

# Minutes

## Planning & Zoning Commission

### August 26, 2021

The Planning & Zoning Commission met in a regular session on August 26, 2021 at 3:00 p.m. in the City Council Chambers, 800 Municipal Drive, Farmington, New Mexico.

P&Z Members Present:

Chair - Joyce Cardon  
Shay Davis  
Elizabeth Lockmiller  
Cheryl Ragsdale  
Cody Waldroup

P&Z Members Absent:

Vice Chair – Clint Freeman  
Ryan Brown  
Mitch Sewell  
Gary Smouse

Staff Present:

Jennifer Breakell  
Beth Escobar  
Elizabeth Sandoval  
Tami Spencer

Others Who Addressed the Commission:

Jeremy Bonin  
Jason Little

#### **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 Davis and seconded by Commissioner Waldroup to approve the agenda of the August 26, 2021 Planning & Zoning Commission meeting. This motion passed unanimously by a 5-0 vote.

#### **Approval of the Minutes**

A motion was made by Commissioner Ragsdale and seconded by Commissioner Lockmiller to approve the minutes of the August 12, 2021 Planning & Zoning Commission meeting. This motion was approved unanimously by a 5-0 vote.

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#### **Petition No. FP 21-50 Discussion & Possible Action – Mesa Vista Subdivision #8 – a request from Mike Hamilton of Mesa View Development**

Commissioner Lockmiller recused herself from this petition due to a conflict of interest. With Commissioner Lockmiller recusing herself, the P&Z Commission did not have a quorum to hear this petition.

Commissioner Davis asked if all items being discussed today could not be heard.

Planning Manager Escobar stated that it was only for Petition FP 21-50, Mesa Vista Subdivision #8.

Commissioner Davis asked if Commissioner Lockmiller could come back and hear the remaining agenda items, so there is a quorum.

City Attorney Breakell stated that it would only be for this one petition and the petition would be tabled.

This petition was tabled and moved to be heard at the September 16, 2021 Planning & Zoning meeting.

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**Discussion & Possible Action – Discussion & possible action regarding the Draft 2040 Navigating Farmington's Future Comprehensive Plan**

Planning Manager Escobar showed the 2040 Comprehensive Plan video to the Commission. The 2040 Comprehensive Plan video can be viewed online at (INSERT LINK).

Ms. Escobar reviewed the proposed changes in the Draft 2040 Comprehensive Plan, expanding on Chapters 1-5. Ms. Escobar noted the following; Chapter 1 contains important information about where we are today. In Chapter 2, the plan provides a snapshot of where Farmington is at today, including population and economic information. It also includes information on internal and external transportation networks, and provides a visual of land ownership surrounding the Farmington metropolitan area. Chapter 3 provides a framework for moving forward within several segments, including housing, land use, transportation, downtown, parks and recreation and economic development. The goals identified for each segment will guide future development. Chapter 4 includes the Future Land Use Plan. This map does not change the zoning of any individual properties, but provides a vision of the best locations for types of future development such as retirement communities. Chapter 5 contains information about land use, including land use map, mixed village and mixed commercial concepts. Implementation sets all the goals randomly and staff set action tables. Ms. Escobar stated that Mike Safrany, CDBG Planner, has already begun scoping out a housing plan, which will be presented to the Commission once completed; also the Unified Development Code updates have covered a lot. Ms. Escobar asked the Commission if they had any questions, if anything needs to be added or improved, and stated she hopes to move the draft to the City Council by September 28, 2021.

**Discussion**

Chair Cardon asked the Commission if they had any questions.

Chair Cardon stated that it was great to see different personalities come to the table and share their feedback. Chair Cardon thanked staff for all the updates through the process.

Commissioner Waldroup asked if the goals are laid out starting with housing and moving forward.

Ms. Escobar stated yes, those are action items, and the overall plan is the vision, giving a good foundation on how applications are reviewed. Ms. Escobar added that 30 days of intensive public outreach was conducted and everyone was really positive.

Commissioner Davis asked what the motion would be to move this forward.

Ms. Escobar stated that the motion would be that the City Council adopts the draft plan.

**Motion**

A motion was made by Commissioner Davis and seconded by Commissioner Ragsdale to move the Draft Comprehensive Plan to City Council for consideration. The motion carried unanimously 5-0.

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**Discussion & Possible Action – Discussion & Possible Action regarding Proposed Changes to the 2021 Unified Development Code regarding Adult Use Cannabis**

Planning Manager Escobar stated that at the last P&Z meeting there was discussion regarding the proposed changes to the UDC to accommodate the legalization of cannabis sales. Ms. Escobar stated that the Commission asked for time to consider the revisions, links from the Council discussion were sent to the Commissioners, as well as the recently adopted San Juan County regulations regarding cannabis sales. Ms. Escobar stated that in summary the recommendations are for sales of recreational cannabis be limited to the Commercial Business District, limited to 25 in number to the City of Farmington, licensing will be done through the State of New Mexico and business licenses through City Clerk, which will then allow the zoning verification process to take place. Recommendations for production, taking the cannabis plant and converting it to something else such as oils or edibles, are allowed in Central Business and Industrial Districts with a SUP (special use permit) due to materials used to convert the cannabis. Recommendation of cultivation not to be allowed within City limits based on the fact that a statement of water availability would be needed as part of the license application, the City does not wish to participate due to drought concerns and should the City allow cultivation, there would be a certify to supply water and that is not an option at this time. Recommendations codify that mobile food trucks cannot sell cannabis products and cannabis cannot be grown as a "for sale" plant in the RA (rural agriculture) District, preventing acres of cannabis being grown. Per the new State law, an individual can have six plants, twelve plants for a residence.

### **Discussion**

Chair Cardon asked the Commission if they had any questions.

Commissioner Waldroup asked how these recommendations affect those that are still in Farmington City limits, but further outside the City.

Ms. Escobar stated once you pass the Farmington City limits you are under the regulations of San Juan County. If in the future an area should be annexed to the City of Farmington with an established cultivator, they would become legal nonconforming.

Commissioner Davis asked how the limit of 25 businesses would be tracked.

Ms. Escobar stated the businesses will need a business license, the Planning Division signs off on the business licenses and the locations of the businesses will be mapped. Ms. Escobar stated that the City currently has four medical marijuana facilities, which would probably convert over, leaving 21 business licenses available.

Commissioner Davis asked if the State was responsible for the permitting and the City would monitor the number of permits.

Ms. Escobar stated that was correct.

Commissioner Davis stated that he was wondering if it would become like a liquor license, which is a commodity.

Ms. Escobar stated that it is close in relation to a liquor license.

Commissioner Waldroup asked if the City controls the zoning of being in GC (general commercial), just as a liquor establishment.

Ms. Escobar stated that is correct and clarified that liquor establishments are allowed in the Central Business District. Ms. Escobar stated that the liquor licenses are limited to 25 in the State as well and that is where the number came from for the cannabis licenses.

Commissioner Waldroup asked if the number of licenses is based upon population.

Ms. Escobar stated no, the licenses are not based on population.

Chair Cardon opened the discussion to the public.

Jeremy Bonin, PO Box 5843, Pagosa Springs CO, stated that he is a potential business owner here in Farmington and would like to open a couple retail establishments. Mr. Bonin stated that he does own a couple stores in Pagosa Springs and one store in Durango, as well as a cultivation facility in Pagosa Springs. Mr. Bonin stated that he has been in the industry for eight years and even longer if you count before he opened his facilities. Mr. Bonin stated that he would caution in the wording when an ordinance is being written, stating that he believes that the State is referring to "production" as "cultivation", also noting that all descriptions and definitions should be correct. Mr. Bonin stated that he believes this is a great business opportunity for the City. Mr. Bonin also commented that the State of New Mexico is moving fast and that is a sign that the changes are worth acting on sooner than later.

Ms. Escobar stated that she would like to remind the Commission that the City of Farmington is following the State of New Mexico's regulation in that no consumption will be allowed on public property.

Commissioner Waldroup asked what the rules are for someone who uses cannabis in public and if there would be a citation issued.

Jennifer Breakell, City Attorney, stated that there will be a City ordinance that will adopt the State regulation that will prevent the consumption/smoking of marijuana on City sidewalks, parks, streets; also proposing, based on City Council direction, to limit the smoking to inside of houses or consumption areas, which are defined in the State Statutes. Ms. Breakell noted with the direction of City Council, there will be ordinances that adopt those regulations and may even go a little further on where marijuana can and cannot be consumed.

Jason Little, NM Alternative Care, 534 East Broadway Avenue, stated that he has been in business for 11 years, and was licensed in December 2010, with his business originally starting out on Browning Parkway. Mr. Little stated that his business is very mindful, practices the Good Neighbor Policy, in tune with the community and has donated over 1.5 million dollars' worth of terminal patient medication. Mr. Little asked the Commission to look at the zoning for Industrial not having retail sales as something that might be allowed with a variance. Mr. Little noted that he had been in Industrial zoning before for eight years without any issue to the public, grew cannibals on the property, and is looking to make that location a retail outlet for recreational marijuana use. Mr. Little stated that his growing facility is located on Broadway Avenue and hopes the property located on Browning Parkway would be a retail facility and is looking to go through a variance process for the Browning Parkway property to become a retail facility. Mr. Little stated that in regards to the 25 cannabis retail licenses for the City of Farmington, he believes that 25 licenses seem a bit high, considering the entire State of New Mexico only has 35 licenses to date. Mr. Little stated that supply and demand and over licensing could be a potential issue, causing failing business that could lead to bankruptcies and black market selling.

Commissioner Waldroup asked Mr. Little if licenses in other states are being repealed due to bankruptcies leading to black market selling.

Mr. Little stated that he did not know all the details on why licenses are being pulled, but has read multiple publications that licenses were being pulled in the State of Oklahoma due to over issuing of licenses. Mr. Little stated that the number of licenses be evaluated and rather than over issuing, start off at a smaller number and increase the number based on demand, similar to how medical licenses were issued. Mr. Little stated that in regards to the RA District zoning, there are small farms in RA zoning that have already grown thousands of hemp plants on their property and these properties will be "knocked out game", stating that the hemp plant is the same as the cannabis plant, and asked that a variance process be looked at in regards to RA Districts. Mr. Little asked the Commission if they had any questions and made mention of a tour that was taking place on Tuesday.

Commissioner Waldroup asked Mr. Little when one goes to the State of New Mexico to get a license, how hard is the process.

Mr. Little stated that the process is very hard. Mr. Little stated that due to the hard process of obtaining a license, he does everything he can to protect it. Mr. Little stated in the 11 years that he has been in business he has not had any complaints or any problems with his business.

Commissioner Lockmiller asked Mr. Little when and where the tour will be held.

Mr. Little stated Tuesday at 9:00 a.m. at 534 East Broadway Avenue.

Commissioner Waldroup asked why retail sales would be limited to Industrial zoning and not in General Commercial zoning.

Ms. Escobar stated that what is being proposed is that retail sales be allowed in General Commercial zoning, which is a common zoning for retail sales; production and manufacturing is allowed with a special use permit in General Commercial and Industrial. Ms. Escobar stated that the reason that retail sales were not considered in Industrial zoning is because there is usually a conflict there with health and safety issues. Ms. Escobar stated that her direction was to be rather restrictive at first. Ms. Escobar stated that the industrial area on Broadway Avenue, Southside River Road, Highway 64, was for intense land uses and not intended for small retail use. Ms. Escobar stated that if the Commission had input, it could be presented to Council to recommend that retail sales be allowed with a special use permit, which would not be a variance but a special use permit for review on an individual basis.

Commissioner Waldroup stated that he thinks that would be a better idea than just saying no. Commissioner Waldroup stated that there are a lot of industrial properties that do have retail sales.

Ms. Escobar stated that there are also industrial areas, the Animas District for example, that is really a residential area.

Mr. Little asked if the special use permits would need to be reapplied for annually and could be pulled at any time.

Commissioner Waldroup stated that if violations occurred then the permit could be pulled, noting that the P&Z Commissioner is an advisor to City Council, with City Council making the decision.

Ms. Breakell told Mr. Little that she could talk to him about that process after the meeting.

Mr. Little stated that he was just concerned about the verbiage of a special use permit and if the permit could be taken away as easily as it could be given. Mr. Little stated that as an investor and the amount of money going into the production that could be concerning.

Commissioner Waldroup stated that if you follow the process then there wouldn't be a problem. Commissioner Waldroup asked Ms. Escobar what the timeline was for a special use permit.

Ms. Escobar stated that with the new UCD updates, the Commission has the discretion to set the time limit for a special use permit.

Jeremy Bonin, PO Box 5843, Pagosa Springs CO, stated that he agrees with almost everything Mr. Little said, besides the number of retail licenses and limiting the number of licenses. Mr. Bonin referenced Durango having 16 stores and a population of 20,000, stating that Farmington has a population of about 45,000 and 25 retailers' sounds like a reasonable number. Mr. Bonin stated that the more the number is being reduced the more there's a chance of being sued, especially by large companies, also noting that competition is a large part of this industry, as well as other industries. Mr. Bonin stated that the State of New Mexico only came out with rules in regards to cultivation and

production and all the other rules are set to come out January 1, 2022, giving time to debate retail and consumption, stating that it is only cultivation that is really pressing at the moment.

Ms. Breakell stated that she would like to clarify that there really isn't as much time as Mr. Bonin presented. Ms. Breakell stated that licenses will start to be issued on or around September 1, 2021, the licenses will start to be issued and processed sometime in September and have to do with City restrictions and where they can be placed, the information has to be included in their packet and this process needs to start moving relatively quickly.

Ms. Escobar stated that she wanted to clarify that the limit to the number of licenses was direction received from the Council work session and has not yet been discussed. Ms. Escobar stated that the Commission is welcome to recommend a higher number, a lower number or stay with the 25 and as mentioned before the number could always be raised.

Commissioner Waldroup asked when this would be presented to the City Council.

Ms. Breakell stated September 14, 2021.

Jason Little, NM Alternative Care, 534 East Broadway Avenue, stated that there have been multiple numbers of lawsuits as Mr. Bonin has stated. Mr. Little stated that he believes the Mayor and his team has done their homework on the number liquor licenses in communities around the State of New Mexico and the number of 25 cannabis retail licenses came in association with liquor licenses. Mr. Little stated that a reduction to 12 cannabis retail licenses would still be in a legal realm. Mr. Little stated that he understands competition and he is willing to fight and is okay with that fight.

Commissioner Waldroup stated that the community of Farmington swells from anywhere between 40,000 -100,000 people or more.

Mr. Little stated that 12 might be a low number then, but the numbers are not random and there is some data behind it.

Commissioner Waldroup asked Ms. Breakell what the opinion is of the Mayor on the number of licenses that should be issued.

Ms. Breakell stated that she does not set policies and she writes laws that match the policy that is directed from the Mayor and Council. Ms. Breakell stated that based upon the conversations she has had with the Mayor, including the conversation with the Mayor, Mr. Little and she, the direction was to limit the density and the idea Ms. Escobar and she had was to use some basis that is already in State law that has been litigated, which are liquor licenses, which is 25. Ms. Breakell stated that at this time Farmington is well over that number, with 37 liquor licenses. Ms. Breakell stated that based on conversations that she has had with the Mayor, the Mayor feels the 25 licenses for retail cannabis is too high because there are true supply issues at this time and the Mayor does not want this overriding and flooding the City. Ms. Breakell stated that the City is looking at doing 10-12 licenses to start and this would be on a first come first serve basis; if the City sees that there is a demand for retail cannabis, the ordinance would be amended and the number would be increased. Ms. Breakell stated that the City would like to take a measured approach to retail cannabis sales.

Chair Cardon asked Ms. Breakell if the number could be conditionally recommended.

Ms. Breakell stated yes, the Commission is allowed to make any conditional recommendations, as well as changes in the recommendation to Council.

### **Motion**

A motion was made by Commissioner Davis and seconded by Commissioner Waldroup to move the recommendation for the 2021 Unified Development Code regarding adult use cannabis as presented to City Council for consideration, adding that the City

Council look at the number of licenses that are allowed and recommending that a Special Use Permit be allowed for recreational sales in Industrial zoning. The motion carried unanimously 5-0.

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

**Business from the Chair:** Chair Cardon thanked the audience for their input.

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

**Business from Staff:** Planning Manager Escobar introduced Tami Spencer, Administrative Aide for Community Works. Ms. Escobar stated that Ms. Spencer was cross training with Ms. Sandoval on covering the P&Z meetings, so the department has backup at all times.

**Adjournment:** With no further business, a motion to adjourn was made by Commissioner Waldroup and seconded by Commissioner Lockmiller. The motion carried unanimously 5-0 and the meeting was adjourned at 3:58 p.m.

  
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Joyce Cardon  
Chair

  
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Elizabeth Sandoval  
Administrative Assistant

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