

A G E N D A

Administrative Review Board
City Council Chambers
800 Municipal Drive, Farmington, NM
March 5, 2020 at 6:00 p.m.

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All decisions of the Administrative Review Board are final unless appealed in writing to the City Clerk's office within 15 days.

ATTENTION PERSONS WITH DISABILITIES:

The meeting room and facilities are fully accessible to persons with mobility disabilities. If you plan to attend a meeting and need an auxiliary aid or service, please contact the City Clerk's office at 599-1101 or 599-1106, prior to the meeting so arrangements can be made.



City of Farmington

Planning Division

Memorandum

To: Administrative Review Board
From: Beth Escobar, Planning Manager
Subject: Discussion regarding proposed changes to the Unified Development Code
Date: March 5, 2020

Second Meters for Apartments

Per Sections, 2.5.4.E Apartments and 2.5.8.A.3 Guesthouses of the Unified Development Code (UDC) installation of separate utility meters is prohibited.

By definition in the UDC, apartments may be rented upon approval of a Special Use Permit and guesthouses may only be used for temporary occupation by family and friends.

The prohibition against individual meters on apartments and guesthouses is designed to prevent illegal conversion of these accessory residential structures into rentals units.

As we have seen through recent variance requests, there are many situations where second utility meters are warranted for new construction and remodel projects. Installation costs, including underground trenching, can be prohibitive to the projects.

Prohibiting meter installations on apartments and guesthouses to prevent conversion to rental units seems inefficient. An apartment that is officially approved through the Special Use Permit process is already allowed to be a rental. Installing a second meter so that the tenant pays the utility bills directly may be a preference of the landlord.

In fact, any accessory structure can be converted to a rental unit by a property owner who is intent on skirting the regulations. A second meter is not necessary in these scenarios. The best way to control these types of illegal rentals is through neighbor complaints and consistent code enforcement.

Since the prohibition to a second meter seems inefficient and unnecessarily burdensome to the property owner, staff is proposing to amend this section of the UDC:

- 2.5.4 Apartments (accessory).** An apartment may be allowed as an accessory use to a single-family dwelling by special use permit, subject to compliance with the standards of this section.
- A. One accessory apartment may be allowed per single-family dwelling in the RE-2, RA, RE-1, RE-20, SF-10, SF-7 and SF-5 districts; provided, however that no lot shall have both an accessory guest house and an accessory apartment.
 - B. Such apartments may either be "attached to" or "detached from" the principal single-family dwelling.

- C. Such apartments shall be similar in appearance and design to the principal structure, with respect to roof design and materials, siding materials and window treatments.
- D. Such apartments may be rented, but not sold, separately from the principal dwelling unit.
- E. Such apartments and the primary dwelling shall share utilities or have separate utility meters if approved through the Special Use Permit process. Apartments may have a kitchen.

2.5.8 Guesthouses. Guesthouses (a maximum of one) may be allowed as an accessory use to single-family dwellings, subject to compliance with the standards of this section.

- A. *General.* All guesthouses shall comply with the standards of this subsection.
 - (1) Guesthouses may be utilized by guests and persons employed on-site by the resident family of the principal dwelling, and may not be rented or sold separately from the principal dwelling unit.
 - (2) Notwithstanding other provisions to the contrary, guesthouses:
 - a. Shall comply with the setback standards applicable to the primary dwelling; and
 - b. May be built to the same height as otherwise allowed for the primary dwelling.
 - (3) Guesthouses and the primary dwelling shall share utilities or have separate utility meters. Guesthouses shall not have a natural gas stub or 220-volt wiring in the kitchen area.

Placement of new, or replacement of existing, mobile/manufactured homes

Several issues have come up over the last year regarding the following regulations related to manufactured/mobile homes:

UDC Section 5.3.3.A-requiring pavement of all parking areas

UDC Section 6.4.3 – as interpreted to require sidewalks on all streets

Manufactured and mobile homes are an affordable housing option in the area. Requiring paved driveways and installation of sidewalks prior to the placement of a new or replacement unit adds a substantial cost burden to property owners and becomes an impediment to affordable housing in the City.

Staff is proposing the following modifications to the UDC to eliminate these requirements:

- 5.3.3 Driveways and parking lot access.** All driveways and parking lot entrances and exits shall be subject to the approval of the Director or designee and the following requirements:
- A. *Paving requirements.* All required parking areas must be connected to a public street or alley by means of a driveway or private access easement. All driveways providing access to such parking areas shall be paved, except as follows:
 - (1) In the RA district, RE-1 district, RE-2 district and RE-20 district, driveways shall be:
 - a. Surfaced with a minimum of four inches of gravel road base, and
 - b. Have a paved apron ten feet in depth and the width of driveways adjoining paved streets.
 - (2) Driveways accessing industrial yards, vehicle storage yards, car sale facilities or like uses, not including employee parking, which require outside or vehicular storage shall be:
 - a. Surfaced with a minimum of four inches of gravel road base, and
 - b. Have a paved apron 15 feet in depth and the width of driveways adjoining paved streets.
 - (3) Driveways for properties with an existing mobile or manufactured home that replaced with a newer or upgraded unit shall consist of a compact surface such as gravel.

6.4.3 Engineering and construction standards.

- A. All required improvements, including but not limited to streets, sidewalks, trails and accessways, water and sewer, and drainage facilities, shall be designed by a licensed engineer registered in

- New Mexico in accordance with the requirements of the most recent City of Farmington "Design & Construction Standards with Technical Specification."
- B. All required improvements, including but not limited to streets, sidewalks, trails and accessways, water and sewer, and drainage facilities, shall be constructed in accordance with the most recent City of Farmington "Design & Construction Standards with Technical Specification."
 - C. All streets, water, sewer, and drainage facilities shall be designed and constructed to, and through, the property in question in accordance with the requirements of this article.
 - D. Where city standards do not specifically cover a design or construction issue, the director may enforce other recognized industry standards.
 - E. Undeveloped lots in existing subdivisions where sales and construction have begun are exempt from the requirements of this Section.

In addition to these recommended changes, relief from setback requirements is also under consideration:

- 2.4.32.D. *Dimensional standards.* All principal and accessory structures shall be subject to the following required front, rear or side setback requirements.
- (1) Maximum height: 2 stories or 30 feet, whichever is less.
 - (2) Minimum lot area: 6,000 square feet.
 - (3) Minimum lot width: 50 feet.
 - (4) Minimum setbacks:
 - a. Front: 25 feet.
 - b. Side, Street: 15 feet.
 - c. Side, interior: 5 feet
 - (1) Single-section manufactured homes: 5 feet.
 - (2) Mobile homes: 8 feet.
 - d. Rear: 15 feet.
 - e. Exception for accessory structures. Accessory structures, including awnings and carports, which are open at the front and rear, which are made of noncombustible material, and which are not less than five feet from the property line may be placed in any interior side yard.
 - f. Exception for replacement of existing mobile/manufactured home units. Setback requirements for replacement units shall be those in existence on site before the existing unit was removed.

This change is derived from several recent ARB petitions where older mobile home units were being replaced and the larger units could not conform to the setbacks of the underlying zoning district. In each case a reduction of the setback requirements had a nominal impact on the surrounding neighbors.

Each of the recent ARB petitions asking for relief from the above referenced regulations have been approved and determined to be a minimal easing of the code.

To place these proposed code changes in a broader picture, zoning regulations throughout the country are changing to address a myriad of issues, including lack of affordable housing, diversity of housing, climate change, shrinking land availability and sky rocketing cost of infrastructure. There are some communities, including cities in California and Minnesota, that are eliminating single-family zoning and promoting high density, multi-use zoning.

In the 2019 City of Farmington Analysis of Impediments to Fair Housing Choice Update the Farmington City Council certified that it will *affirmatively further fair housing*. Relaxing the zoning regulations discussed above helps promote development of low-to-moderate housing options throughout the city.

Discussion:

This is a discussion item only to provide an update to the Board on these proposed changes to the UDC and to allow for the Board's input.

MINUTES
ADMINISTRATIVE REVIEW BOARD
February 6, 2020 – 6:00 P.M.

The Administrative Review Board met in regular session on Thursday, February 6, 2020 at 6:00 p.m. in the City Council Chamber, 800 Municipal Drive, Farmington, New Mexico.

Members present

Chair-James Dennis
Vice Chair-Paul Martin
Brian Erickson
Jeff Johanson

Members absent:

None

Staff present:

Francisco Alvarado
Beth Escobar
Elizabeth Sandoval

Others addressing the Board:

Dennis Ivie

Call to Order

The meeting was called to order at 6:00 p.m. by Chair James Dennis and there being a quorum present the following proceedings were duly had and taken. Board Member Johanson was not yet in attendance.

Approval of the Agenda

A motion was made by Board Member Martin and seconded by Board Member Erickson to approve the agenda. The motion passed unanimously by a vote of 3-0.

Approval of the Minutes from the December 5, 2019 Regular Meetings

Board Member Erickson made a motion to approve the minutes of the December 5, 2019 regular meeting. The motion was seconded by Board Member Martin and passed unanimously by a vote of 3-0.

Swearing in of Witnesses

All parties that wished to speak on behalf of any agenda item were sworn in by Elizabeth Sandoval, Administrative Assistant.

Election of Officers

Vice Chair Martin motioned to table the election of officers until the next ARB Board meeting. Board Member Erickson seconds the motion. The motion passed unanimously by a vote of 3-0.

Board Member Johanson joined the meeting.

**PETITION NO. ARB 19-95
VARIANCE TO ALLOW TWO ELECTRIC METERS ON THE PROPERTY
LOCATED AT 5109 HALLMARC DR.**

Discussion of ARB No. 19-95 on February 6, 2019

Beth Escobar, Planning Manager, presented the staff report for ARB 19-95, a request from Kirby Mortenson, property owner, represented by Dennis Ivie, for a variance to allow for two electric utility meters, one for the primary residence and one for the guest house, on the property located at 5109 Hallmarc Dr., Hallmarc Meadows Subdivision.

The applicant is requesting relief from the section of the Unified Development Code prohibiting a separate electric meter for a guesthouse. The property owner has just completed a major remodel to the primary residence. Originally, there was one meter on the property and it was located on an accessory structure and provided electric service to the house. Upgrades to the house generated the need to upgrade the electric panel. The contractor requested approval of a temporary panel for the house so that construction could be completed. The property owners were living in the guesthouse during construction at the main residence. This was approved by the Planning Division on the condition the property owner applies for a variance.

A special condition relative to this petition is that the property owner was not aware of the necessity to upgrade the electric service panel until the renovation project for the house was almost complete.

Separate electric meters are permitted for other accessory uses, such as a detached garage or shop.

It is reasonable to expect to be able to upgrade an older residence through remodeling. The fact that the remodeling triggered a code restriction was not anticipated by the property owner.

The granting of this request would not allow a use not otherwise allowed in the SF-MH District. The property owners do not intend to convert the guest house into a separate rental unit.

Requiring the applicant to upgrade to a 400-amp meter and to trench 80 feet for an underground connection to the existing guesthouse would add a large, unexpected expense to the remodel project.

The Community Development Department concludes that approval of ARB 19-95 is a minimum easing of the code, meets the intent of the code and is a property that has characteristics unique enough to allow for a waiver of the prohibition against a second meter for a guesthouse.

The Community Development Department recommends **approval** of Petition ARB 19-95 from Kirby Mortensen for a variance from Section 2.5.8.A.(3) of the Unified Development Code prohibiting a separate utility meter for a guest house.

Dennis Ivy, 201 Taylor Dr., Farmington, NM, stated that the existing meter also serves the work shop behind the guest house and that he is happy with the staff recommendation.

Vice Chair Martin asked that staff please look at this ruling while redoing the code.

Administrative Review Board Action for ARB 19-95 on February 6, 2020

A motion was made by Vice Chair Martin and seconded by Board Member Johanson to **approve** Petition No. ARB 19-95, a request from Kirby Mortenson, property owner, represented by Dennis Ivie, for a variance to allow for two electric utility meters, one for the primary residence and one for the guest house, on the property located at 5109 Hallmarc Dr., Hallmarc Meadows Subdivision.

AYE: Chair Dennis, Members Erickson, Johanson, and Martin.
NAY: None
ABSTAIN: None
ABSENT: None

APPROVED 4-0

**PETITION NO. ARB 19-101
VARIANCES TO REDUCE THE REAR YARD SETBACK AND WAIVE SIDEWALK AND
PAVED DRIVEWAY REQUIREMENTS, IN THE MF-L/SMHAO, MULTI-FAMILY LOW
DENSITY RESIDENTIAL DISTRICT WITH A SPECIAL MOBILE HOME AREA OVERLAY
720 POPLAR STREET**

Discussion of ARB No. 19-101 on February 6, 2019

Francisco Alvarado, Associate Planner, presented the staff report for ARB 19-101, a request from Arturo Alcantara, renter, for a variance to reduce the rear yard setback from 25' to 14' (UDC 2.8.1) to allow the placement of a 16' x 76' mobile home and waive paved driveway and sidewalk requirements (UDC 5.3.3.A & 6.4.8.C.1.A), in the MF-L/SMHAO, Multi-family Low Density Residential District with a Special Mobile Home Area Overlay, in the Cottonwood Subdivision.

The applicant wishes to park a 16' x 76' mobile home, allowed in the SMHAO. He is already renting the vacant property (0.152 ac), replacing a 15' x 73' MH.

Cottonwood Subdivision, (1957) plat, shows the parcel used to be 60' x 130'; now it is 60' x 110'. Modern MH average length: 80'. MF-L setbacks (UDC 2.8.1): Front: 20' Rear: 25'

The petitioner is requesting a variance to 1) reduce the rear yard setback from 25' to 14' to allow the placement of a 16' x 76' mobile home and 2) waive the sidewalk and paved driveway requirement. The request is compatible with existing development conditions in the neighborhood.

This subdivision is zoned MF-L, Multi-family Low Density, but has single-family characteristics. Only 4 out of 13 properties have a multi-family use; all other properties are single-family residences. In single-family districts, the required rear yard setback is 15', and the applicant is requesting 14'. Furthermore, only 2 out of 13 residential structures in the subdivision meet the district's rear yard setback. Also, in the subdivision only 4 properties have sidewalks, and 2 of them, paved driveways.

The Community Works Department concludes that approval of Petition ARB 19-101 is a minimum easing of the code, meets the intent of the code and is a property that has characteristics unique enough to 1) reduce the rear yard setback from 25' to 14' to allow the

placement of a 16' x 76' mobile home and 2) waive paved driveway and sidewalk requirements without adversely affecting the neighbors or the neighborhood.

The Community Works Department recommends **approval** of Petition ARB 19-101 from Arturo Alcantara for a variance to reduce the rear yard setback and waive paved driveway and sidewalk requirements.

Vice Chair Martin stated that in the reviews the Fire Department did not have a problem with application and that is very important. Vice Chair Martin asked if distance between the structures met the fire code.

Mr. Alvarado replied that in a SF district the code requires a 15 ft. setback and a 3 ft. rear setback for accessory structures. The variance seeks to reduce the rear setback and allows enough per the fire code.

Chair Dennis asked the petitioner to identify the house on the map. Mr. Alvarado translated to the petitioner, asking him to point out the property on the map. The petitioner pointed out the outlined property on the map as the location of the property.

Vice Chair Martin asked for clarification on the sidewalks.

Mr. Alvarado clarified that 4 properties had sidewalks and 2 properties had paved driveways.

Chair Dennis asked if anyone else in the neighborhood had to comply with sidewalk installation.

Mr. Alvarado mentioned that a similar petition had been recently approved.

Beth Escobar, Planning Manager, clarified that the Planning Division was not aware of any other petitions in the neighborhood for waivers for sidewalk and driveway requirements.

Chair Dennis asked if there was anyone present from the subdivision that wants the driveway put in because they were required to.

Ms. Escobar stated that the petition was posted making everyone along Poplar St. aware of the petition.

Vice Chair Martin stated that he did not agree with a sidewalk not being put in.

Administrative Review Board Action for ARB 19-95 on February 6, 2020

A motion was made by Board Member Erickson and seconded by Board Member Johanson to **approve** Petition No. ARB 19-101, a request a request from Arturo Alcantara, renter, for a variance to reduce the rear yard setback from 25' to 14' (UDC 2.8.1) to allow the placement of a 16' x 76' mobile home and waive paved driveway and sidewalk requirements (UDC 5.3.3.A & 6.4.8.C.1.A), in the MF-L/SMHAO, Multi-family Low Density Residential District with a Special Mobile Home Area Overlay, in the Cottonwood Subdivision.

AYE: Chair Dennis, Members Erickson and Johanson.

NAY: Vice Chair Martin

Vice Chair Martin said that he voted no because he believes sidewalks make the City more presentable.

ABSTAIN: None

ABSENT: None

APPROVED 3-1

**PETITION NO. ARB 20-05
VARIANCE TO WAIVE SIDEWALK AND PAVED DRIVEWAY REQUIREMENTS IN THE MF-
L/SMHAO, MULTI-FAMILY LOW DENSITY RESIDENTIAL DISTRICT WITH A SPECIAL
MOBILE HOME AREA OVERLAY
1200 CHERRY LANE**

Discussion of ARB No. 20-05 on February 6, 2019

Francisco Alvarado, Associate Planner, presented the staff report for ARB 20-05, a request from Luz Granados for a variance to waive paved driveway and sidewalk requirements (UDC 5.3.3.A & 6.4.8.C.1.A), in the MF-L/SMHAO, Multi-family Low Density Residential District with a Special Mobile Home Area Overlay, in the Helen Miller Subdivision.

The applicant is requesting a variance to waive paved driveway and sidewalk requirements, in the MF-L/SMHAO, Multi-family Low Density Residential District with a Special Mobile Home Area Overlay, in the Helen Miller Subdivision, recorded in 1959.

San Juan County Tax Assessor's records show that the size of the property is 0.22 acres. A mobile home parking permit was issued in December 2019, requiring a paved driveway and installation of a sidewalk. Per the applicant, a 16' x 80' mobile home and a 7' x 12' shed are currently on the property.

The petitioner is requesting a variance to waive sidewalk and paved driveway requirements triggered by the mobile home parking permit. The request is compatible with existing development conditions in the neighborhood. There are no sidewalks and only two paved driveways on Cherry Lane, a local street. In the neighborhood, all connecting sidewalks are on Sullivan Avenue, a minor arterial.

Applicant is replacing a mobile home already removed from the property. The request is compatible with neighborhood characteristics. Cherry Lane has two paved driveways and no sidewalks. In the subdivision, there are only sidewalks Sullivan Avenue (arterial).

Intent of SMHAO is to provide affordable housing opportunities; development costs prohibitive per the applicant.

The Community Works Department concludes that approval of Petition ARB 20-05 is a minimum easing of the code meets the intent of the code and is a property that has characteristics unique enough to waive paved driveway and sidewalk requirements without adversely affecting the neighbors or the neighborhood.

The Community Works Department recommends approval of Petition ARB 20-05 from Luz Granados for a variance to the paved driveway and sidewalk requirements triggered by a mobile home parking permit, subject to the following conditions:

1. A building permit is required for the 7' x 12' shed to remain on the property.
2. Parking must be in the property, off the right-of-way.

Chair Dennis asked if the shed was already on the property.

Mr. Alvarado said yes the shed is on the property.

Chair Dennis asked why.

Mr. Alvarado stated that the shed was moved to the property without a permit because the petitioner was not aware that she needed a permit.

Chair Dennis asked if there were any covenants in this subdivision.

Mr. Alvarado stated that there are not.

Chair Dennis asked if everyone in the neighborhood had gravel driveways.

Mr. Alvarado stated that there is only one driveway on Cherry Lane and one driveway on Sullivan Avenue.

Administrative Review Board Action for ARB 19-95 on February 6, 2020

A motion was made by Board Member Johanson and seconded by Board Member Erickson to **approve** Petition No. ARB 20-05, a request from Luz Granados for a variance to waive paved driveway and sidewalk requirements (UDC 5.3.3.A & 6.4.8.C.1.A), in the MF-L/SMHAO, Multi-family Low Density Residential District with a Special Mobile Home Area Overlay, in the Helen Miller Subdivision.

AYE: Chair Dennis, Members Erickson and Johanson.

NAY: Vice Chair Martin

Vice Chair Martin said that he voted no because he believes in sidewalks because they make the City more presentable.

ABSTAIN: None

ABSENT: None

APPROVED 3-1

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: Beth Escobar, Planning Manager, announced that the Jolt Your Future event was available to view on YouTube. Ms. Escobar reported that the event had about 200 people in attendance.

Ms. Escobar announced that there will be a fifth member to the ARB Board by March.

Ms. Escobar stated that there were no petitions for the March meeting, but she would like to discuss meters, driveways and sidewalks as part of the UDC with the Board.

Adjournment: The February 6, 2020 meeting of the Administrative Review Board was adjourned at 6:51 p.m.

James Dennis - Chair

Elizabeth Sandoval - Administrative Assistant

