

**MINUTES
PLANNING AND ZONING COMMISSION
June 16, 2011**

The Planning and Zoning Commission met in a regular session on June 16, 2011 at 2:00 p.m., in the City Council Chambers, 800 Municipal Drive, Farmington, New Mexico.

P&Z Members Present:	Chairman: Commissioners:	Dennis Ivie Joyce Cardon Kristin Langenfeld Cheryl Ragsdale Paul Thompson Del Washburn (Alt) Amy Ziesmer
P&Z Members Absent:	Commissioners:	Bruce Buchanan Clint Freeman Rory Jaques
Staff Present:		Fran Fillerup Mary Holton Derra Mattina Dee Dee Moore
Others Present:		Phillip Efird Sandy Efird Joyce Headrick Cristie Massey Louise Tso

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:

There were no changes to the agenda.

Approval of Minutes of the May 26, 2011 P&Z Meeting

Chairman Ivie asked for a correction of Commissioner Thompson name to the completed minutes. Commissioner Cardon motioned to approve the minutes from the May 26, 2011 P&Z Commission Meeting. The motion was seconded by Commissioner Thompson and passed by unanimous vote of 7-0.

COMMUNITY DEVELOPMENT PETITION REPORT
Renewal of a Special Use Permit for a Body Art Establishment
Petition SUP 11-03 – Eternal Color Tattoo

A. STAFF REPORT, June 16, 2011

PROJECT INFORMATION

Applicant	Eternal Color Tattoo
Representative	Cristie Massey
Date of Application	May 6, 2011
Requested Action	Renewal of a special use permit for a body art establishment.
Location	221 West Main Street, Lot 7 Block 7, Locke’s Addition
Existing Land Use	Commercial
Existing Zoning	CB Central Business District
Surrounding Zoning & Land Use	North: CB Central Business District / Commercial South: CB Central Business District / Commercial East: CB Central Business District / Commercial West: CB Central Business District / Commercial

Notice	Publication of Notice for public hearings of the Planning and Zoning Commission appeared in the Daily-Times on Monday, May 23, 2011. Property owners within 100 feet were sent notice by certified mail on Monday, May 23, 2011 and a sign was posted on Thursday, June 2, 2011.
Staff Planner	Fran Fillerup, Associate Planner

STAFF ANALYSIS

Project Description

In June 2010, the petitioner received approval with conditions for a special use permit, SUP 10-08, to operate a body art establishment at 221 West Main Street. The petitioner has operated at this location for the past year. Condition c. of the approval stated that the SUP would expire in 1 year from the date of approval, at which time the petitioner may apply for renewal and re-hearing of the SUP. They have submitted this request to satisfy the condition of renewal and re-hearing.

Farmington City Code on Body Art Safe Practices

In 2008, the City Council passed Ordinance 2008-1206, Body Art Safe Practices, creating Section 8-15 of the Farmington City Code (FCC). According to this section, a body art establishment must obtain a City business license, New Mexico state licensure under the New Mexico Body Art Safe Practices Act, pass state inspections and operate only at its permanent location.

The operator of the body art establishment shall not administer body art on any one under the age of 18. The operator is required to obtain proof of age by government-issued photo identification and a second form of government-issued identification. Further, no one under 18 years old shall be admitted to the body art establishment.

According to Section 8-15-3 of FCC, no body art establishment shall be located within 300 feet of a school, church or residence unless waived by the City Council.

The section also sets forth penalties for violation of the ordinance.

ISSUES

City Clerk: Dianne Fuhrman – 599-1106

- A business registration was issued to Eternal Color Tattoo Studio on June 29, 2010. They renewed their business registration for 2011 on December 26, 2010. The establishment was inspected by the State of New Mexico on August 18, 2010. My office has not received any complaints about the business and they are in full compliance with the requirements of Chapter 8, Article 15 of the City Code.

Planning Division: Fran Fillerup – 599-1282

- According to Table 2.3 of the City of Farmington Unified Development Code, a body art establishment in the CB Central Business District requires a special use permit.
- According to Section 8-15-3 of FCC, no body art establishment shall be located within 300 feet of a school, church or residence unless waived by the City Council. This distance is measured from the closest boundary line of the property on which the body art establishment is to be located to the closest boundary line of the prohibiting area. Please see the attached map showing the area under consideration. The petitioner received a waiver to these separation standards in 2010.
- My Father's House, a church at 308 West Broadway, is approximately 160 feet from the body art establishment.
- Seven residences (upper-story apartments) are located approximately 100 feet east of the body art establishment at 209 West Main Street.
- No schools were found within 300 feet of the body art establishment.
- The petitioner received approval with conditions of SUP 10-08 to establish this body art establishment in 2010. They have met these conditions in the following ways:
 - Condition a. required the petitioner to maintain the appearance of a downtown street frontage and restricted display of adult or graphic images. This condition has been met.
 - Condition b. required the petitioner to maintain reasonable hours of operation during regularly-scheduled church services of My Father's House Church. According to church's website, services are held Sundays at 10:30 a.m. and 6:30 p.m. and on Wednesdays at 6:30 p.m. According to the petitioner, the BAE has been closed on Sundays and has closed at 6:30 p.m. on Wednesdays.
 - Condition c. stated that the SUP approval expired after one year and the petitioner could apply for renewal and re-hearing. This petition is to satisfy that condition.

City of Farmington Code Compliance: Todd Johnston – 599-1326

- The business has a current and valid City of Farmington Business License (State of Nevada license as well). There were 3 Farmington Police Department calls for service from November 2010 to May 2011. There were no Code Compliance issues in that time and Code Compliance has no comment.

STAFF CONCLUSION

Staff concludes that approval of SUP 11-03 with conditions is appropriate. The petitioner has met the conditions of approval for SUP 10-08 and the requirements of Section 8-15 of Farmington City Code for a body art establishment. A waiver to 8-15-3 restricting a body art establishment located within 300 feet of a school, church or residence is also appropriate as such a waiver was granted to allow the business to be established in 2010.

STAFF RECOMMENDATION

The Community Development Department recommends approval of Petition SUP 11-03, a request from Eternal Color Tattoo, represented by Cristie Massey, for renewal of a special use permit to operate a body art establishment located at 221 West Main Street in the CB Central Business District, subject to conditions a. and b. as follows:

- a. that the building shall maintain the appearance of a downtown street frontage; and
- b. that the body art establishment shall maintain reasonable hours of operation during regularly-scheduled church services of My Father's House Church, 308 West Broadway.

PLANNING AND ZONING COMMISSION DISCUSSION of June 16, 2011: Associate Planner Fran Fillerup presented the staff report. This petition is a renewal of a Special Use Permit approved last June because of the condition for a one-year review. Staff has identified within the petition report that all of the previous conditions have been met and is recommending approval with conditions "a" & "b". Commissioner Langenfeld asked if there was a need for a time limit to be imposed on this petition. Mr.

Fillerup stated that staff did not recommend a time limit in their report because Eternal Color Tattoo had met state license requirements, however the Special Use Permit can have time constraints if the commission makes that recommendation. Commissioner Cardon asked if the previous condition for the one year time limit was to acquire licensing. Mr. Fillerup stated that the time limit was imposed because the use was new within the city limits of Farmington and there were no standards for body art establishment within the city. Eternal Color Tattoo was the first establishment, and his understanding was that the one-year requirement was to see how it operated during that time. Chairman Ivie asked if there was any police activity at that location. Mr. Fillerup stated that there were no reports against this business, only a fraudulent check incident. There have been calls outside of the business which used that address, but the Police Department reported no direct response to the business.

Petitioner Cristie Massey of 221 W. Main answered Chairman Ivie’s questions if she had read the staff report and agreed with the conditions. Ms. Massey stated that she did agree with staff’s recommendation. She also added that the business has been involved with the downtown and local fundraisers such as Blue Star Moms and Toys for Tots. They also were involved with the San Juan Partnership Fun Run and recently took part in the MDA fundraiser and lockdown at St. Clair’s Winery. Commissioner Langenfeld asked what the business hours were. Ms. Massey stated that they are closed on Sunday and Monday, and closed at 6:30 p.m. on Wednesday. She added that even if the church was not a factor in their hours that they would still be closed because her partner attends services on Wednesday evening. On Tuesday, and Thursday through Saturday, they are open from 11:00 a.m. to 9:00 p.m.

Commissioner Thompson made a motion to approve SUP 11-03 and accept staff’s recommendation for Eternal Color Tattoo including the waiver to Farmington City Code 8-15-3. The motion was seconded by Commissioner Cardon and passed by unanimous vote of 7-0.

PLANNING AND ZONING COMMISSION ACTION of June 16, 2011:

A motion was made by Commissioner Thompson, seconded by Commissioner Cardon, to approve Petition SUP 11-03, a request from Eternal Color Tattoo, represented by Cristie Massey, for renewal of a special use permit to operate a body art establishment located at 221 West Main Street.

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

Motion passed 7-0

COMMUNITY DEVELOPMENT PETITION REPORT
 Special Use Permit for an Accessory Apartment
 Petition SUP 11-04 – 5805 Carl Street

A. STAFF REPORT, June 16, 2011

PROJECT INFORMATION

Applicant	Phillip and Sandy Efird
Representative	Phillip and Sandy Efird
Date of Application	May 13, 2011
Requested Action	A special use permit for an accessory structure at the petitioner’s residence.
Location	5805 Carl Street, legally described as Lot 2 Block 1 of the Green Acres Subdivision in the City of Farmington, San Juan County, NM.
Existing Land Use	Residential
Existing Zoning	SF-10 Single-family District
Surrounding Zoning & Land Use	North: SF-10 Single-family District / Single-family Residential South: SF-10 Single-family District / Single-family Residential East: SF-10 Single-family District / Single-family Residential West: SF-10 Single-family District / Single-family Residential
Notice	Publication of Notice for public hearings of the Planning and Zoning Commission appeared in the Daily-Times on Monday, May 23, 2011. Property owners within 100 feet were sent notice by certified mail on Monday, May 23, 2011 and a sign was posted on Thursday, June 2, 2011

Staff Planner	Fran Fillerup, Associate Planner
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STAFF ANALYSIS**Project Description**

The petitioners are requesting a special use permit to convert an existing detached garage into an accessory apartment at their residence located at 5805 Carl Street. There is also an attached garage on the petitioner's primary residence. The property is 132 feet wide and 135 feet long. The proposed apartment will be 24 feet deep and 24 feet wide, approximately 585 square feet. It is located approximately 45 feet from the rear property line and 4 feet from the side property line. The subject property currently has four paved parking spaces on the south of the residence. The petitioner is asking for this special use permit for an apartment to generate additional income.

ISSUES**Planning Division: Fran Fillerup – 599-1282**

- Section 2.5.4 of the City of Farmington Unified Development Code states the criteria for accessory apartments at a single-family dwelling. The criteria include:
 - allowing only one accessory apartment or guest house at the property;
 - requiring the apartment to be similar in appearance to the principal dwelling;
 - allowing rental but not sale of the apartment;
 - requiring shared utilities for the principal dwelling and apartment;
 - requiring one off-street parking space for the apartment;
 - requiring that the owner of the property shall live in the principal dwelling or the apartment; and
 - requiring review of an apartment SUP after 5 years with possibility of renewal by the Community Development Director.
- According to Section 5.2 of the UDC, residential parking spaces are 9 feet by 19 feet. The property currently has at least four paved off-street parking spaces on the south of the principal dwelling. Two spaces are required by the primary residence and one additional space would be required by the accessory apartment, so the current off-street parking would be sufficient.

Chief Building Official: Leo Hardie – 599-1305

- The accessory apartment will have to meet all applicable requirements of the 2003 International Residential Code.

Public Works: Virginia King – 599-1306

- The accessory apartment to be located at 5805 Carl Street will not be located in the regulatory floodplain.

STAFF CONCLUSION

Staff concludes that approval of SUP 11-04 is appropriate. The petitioner can meet the requirements of the UDC for an accessory apartment.

STAFF RECOMMENDATION

The Community Development Department recommends approval of Petition SUP 11-04, a request from Phillip and Sandy Efird for a special use permit for an accessory apartment at the property located at 5805 Carl Street in the SF-10 Single-family Residential District.

PLANNING AND ZONING COMMISSION DISCUSSION of June 16, 2011:

Associate Planner Fran Fillerup presented the staff report explaining that this apartment would be a conversion from an existing 24x24 garage. The special use permit request is subject to the requirements of Section 2.5.4 of the Farmington City Code regarding the appearance of the apartment needing to match the home. Other requirements are that utilities must be shared with the primary dwelling; there must be one off-street parking place, and one of the units, either the home or the apartment, must be owner occupied. This special use permit will be reviewed every five years and can be approved by the Community Development Director. The property actually extends beyond the fence shown in the site plan and has the required separation from the south property line. There is currently adequate parking with the existing driveway which measures greater than 50 feet long by 18 feet wide. This application meets all the standards and staff is recommending approval.

Chairman Ivie stated that the petition reports mentions the 2003 International Residential Code and he thought that it should be 2006. Ms. Derra Mattina agreed with Chairman Ivie that the current code is 2006 and that those requirements will need to be met during the permit process.

Petitioners Sandy and Phillip Efird of 5805 Carl Street stated to the commission that they had received a copy of staff's recommendation and are in agreement with the report. Chairman Ivie asked if they would be able to get the plumbing tied into existing lines. Mrs. Efird stated that they would. Commissioner Ziesmer asked if they had any comments from neighbors. Mrs. Efird stated that the neighbors behind them said they were alright with the conversion.

Joyce Headrick of 7300 Winnifred Drive was opposed to the petition. She stated that she lives directly east of this property and would like to see it remain a single family lot. She is concerned about the setting of precedence for this type of use in her neighborhood.

Louise Tso of 5806 Carl Street had concerns about the empty lot next to her house. She did not want to see apartments of any kind being built there, such as a four-plex. Chairman Ivie stated that type of request have to go through a public process and that she would have the opportunity to speak about

such a request. The accessory apartment was designed for family members or mother-in-law apartments. There are currently numerous accessory apartments within the city and they don't always change the look of the neighborhood. Ms. Tso asked if it was a requirement that the tenant be related. Chairman Ivie stated that the owner can not rent both dwelling and must live in one. There is no requirement for a family relationship. Ms. Tso stated that she was in agreement with Joyce Headrick, that a single family neighborhood was what her expectations were. She thought that it may be a good idea to provide a home for someone they know. Chairman Ivie stated that the same opportunity is available to all who live in that area.

Commissioner Thompson made a motion to approve SUP 11-04 and accept staff's recommendation with petitioners understanding of the conditions of Farmington City Code 2.5.4. The motion was seconded by Commissioner Ziesmer and passed by unanimous vote of 7-0.

PLANNING AND ZONING COMMISSION ACTION of June 16, 2011:

A motion was made by Commissioner Thompson, seconded by Commissioner Ziesmer, to **approve** Petition SUP 11-04, a request from Phillip and Sandy Efird, to convert an existing detached garage into an accessory apartment at 5805 Carl Street.

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

Motion passed 7-0.

COMMUNITY DEVELOPMENT PETITION REPORT
 STAFF REPORT
 Request for Street Name Change and Abandonment of Right-of-Way
 Petition SP 11-13 – Watson Commercial Subdivision, Replat F

A. STAFF REPORT, June 16, 2011

PROJECT INFORMATION

Applicant	William Cillessen
Representative	George Walters, Cheney-Walters-Echols, Inc.
Date of Application	March 31, 2011
Requested Action	Abandonment of a portion of public right-of-way and street name change from Hicks Street to Cillessen Court.
Location	Lots 1 and 3, Block 1, and Lot 1, Block 2 of the Watson Commercial Subdivision
Existing Land Use	Commercial location under construction and vacant land.
Existing Zoning	GC General Commercial District
Surrounding Zoning & Land Use	North: GC General Commercial District / Commercial, and SF-MH Single-family Mobile Home/ Residential South: GC General Commercial District / Commercial East: GC General Commercial District / Commercial West: GC General Commercial District / Commercial
Notice	Publication of Notice for public hearings of the Planning and Zoning Commission appeared in the Daily-Times on Sunday, May 29, 2011. The petitioner is the only property owner who takes access to the subject lots and no other notice was mailed for this abandonment. A sign was posted on Thursday, June 2, 2011.
Staff Planner	Fran Fillerup, Associate Planner

STAFF ANALYSIS

Project Description

The petitioner is replatting Lots 1 and 3, Block 1, and Lot 1, Block 2 of the Watson Commercial Subdivision. As part of the replat, the petitioner is requesting to abandon part of the public right-of-way currently known as Hicks Street and create a cul-de-sac. The petitioner is also proposing to change the name of the street to Cillessen Court. The lots in this replat are the only lots which take access to this street and are all owned by the petitioner.

The right-of-way for Hicks Street was platted running to the north but it was never constructed. The right-of-way now is a dead end terminating into the S&S Subdivision and the Red Oaks Subdivision. The Echo Ditch runs along the north line of the subject properties. The proposed abandonment is 50 feet wide and approximately 130 feet long. This area will become a part of Lot 1, Block 1. A cul-de-sac will be created with part of Lot 3 Block 1. The cul-de-sac will provide needed space for vehicles to turn around in the dead end street.

The street name change from Hicks Street to Cillessen Court will correct an old problem of duplicate names for streets in Farmington. Hicks Street in this subdivision was recorded in 1958. A street named Hicks Avenue already exists between West Main Street and West Apache Street.

ISSUES

Water and Wastewater O&M Manager: Ruben Salcido – 599-1284

- This development is proposing to extend both water and sewer utilities to the end of the proposed cul-de-sac.

Traffic Engineering Administrator: Steve Krest – 599-8201

- Street lighting is required.

Electrical Engineering: Luwil Aligarbes – 599-8321

- Please provide an electrical easement as shown on the attached page.

Fire Marshall: Robert Popa 599-1439

- The width of the road, the length of the dead-end, the turning radius of the cul-de-sac, and hydrant locations all need to meet the standards of the Farmington Fire Department.

Planning Division: Fran Fillerup – 599-1282

- Staff is in favor of the name change for Hicks Street to become Cillessen Court, for the abandonment of public right-of-way and for the creation of the cul-de-sac.
- The abandonment of right-of-way to form a cul-de-sac will result in the creation of the turn around area needed on this dead end street. This street does not need to be extended to the north.
- The street name change will correct a problem with a duplicate name as there is an existing Hicks Avenue between West Main Street and West Apache Street.
- As a corrective change to the plat, please clarify why it is a correction plat. The zoning of the property does not need to be included in the title of the subdivision. The plat notes on page 1 are empty.

STAFF CONCLUSION

Staff concludes that approval of SP 11-13 with a condition is appropriate. The abandonment of right-of-way will result in the cul-de-sac needed on this dead end street. Also, the street name change will correct a problem with a duplicate street name on the west side of Farmington.

STAFF RECOMMENDATION

The Community Development Department recommends approval of Petition SP 11-13, a request from William Cillessen, represented by George Walters of Cheney Walter Echols, Inc., for a summary plat of Lots 1 and 3, Block 1, and Lot 1, Block 2 of the Watson Commercial Subdivision in the GC General Commercial District, subject to technical and corrective changes to the plat.

PLANNING AND ZONING COMMISSION DISCUSSION of June 16, 2011:

Associate Planner Fran Fillerup presented the Staff Report. There were two separate reasons why the commission was hearing this summary plat request. The first is that a portion of the public right-of-way is being abandoned, and the second is a request for a street name change from Hicks Street to Cillessen Court. This plat request is located south of Southside River Road, west of Malta Avenue, and north of Cortland Drive. Hicks Street is a public right-of-way. The abandoned portion will become part of Lot 1A and will create a cul-de-sac large enough for emergency vehicles to turn around. Staff is in favor of the street name change because there is an existing Hicks Avenue in a different area of the city.

Commissioner Thompson asked about the plan to extend the road north across the ditch and about the slope of the land in the area. Mr. Fillerup stated that the properties were platted 50 years ago and at that time the road was planned to go across the ditch and continue north, possibly to Southside River Road. However, Brenna Place serves residences to the north.

PLANNING AND ZONING COMMISSION ACTION of June 16, 2011:

A motion was made by Commissioner Langenfeld seconded by Commissioner Washburn, to recommend approval of the street name change request from Mr. William Cillessen, to change Hicks Street to Cillessen Court and to abandon a portion of the right-of-way.

AYE: Chairman Ivie, Commissioners Cardon, Langenfeld, Ragsdale, Thompson, Ziesmer and Washburn (Alt.)

NAY: None

ABSTAINED: None

ABSENT: Commissioners Buchanan, Freeman and Jaques

Motion passed 7-0.

COMMUNITY DEVELOPMENT REPORT Policies & Procedures for the Planning & Zoning Commission First Draft
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Ms. Derra Mattina presented the Policies & Procedures to the Commission. Some of the commissioners stated that they had not received the revised copy that was emailed Tuesday, June 12, 2011. Chairman Ivie mentioned that perhaps the discussion could wait until the next Planning and Zoning meeting. Ms. Mattina stated that she would be working with the commissioners during Margaret Ambrosino's absence and that she would like to verify a few points, if that was okay with the commission.

Commissioners Langenfeld and Ziesmer concurred that all the items they requested were included in the document. The other topics included: Legislative versus Quasi-Judicial; Conflict of Interest which would parallel the City Council rules; Addressing the Commission using Robert's Rules; and, Attendance.

Chairman Ivie reiterated that the Mayor is very interested in the attendance for all commissioners and that there will be times when commissioners are unable to attend. Commissioner Ziesmer stated that she remembered seeing a specific attendance policy and asked Director Holton if it could be located and forwarded to the commission. Director Holton stated that the Mayor does request attendance records periodically. Commissioner Ziesmer stated that some of the Policies & Procedures from other cities have a certain attendance requirement, such as 80% attendance being mandatory. In response to Ms. Mattina's question regarding an administrative policy or by mayoral right, Chairman Ivie stated that the commission can set a policy in place and that it can be amended at any time. Commissioner Cardon agreed that an open ended document is needed. Commissioner Ziesmer suggested adding language such as "at the discretion of the current mayor" and that it could change with administration changes.

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: Director Holton updated the commission on the City Council proceedings from Tuesday, June 14, 2011. The special use permit for United Pentecostal Church was approved on the consent agenda. Petition CR11-01 was determined by City Council that condition "a" was not met by a vote of 3-1. Chairman Ivie stated that in 2007-2008 when the maps were reprinted there was no protest at that time and believes that the understanding was that the zoning was SF-10. Conversation among the commissioners regarding zoning continued for several minutes.

Director Holton also shared that another apartment complex is planned west of La Terraza along Cannery Court. Commissioner Cardon shared that she was told that La Plata Ranch would be starting to develop in August 2011.

Director Holton stated that during Ms. Ambrosino's absence, Ms. Mattina, the former Oil & Gas Inspector would be filling in.

Adjournment

With no further business the Planning and Zoning Commission meeting of June 16, 2011 was adjourned at 3:12 p.m.

Dennis R. Ivie
Chairman

Dee Dee Moore
Office Manager