

Minutes Planning & Zoning Commission June 10, 2021

The Planning & Zoning Commission met in a regular session on June 10, 2021 at 3:00 p.m. in the City Council Chambers, 800 Municipal Drive, Farmington, New Mexico.

P&Z Members Present:

Chair-Joyce Cardon
Ryan Brown
Shay Davis
Elizabeth Lockmiller
Cheryl Ragsdale
Gary Smouse

P&Z Members Absent:

Vice Chair Freeman
Mitch Sewell
Cody Waldroup

Staff Present:

Ellen Wayne
Beth Escobar
Elizabeth Sandoval

Others Who Addressed the Commission:

Jeffrey Rendall
Kandice Cochrane
Robert McEwan
Jerome Chavez
Tiana Chavez
Robert Fate
Roberta Fate
Chris Conley
Hollie Fuller
Angela Bentley

Call to Order

Chair Joyce Cardon called the meeting to order at 3:00 p.m. There being a quorum present the following proceedings were duly had and taken.

Approval of the Agenda

The motion was made by Commissioner Brown and seconded by Commissioner Ragsdale to approve the agenda of the June 10, 2021 Planning & Zoning Commission meeting. This motion passed unanimously by a 5-0 vote.

Approval of the Minutes

A motion was made by Commissioner Brown and seconded by Commissioner Ragsdale to approve the minutes of the February 11, 2021 Planning & Zoning Commission meeting. This motion was approved unanimously by a 5-0 vote.

Swearing in of Witnesses

Elizabeth Sandoval, Administrative Assistant, swore in all parties that wished to speak on behalf of the listed agenda items.

Discussion and possible action regarding proposed changes to the Unified Development Code, Sections 2.4.7 - Animals or Fowl and Article 11 - Definitions limiting the number of fowl to be allowed on properties in the RA, Rural Agriculture District, within the City of Farmington

Beth Escobar, Planning Manager, presented the following PowerPoint presentation:

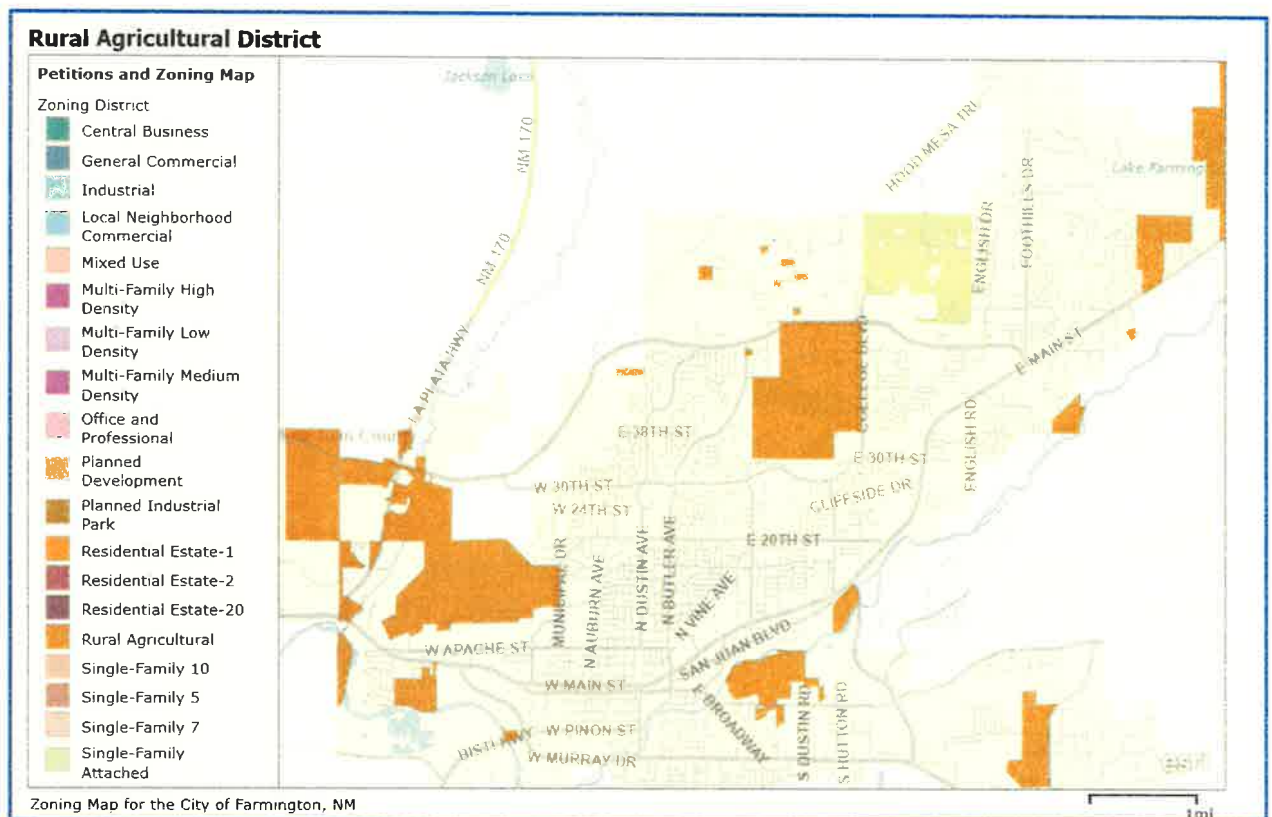
Proposed Changes to the Rural Agricultural District

Background

- Staff has been directed by City Council to propose revisions to the regulations pertaining to the keeping of fowl on property zoned Rural Agriculture.
- Response to a property within the City generating complaints based on having an excess of roosters.
- **The Rural Agricultural District is intended to protect agricultural uses within an urbanized area. Crops and livestock are permitted to be produced to be sold, however no sales are allowed on the property.**
- Zoning regulations from similar municipalities in New Mexico and Arizona are not consistent related to the keeping of chickens specifically and urban agriculture generally in these communities.
- Roosters are a common source of complaints.

Analysis

- USDA recommendations
 - For agricultural uses, the recommended ratio of roosters to hens is 1 to 10. Roosters tend to fight amongst themselves more if the number of hens falls below 10.
 - Chickens can live up to 10 years
 - It takes chickens six weeks to mature, either for hens to produce eggs or there being enough meat on the bird to slaughter.
 - People, and dogs, can consume 1 – 2 chickens a week on average.
- People may choose to raise fowl for the eggs, as a source of food, or to market off-site.
- The allowance for all fowl in the Rural Agricultural District is based on a ratio of 0.02 to the size of the property. A two acre property would be permitted to have 100 fowl.
- **To determine a fair maximum, staff reviewed the USDA standards and tried to balance the number allowed with a reasonable use.**



Public Input

- Notification of this meeting were sent to 173 private property owners
- Proposed changes are to the Rural Agricultural District (RA) only
- This is not the forum to discuss specific properties

property had 167 roosters and the neighborhood has concerns. Planning Manager Escobar clarified that 167 fowl on the property were a mix of chickens and roosters.

Chair Cardon asked if there have been any health issues being identified at this time.

Planning Manager Escobar stated no, there were no health issues or animal cruelty issues identified at this time.

Commissioner Brown asked if the number of fowl on the single property was in line with the current code.

Planning Manager Escobar stated no, the number of fowl on the property was not in line with the current code, which is the reason for the current court case.

Commissioner Ragsdale asked if per acre, if property owners are allowed to have 100 fowl.

Planning Manager Escobar stated that a property owner can have 100 fowl per 2 acres, 50 fowl per acre.

Commissioner Brown asked why the code is being changed for everyone for this one issue and not just resolving this one issue.

Planning Manager Escobar stated that City Council wanted to have the discussion because in some cases there may be residents that would hesitate to file a code complaint or some may have the maximum number of fowl with no complaints. Planning Manager Escobar stated that this is a fact finding meeting to see if this is a global issue, a local issue or a street issue.

Chair Cardon opened the discussion to public.

Elizabeth Sandoval, Administrative Assistant, swore in witnesses that wished to speak.

Chair Cardon reminded the public that anything regarding the property with the pending court case, only feelings regarding the property may be spoken.

Jeffery Rendall, 4703 West Hopi Street, stated Planning Manager Escobar's information regarding fowl was setup through inaccurate information, such as the six weeks maturity age for a chicken. Mr. Rendall stated that it does take 18-26 weeks to bring a chicken to maturity; the number for a family of four consuming four chickens per week would be a continues stream of chickens. Mr. Rendall stated that he had some trouble finding the ratio and would like to know how the ratio is calculated. Mr. Rendall stated that roosters are not needed to have eggs or meat and it seems to him that this is a nuisance issue and not a change of ordinance issue and should be handled by Code Enforcement. Mr. Rendall stated that he feels that the information presented is inaccurate and feels that there should not be a change to the current ordinance with inaccurate information.

Planning Manager Escobar stated that she would like to thank Mr. Rendall for his comments and the research for the information that was presented was pulled from the USDA website. Planning Manager Escobar stated that the information presented did not affect the numbers that are being brought forward in the change to the UDC. Planning Manager Escobar stated that the 0.02 is found in Article 11 of the UDC and it is a ratio, dividing the size of the property by the ratio.

Mr. Rendall stated that the ratio is based on a 1,000 pound cow which gets a ratio of 1, so the 0.02 for a chicken would mean that he could have 50,000 chickens on his acreage and based on range land, not applying to a RA district in town.

Planning Manager Escobar stated that these ratios are in the City's UDC and it is the City's practice to calculate the ratio accordingly. Planning Manager Escobar then stated that it is possible that staff may need to look at those ratios based on the information that was heard from Mr. Rendall.

Kandice Cochran, 2500 Riverside Drive, stated that she agrees with what Mr. Rendall covered. Ms. Cochran stated that she feels that the calculations are archaic. Ms. Cochran stated her neighborhood has parcels anywhere from 2-10 acres, with other RA districts in Farmington having anywhere up to 23 acres per parcel, making the calculation archaic and 2-10 acre property owners should be treated the same as 23 acre property owners. Ms. Cochran stated that she believes more research needs to be done. Ms. Cochran stated that rooster is not even listed in the definition of fowl and according to the City Attorney if something is not listed in an ordinance then it is not an issue, so she feels that the issue of roosters is still not being addressed. Ms. Cochran stated that the RA definition states that these rules apply to parcels over 5 acres and that the neighborhood doesn't even really fall within the definition. Ms. Cochran stated that she believes this is a nascence issue and all the issues brought forth need to be addressed.

Planning Manager Escobar stated that roosters are a male chicken and it is covered in the definition of fowl. Planning Manager Escobar stated that she appreciates all the information being brought forward and it will be taken into consideration.

Robert McEwan, 1080 Highway 371, stated that his location was annexed recently. Mr. McEwan stated that a large number of wildlife animals near his property that take refuge on his property. Mr. McEwan stated that he does not want to be in any legal situation for any reason for the wildlife that takes refuge on his property.

Planning Manager Escobar stated that the regulation would apply to domestic fowl only and not wild fowl.

Jerome Chavez, 2500 Ridgeview Drive, stated that he has raised chickens his entire life and it takes chickens at least 18-20 weeks to be mature enough to lay eggs or consume. Mr. Chavez stated that he is the owner of the property that is currently involved with the open court case. Mr. Chavez stated that he want to clarify some questions that were brought up.

Planning Manager Escobar stated that she would like to caution Mr. Chavez and remind him that this is a public meeting and anything said at this meeting is public record.

Mr. Chavez stated that he understands. Mr. Chavez stated that he and his daughters do have many food allergies and that is the reason they raise chickens to eat. Mr. Chavez stated that according to Ms. Escobar's presentation, it states that a family of four should be consuming two chickens per week, but a family of four should be consuming about 400 chickens. Mr. Chavez stated that he has been working diligently with Code Compliance and there are no longer 167 chickens on his property and the numbers are down to 100 fowl, with a mix of roosters and hens. Mr. Chavez stated that he cannot determine what hatches, what comes out of the egg is what comes out of the egg and that is what is consumed. Mr. Chavez stated that he does not want his property to affect anyone else's property.

Tiana Chavez, 2500 Ridgeview Drive, stated that her property is currently involved with the open court case. Mrs. Chavez stated that if the code is changed it would affect not only who lives in the area today, but also who lives in the area in the future. Mrs. Chavez stated that her property is in compliance now. Mrs. Chavez stated that there are other animals in the neighborhood and you can't tell them when they can and cannot make noise. Mrs. Chavez stated that she would like for people to understand and have respect for her and her family's way of life, that her family chose this home to live in specifically for the way it was zoned. Mrs. Chavez asked that everyone be open minded and understand that she and her family are doing the best that they can.

Robert Fate, 2504 Ridgeview Drive, stated that he feels that this is a noise issue. Mr. Fate stated that he and his family are generally woken by the roosters by 4:00 am; the roosters make noise all day long until about sundown. Mr. Fate stated that the property in question was out of compliance at one time and Code Compliance has not tested the noise levels since, due to the ongoing court case. Mr. Fate stated that he suspects that

the property probably is currently in compliance, since the noise levels have not been tested recently. Mr. Fate stated that this is a quality of life issue for this neighborhood that is suffering from excessive noise. Mr. Fate asked the commission to come out to the neighborhood and sit for five minutes to see what their thoughts are. Mr. Fate stated that he does want to affect larger properties and limit fowl per acre, but is concerned about the excessive noise and number of roosters in relation to the overall number of fowl.

Roberta Fate, 2504 Ridgeview Drive, stated that she would like to make clear that she does not have a problem with number of chickens, but does have a problem with number of roosters. Mrs. Fate stated that she does not want to mess up the RA zoning for anyone, but also does not want other residents of the neighborhood and mess it up for the entire neighborhood. Mrs. Fate stated that there are 26 properties in the neighborhood, a little over 46 acres, averaging out to less than 2 acres per property, with two properties that are over 5 acres. Mrs. Fate stated that the properties in the neighborhood are close to one another, which creates a problem when there is a noise issue. Mrs. Fate stated that she agrees with her husband, Mr. Fate, that the sound level has not been tested again due to the ongoing court case. Mrs. Fate stated that she was woken at 4:02 am this morning by the noise. Mrs. Fate played a recording of a rooster crowing and stated that this is the noise she hears for 16 hours per day. Mrs. Fate stated that she believes the reason that there is a noise issue is because the roosters are tethered or are in single houses and not allowed contact with one another. Mrs. Fate stated that she does have a degree in Agricultural, and when birds are being raised to eat, you can purchase straight run chickens, which are the least expensive to purchase because they have not been sexed. Mrs. Fate stated that statistically you will get 50% male and 50% female, which does not matter in a meat growing situation. Mrs. Fate stated that she does own two roosters and they coexist with her chickens' just fine. Mrs. Fate asked that the number of roosters per hen be evaluated. Mrs. Fate stated that she is not trying to change the RA zoning, just the rooster issue and would appreciate any help with that issue.

Chris Conley, 2601 Riverside Drive, stated limiting the number of fowl is ridiculous and that it is the rooster issue. Mr. Conley stated that there needs to be clarification on the difference between a layer, a broiler, rooster and hen. Mr. Conley stated that straight run or pullets, pullets are all sexed and all female, could be ordered. Mr. Conley agreed that if you are growing your own chickens, then yes you do get what you get. Mr. Conley stated that his daughter does raise chickens for 4H and should the 44 per acre be implemented it would negate his daughters 4H setup. Mr. Conley stated that limiting the number of fowl effects a lot of people, creating more problems than it would resolve; the whole issue is based upon roosters. Mr. Conley stated that the one rooster to ten hen ratio seems acceptable. Mr. Conley stated that the roosters that his daughter raises for consumption are in the freezer before they crow and that 50 matured roosters are not needed, one rooster is acceptable. Mr. Conley stated that the one thing he suggests is that the verbiage should clarify the ratio of roosters to hens, as this is a rooster issue.

Planning Manager Escobar asked Mr. Conley what is the age that rooster start to crow.

Mr. Conley stated that it varies, but it is between 16-18 weeks, which is the maturity age. Mr. Conley stated that at 12-13 weeks his daughter has the roosters butchered and stored.

Commissioner Brown asked Mr. Conley how many chickens can be taken care of by one rooster.

Mr. Conley replied a lot. Mr. Conley stated that you could have one rooster and it would take care of many.

Commissioner Brown asked Mr. Conley if he had to put a number on it, how many it would be.

Mr. Conley stated that he would say that one rooster could take care of twenty chickens.

Hollie Fuller, 2503 Ridgeview Drive, stated that previous owners of 2500 Ridgeview Drive did have roughly 40 meat chickens, not knowing if any were male, and there was not a noise issue. Ms. Fuller stated that meat chickens do not have a perpetuity date. Ms. Fuller stated that with new owners the neighbors get to listen to the roosters crowing anywhere from 12- 18 hours per day. Ms. Fuller stated the Fates and the neighbors behind them may be enduring immense sleep deprivation, affecting them medically, emotionally and mentally. Ms. Fuller stated that an occasional crow is not an issue. Ms. Fuller stated that roosters mature enough to crow at 16-18 weeks and are usually butchered before that happens. Ms. Fuller asked if the roosters are being consumed why is there a noise issue. Ms. Fuller then stated that some neighbors are unable to sell their homes because of the noise and wonders what effect this has on her property value.

Angela Bentley, 2551 Riverside Drive, stated that this issue seems to have already been addressed in our ordinance. Ms. Bentley stated that the ordinance states for those allowed on our property, those are layers and broilers, designating that those are allowed to be on our property. Ms. Bentley stated that chickens really aren't much of a bother, it really is the roosters; if you are buying layers or broilers for eating then you would buy the straight run, you would buy the sexed chickens. Ms. Bentley stated that if we just did a little tweaking to our code we wouldn't have to make it less of the number of fowl that is allowed. Ms. Bentley stated that she understands that having roosters can be hard on the neighbors; it's just common sense that if you are in a neighborhood, even if is an RA district, that you wouldn't have a large number of roosters and that you can sex the chickens that you buy.

Chair Cardon closed the public comment and asked Commissioners if they had any questions.

Commissioner Brown asked how the noise ordinance applies to chickens.

Planning Manager Escobar stated that the noise ordinance is part of the municipal code and there is a noise level and a time that the noise level is measured, which is measured by Code Enforcement.

Commissioner Brown asked if the noise ordinance is not specific to chickens.

Planning Manager Escobar stated that is correct.

Planning Manager Escobar stated that she wanted to highlight some of the comments that she heard, stating that she heard no support for limiting a number of fowl per property and the major concern is noise from roosters. Planning Manager Escobar stated that she wanted to mention that the properties in the Ridgeview neighborhood that are less than 5 acres, were annex from San Juan County and the RA district came with the property and did not have to meet the required property size set by the City of Farmington. Planning Manager Escobar stated that she also heard that there is a big distinction between a 2 acre parcel neighborhood and a 20 acre parcel in a less developed part of the City, stating that there are no regulations about pigeons or any other birds. Planning Manager Escobar stated that she appreciated the education she has received on both sides of this issue and would be happy to take the ordinance back and make changes related to what we've heard.

Commissioner Davis stated that he agrees that the roosters are the primary issue and not limiting the number of fowl per acre. Commissioner Davis stated that in our code, the limit does state 0.02 fowl per acre, 50 fowl per acre, there is a standard in place and that would be a good bases point and the one rooster per ten chickens seem like an appropriate level. Commissioner Davis stated that something else to look at would be the difference between chickens and turkeys.

Planning Manger Escobar asked Commissioner Davis if he is recommending that the code be broken down per type of fowl.

Commissioner Davis stated that he would just like staff to look at the code and investigate the ratio, the number per acre, consumption and land need for each fowl.

Commissioner Brown asked Planning Manager Escobar if the 0.02 calculation for the ration caused confusion.

Planning Manager Escobar stated yes and as a general recommendation and take the whole definition section and present it better.

Commissioner Brown stated that he would like to see a number per acre.

Chair Cardon stated that there does need to be clarification on the definitions.

Commissioner Lockmiller stated that she believes there needs to be more study done and what she is hearing is that the noise is the issue and the question is why one would need so many roosters. Commissioner Lockmiller stated that she knows that this RA district is a much desired area and we need to look at what we can have their and make the location enjoyable for the neighbors.

Commissioner Ragsdale stated that she does not want to hurt the people who have moved their specifically for the country atmosphere but the noise is something that we have to look at and do more research on.

Commissioner Brown asked if there were any cases where noise wasn't an issue but the number of fowl being an issue.

Planning Manager Escobar stated that in the City Municipal Code there are standards for keeping any type of animal on your property.

Commissioner Brown asked that if we air on the side of having more fowl then Code Compliance could handle a nuance issues for noise and odors.

Planning Manager Escobar stated yes.

Commissioner Davis stated that he would like to point out that the number of fowl is not the issue and he feels the 50 fowl per acre is appropriate until shown otherwise, what seems to be broken is the ratio of roosters to chickens.

Chair Cardon asked to poll the Commissioners for direction for staff.

Commissioner Lockmiller stated that she would like for this to go back to the Planning Division to figure out a ratio for roosters to chickens and not to take anything away what people already have.

Commissioner Davis stated that he would like for this to go back to the Planning Division for the reason he has already stated.

Chair Cardon stated that she would like for this matter to go back to the Planning Division for further detailing.

Commissioner Brown stated that he would like for this matter to go back to the Planning Division for further detailing.

Commissioner Ragsdale stated that he would like for this matter to go back to the Planning Division for further detailing.

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

Business from the Chair: There was no business from the Chair.

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

Business from Staff: Planning Manager Escobar stated that there are three applications for the July 24, 2021 meeting and will bring the updated fowl ordinance back for review at the first meeting in August.

Planning Manager Escobar stated that public participation redo for the Comprehensive Plan will be kicking off soon, staff and Logan Simpson will be making a presentation to Council to come up with a schedule of public meetings. Planning Manager Escobar stated that she would send an email for upcoming events.

Commissioner Davis asked what the time frame is for rolling out the Comprehensive Plan.

Planning Manager Escobar stated that the contract with Logan Simpson has been extended through September 30, 2021 and that is our drop-dead date to get that approved and adopted by City Council.

Adjournment: With no further business and a motion by Commissioner Ragsdale and seconded by Commissioner Brown, the Planning & Zoning Commission meeting of June 10, 2021 was adjourned at 4:29 p.m.



Joyce Cardon
Chair



Elizabeth Sandoval
Administrative Assistant