reminded Mr. Garcia that the property owner has property rights and is thus, in charge. Mr. Garcia also mentioned other property he owns that is located in the city which he would like to rezone to Mixed-Use, which Director Holton advised they could discuss after the meeting. Mr. Garcia identified that he is opposed to having the river walk go through his property and felt that the city would force him to give up his land. Director Holton clarified that today's meeting was in regards to the annexation and that she could provide PRCA Director Styron's contact information to Mr. Garcia regarding the river walk plan. Director Holton stated that she does not recall eminent domain being used while she has worked for the City of Farmington, and that City Council is very cognizant of property owners' rights.

Commissioner Jaques identified parcels 19 and 20 and asked if any others in that area are being considered to be zone MU. Director Holton stated no, not at this time. She added that there is some RA Rural Agricultural zoning along the river. Commissioner Langenfeld identified parcels 10, 11 & 41 as proposed to be RA Rural Agricultural.

Commissioner Langenfeld also had concerns regarding parcels 19 and 30 which are surrounded by IND Industrial and for the MU area where The Connelly Hospitality House is located. Director Holton added that the hospital is located within an OP district as that is the zoning that the hospital has requested. The Drake's are requesting their property to be zoned IND. Commissioner Langenfeld stated that the MU is located in the middle of other zoning and maybe parcels 95, 96, 102 identified as IND should be zoned the same as the one surrounding them, which is MU or OP, because the current uses would still be grandfathered. Director Holton stated that yes, the current uses would be grandfathered regardless of the new zoning district designation.

Kenny Kendrick of 1451 Shannon Lane stated that he has 30 acres of low land and all kinds of animals use his property, fox, cougar, and porcupine and that he shoots rifles and does not want to be annexed. He added that he has lived there for 21 years and enjoys his property as it is. Chair Cardon asked him to identify which parcel was his. It

was identified by staff that Mr. Kendrick's land is mostly located outside of the proposed annexation area. Mr. Kendrick withdrew his objection.

Robert McEwan of 1080 Highway 371 stated that he is opposed to the annexation. He stated that his property has river access but he doesn't want the river trail to go through there either. He stated there are a lot of animals on his property since they bulldozed the park across the street. Mr. McEwan stated that he went to the library and looked at the 1990 riverine document, but that project was 24 years ago and the city has grown and the river corridor is different now. He added that part of his property is under water, a portion is for the state highway and if the river walk was on his property that would be another 40 feet or so taken and that is not fair to him. Chair Cardon explained that the current uses will continue to be allowed. Mr. McEwan stated he understood that but still had concerns regarding the city placing the river walk on his property. He added that his friend Johnny Dollar was sick in the hospital and his property was surveyed and couldn't get water service until he signed the paperwork. Chair Cardon identified that Mr. McEwan's main objection was the river walk. Mr. McEwan stated that he felt that the river project was a 90% done deal almost to Westland Park, and that he stands in the way of that project. He also stated that if he had known about the river project he would not have bought this property. He felt that the best location for the river walk was to cross the bridge on the other side. He closed by saying that with the new apartments near the hospital you have a lot of people using that bridge and 24 years ago those issues didn't exist. He felt that Mr. Kozimor property would add tract homes and families that would want to enjoy the river too. He asked about the two vacant chairs and if the commission was missing commissioners. Chair Cardon stated that two commissioners were not in attendance but that the commission had a quorum with five members.

Director Holton stated that Mr. Kozimor is one of the petition signers and has requested his property be zoned Industrial. Commissioner Thompson asked if staff could confirm that the city cannot take Mr. McEwan's property. Director Holton stated that she couldn't answer a legal question regarding the city's rights; however, eminent domain is a power that the city has. But, since she has been employed with the City, she has not been aware of that happening. She added that she understood there was a financial transaction for the easement with Johnny Dollar. She adds that the City Council is very hesitant to use eminent domain.

Commissioner Langenfeld identified parcels 10, 11 and 41 as Rural Agricultural on the map. Director Holton stated that zoning proposal was because animal use is allowed by right in RA and that Mr. McEwan had told her he wanted his land used for the protection of wildlife and that he kept animals on occasion, including a steer. She added that part of this parcel is located in the city already and is zoned RE-1 with a Special Mobile Home Overlay Area, SMHOA. Commissioner Arnold asked about one parcel being in both the city and the county and could it be removed from the annexation. Chair Cardon stated that a petition could be made to bring the parcel all into the RA zoning. Director Holton stated the zone change for the portion in the city could happen at a later date but must be requested by the owner. She added that his parcel could be removed in the Commission's recommendation.

There was no one else present that wished to speak in opposition to this petition.

Chair Cardon closed the public comment portion of this petition and opened the discussion to Commission members.

Commissioner Langenfeld stated that there has been a lot of work done by staff on this petition, and while she came in with questions on the zoning recommendations that appeared to be spot zoning, staff has clarified the uses and needs being accommodated. Director Holton identified that all of staff has been working on different parts of this annexation petition and she had been meeting with the owners to identify their zoning needs.

Commissioner Thompson referenced the hotel on East Main that is in an Industrial district but surrounded by Commercial districts and felt that even though the well services wish to be zoned Industrial and appear to be spot zoning, that if that designation was changed to Mixed-Use they could still keep their existing business uses. Director Holton stated the current uses would be grandfathered, but that she had been working with property owners and wished to respect the owner's requests, adding there wouldn't be any difference in the impact on the surrounding properties because the uses are already in place. Commissioner Thompson stated that this is the Commission's only chance to base their recommendation on surrounding areas and the uses for the future. He added that if they wanted to put in a copper smelter in an Industrial area, could they

just do it. Director Holton stated that based on the UDC even an asphalt plant would need a special use permit. Ms. Lopez added that the Industrial zone district is for light industrial uses and that heavy uses require a special use permit, which is what a copper smelter would be.

Commissioner Thompson stated that if there is no impact to the Drake property and if future uses would require special use permits than why not change parcels 95, 96 and 102 to Mixed Use to be consistent. Commissioner Langenfeld agreed with that line of thought adding that this is the time that the commission can deal with the issues, and is also the time to think about future planning rather than zoning. We have a piece of the plan here and how do we follow through to make the zoning more consistence and allow the existing uses to continue.

Chair Cardon added that all of these property uses are grandfathered and if a future owner chooses to change the zoning, that petition would come back before this commission. Ms. Lopez added that if a property has a non-conforming use and is destroyed more than 50% the non-conforming use could not be rebuilt per the current code.

Commissioner Thompson asked staff if a zone change could be made today or if staff needed more time to meet with other owners. Director Holton stated that the zoning could be changed today, but because of the 60 day timeframe for annexations this petition does not have the option to be tabled until the next meeting. A special meeting for early next week would be needed to keep to the timeline. Commissioner Thompson asked if Director Holton had promised the owners these particular zone districts. Director Holton stated that she had told the owners that she would do her best to honor their requested zone districts. She reminded the Commission that this same type of situation, owners request versus Commission recommendation, happened out near Troy King and Twin Peaks when the new Tibbett's Middle School was annexed.

Commissioner Ragsdale stated that since additional uses in Industrial zoning could have to have a special use permit and would be brought back before this commission for recommendation, she felt that there is not a downside to leaving it as it is.

#### **Planning and Zoning Commission Action of ANX 14-01 on April 10, 2014**

A motion was made by Commissioner Thompson, seconded by Commissioner Langenfeld, to **approve** Petition ANX 14-01, with the addition of a condition to change Parcel numbers 95, 96, 102 and 125 from the proposed zoning of Industrial District to a Mixed Use District zoning.

AYE: Chair Cardon, Commissioners Jaques, Langenfeld, Ragsdale, Thompson and Arnold (Alt)  
 NAY: None  
 ABSTAINED: None  
 ABSENT: Commissioners Davis, Freeman and Washburn (Alt)

Motion passed 6-0

#### **Discussion of volunteers for the UDC Ad-Hoc Committee**

Ms. Lopez stated that staff has identified the need to consider some changes to the UDC. Originally the members from the Planning & Zoning Commission were Dennis Ivie, Paul Thompson and Clint Freeman. She added that Chairman O'Keefe has recently agreed to be the Ad-Hoc representative from the Administrative Review Board. Commissioner Thompson stated that he would like to still be on that committee. Commissioner Langenfeld also stated that she would like to be on the committee. Chair Cardon stated that she would volunteer to be on the committee since Commissioner Freeman was not in attendance, and added that if Commissioner Freeman still wanted to be the representative she could be an alternate. Ms. Lopez stated that the meetings are generally held during lunch from 11:30 a.m. to 1:00 p.m. and there was probably a need to hold several meetings. The Commission was in agreement with the three volunteers holding an Ad-Hoc UDC Committee position.

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

**Business from the Chair:** Chair Cardon reminded the Commission about the NMLZO workshop and that the applications were due soon.

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

**Business from Staff:** Ms. Lopez stated that the special use permits for the revocation of the group care facility at 2107 Schofield Lane, and the storage tanks on Morningstar, stayed on the consent agenda and were approved by City Council at their April 8, 2014 Meeting.

Ms. Lopez reminded the Commissioners that she would take care of the NMLZO registrations, but would need the application information from those who still wish to attend, which could be emailed, faxed, or taken over the phone.

**Adjournment**

The Planning and Zoning Commission meeting of April 10, 2014, was adjourned at 4:24 p.m.

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Joyce Cardon  
Chair

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Dee Dee Moore  
Office Manager

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