

**MINUTES  
PLANNING AND ZONING COMMISSION  
October 27, 2011**

The Planning and Zoning Commission met in a regular session on October 27, 2011 at 2:00 p.m., in the City Council Chambers, 800 Municipal Drive, Farmington, New Mexico.

P&Z Members Present:	Chairman:	Dennis Ivie
	Commissioners	Bruce Buchanan
		Joyce Cardon
		Kristin Langenfeld
		Cheryl Ragsdale
		Paul Thompson
		Amy Ziesmer
		Daniel Arnold (Alt)
		Del Washburn (Alt)

P&Z Members Absent:	Commissioners:	Clint Freeman
		Rory Jaques

Staff Present:	Jay Burnham
	Bill Cooke
	Fran Fillerup
	Cindy Lopez
	Dee Dee Moore

Others Present:	Larry Hilliard
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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:**

Senior Planner Cindy Lopez noted that staff is requesting that item 6 be heard after the petition and before the review of the Comprehensive Plan.

**Approval of Minutes of the October 13, 2011 P&Z Meeting**

Commissioner Cardon motioned to approve the minutes from the October 13, 2011 P&Z Commission Meeting. The motion was seconded by Commissioner Ragsdale and passed by unanimous vote of 9-0.

<p><b>COMMUNITY DEVELOPMENT PETITION REPORT</b> Zone Change from IND District to MU District Petition ZC 11-15 – 203 E. Elm Street</p>
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**Discussion of ZC 11-15 on October 27, 2011:**

Associate Planner Fran Fillerup presented the staff report for a zone change from the IND, Industrial District to the MU, Mixed Use District for the Ideal Baptist Church located at 203 E. Elm Street. Mr. Fillerup informed the commission that this parcel of land was previously included in the larger group of properties in the zone change within the MRA District sponsored by the City earlier this year. After discovering that the church is a non-conforming use, the petitioner decided to initiate the zone change to MU to make the church conforming. This zone change is appropriate for the Animas District of the MRA and the 2020 Future Land Use Plan of the City Comprehensive Plan. Staff recommends approval of petition ZC 11-15.

Mr. Larry Hilliard of 1226 S. Bluffview Avenue stated that he had read the staff reports and agrees with the recommendation.

Chairman Ivie asked the public if there was anyone who wished to address the Commission in opposition of this petition. There was no response from the public.

Commissioner Cardon made a motion to approve ZC11-15 as recommended by staff. Commissioner Buchanan seconded the motion and the motion passed unanimously by a vote of 9-0.

**Planning and Zoning Commission Action of October 27, 2011**

A motion was made by Commissioner Cardon and seconded by Commissioner Buchanan to **approve** ZC 11-15, a request from Ideal Baptist Church, represented by Larry Hilliard, for a zone change from the IND Industrial District to the MU Mixed Use District for .059 acres located at 203 East Elm Street.

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

**Motion passed by a vote of 9-0****QUASI-JUDICIAL INFORMATION**

Presented by: Farmington Legal Department  
 City Attorney – Jay Burnham  
 Assistant City Attorney – Bill Cooke

City Attorney Jay Burnham provided an overview of what quasi-judicial means in relation to the Planning and Zoning Commission and identified that Assistant City Attorney Bill Cooke would be outlining the rules for the proceedings. Burnham explained the cases in New Mexico that dictated that petitions for zone changes and special use permits should be conducted as quasi-judicial hearings. He recommended that the Community

Development Department set a date in which all future proceedings be conducted under the new quasi-judicial rules. Chairman Ivie asked a question about ex-parte contact in quasi-judicial proceedings. In response, Burnham stated that he did not see a problem with commissioners visiting the site as long as there was not a quorum present (five commissioners), having a discussion about a particular case at the petition site, or running into each other at a public place and discussing a particular zone change or special use permit case as long as no "rolling quorum" was created.

Assistant City Attorney Bill Cooke provided handouts to the commissioners which included definitions of often used words in legal cases when discussing due process and quasi-judicial requirements. Also included in the packet was Chapter 12 and 13 from a recent New Mexico League of Zoning Officials (NMLZO) presentation and a brief summary of the cases that City Attorney Burnham made reference to above. The following four points were suggested as rules to identify when the meeting is quasi-judicial.

1. Provide reasonable notice of the public hearing
2. Identify what property right is going to be affected
3. Right to cross question parties
4. Right to appeal

Chairman Ivie asked how to identify someone as a part who is allowed to cross-examine the petitioner versus someone just making a statement and, how and when is it best that the parties be sworn in. Attorney Burnham stated that the rule of thumb for considering someone as a party could be the 100' notification area as required by Statute and that the swearing in can be done by anyone who is a notary. This could be done at the beginning of the meeting and all parties in attendance could be sworn in at one time. If a party wishes to testify and came in after the swearing in, that person would need to be sworn in separately. Burnham also suggested that the commissioners should explain their reason for their vote. This provides staff and legal counsel with evidence to explain the recommendation contained within the Finding of Facts and Conclusions of Law Report. Commissioners were concerned that 9-0 vote would appear that they were rubber-stamping petitions and not deliberating properly. Attorney Burnham stated that a 9-0 vote is no different than a 5-4 vote, because both votes are a majority vote. Staff just needs the reasons for the recommendation.

In closing, Attorney Burnham provided four rules to help the commission with the process for a quasi-judicial proceeding.

1. Witnesses should be sworn by a notary to tell the truth
2. Parties may question witnesses
3. No ex-parte contact; only information provided at the meeting is to be considered (either written or verbal testimony)
4. All parties must have an opportunity to be heard and dealt with fairly.

**OVERVIEW & DISCUSSION OF THE  
FARMINGTON COMPREHENSIVE PLAN**

Presented by: Senior Planner, Cindy Lopez

Senior Planner Cindy Lopez presented an overview of the City of Farmington Comprehensive Plan. The presentation touched on each chapter's highlights, which also included the goals and objectives for that chapter. She identified that these are the goals, objectives and actions that the public input envisioned for the community in 2002. This plan was adopted by a Resolution, which is defined as a guiding tool for the city, not as an Ordinance, which is a law. The following 10 core goals were identified during the public process in 2002:

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|--------------------------|----------------------------|
| 1. Land Use Development  | 6. Parks and Recreation    |
| 2. Growth and Annexation | 7. Urban Design            |
| 3. Transportation        | 8. Public Utilities        |
| 4. Housing               | 9. Environmental Quality   |
| 5. Economic Development  | 10. Downtown Neighborhoods |

In closing, Ms. Lopez reiterated that this document is a guide, not a rule book, and the goals, objectives and actions must be constantly reviewed to reflect the changing community needs and attitudes. If the commissioners use this plan to make their decisions, Ms. Lopez asked them to weigh the objectives, goals and actions and remember that no one objective is more important than another unless it is important to the commissioner. Recommendations for changes to the plan would proceed through the Planning and Zoning Commission or could be recommended by staff.

Ms. Lopez informed the commission there was a copy of the New Mexico League of Zoning Officials binder and a disc of the City of Farmington Comprehensive Plan for each of them.

**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:** Commissioner Buchanan asked what the Term of Office for the chairman was and when a new vote would take place.

**Business from Staff:** Ms. Lopez stated that ZC11-13 and ZC11-14 were approved on consent agenda at the October 25, 2011 City Council meeting.

### **Adjournment**

With no further business the Planning and Zoning Commission meeting of October 27, 2011 was adjourned at 4:04 p.m.

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Dennis R. Ivie  
Chairman

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Dee Dee Moore  
Office Manager