

Existing Zoning	Unincorporated
Surrounding Zoning & Land Use	North: Unincorporated - Residential South: Unincorporated - Residential East: Unincorporated - Vacant West: Unincorporated - Residential
Subdivision Class	Class 2
Notice	Notice is not required for preliminary plan/ final plats.
Staff Planner	Fran Fillerup, Associate Planner

SUBDIVISION INFORMATION

Number of Lots	6
Acres of Land	6.82 acres
Minimum Lot Size	39,876 square feet
Utilities	Water: Per City standards. Sewer: Per City standards. Electric: See Electrical Engineering comment and drawing.
Access & Circulation	Access to the south by a 60-foot private road easement intersecting with CR 3450, secondary access to the west from CR 3451 by a 15-foot access easement.
Street Lights	Not required
Street Signs	As required by San Juan County
Fire Hydrants	As required by the Fire Department
Drainage	As approved by San Juan County
Recreation	Not Required

GENERAL INFORMATION

The petitioner is requesting preliminary plan and final plat approval of a Class 2, 6-lot residential subdivision of approximately 6.82 acres located northeast of the intersection of CR 3450 and CR 3451 in Flora Vista. The property is in Tier 2 of the City of Farmington 5-mile Planning and Platting Jurisdiction.

This petition was tabled by the Planning and Zoning Commission in January 2010 until the petitioner addressed issues identified by staff review and by the Commission. Issues which needed to be addressed at that time included the 15-foot access for the subdivision and significant grading which has occurred. The petitioner has resubmitted the subdivision and requested that the item be reconsidered by the Commission.

The petitioner has shown a 60-foot private access road to the subdivision, making the 15-foot access an alternative.

ISSUES**Technical and Corrective Changes: Virginia King – 599-1306**

- Please indicate the type of 30-foot easement which ends on the property to the north of Lot 6B.
- Please provide a signature block for property owners for the 60-foot access easement that is created by this plat.

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

- This property lies within the Tier 2 area. Staff recommends that the owner provides water and sewer or septic services for each lot in accordance with City Standards.

Electrical Engineering: Luwil Aligarbes – 599-8321

- Please provide a 10-foot wide electric utility easement for existing power line. Please see attached drawing.

Associate Planner: Fran Fillerup – 599-1282

- The petitioner has shown a 60-foot private driveway as the new access for the subdivision. However, no signature lines have been shown for the owners of the land on which the easement is located.
- According to Section 6.5.3, the road shall be improved with all-weather, gravel or crushed stone base, road surface with a double-penetration chip seal 24 feet wide with 8-foot shoulders.
- While a cul-de-sac with 50-foot radius is shown on the plat, the plan and profile indicates that the fire hydrant has been placed in the middle of the cul-de-sac. Staff also observed a fence on Lot 6F is likely in the area of the cul-de-sac. There is not sufficient level ground for the cul-de-sac to be constructed as indicated.
- The six existing residences in the parcel being subdivided currently use the 15-foot access as their only access while the 60-foot road is constructed.
- Significant grading already has been done in the subject property to create the road and building sites. According to the City Engineer, review of the grading work is the jurisdiction of San Juan County who also review this plat.
- Please clarify the end of the 20-foot easement to Flora Vista Water Users Association in the vicinity of the 60-foot access easement.

STAFF CONCLUSION

Staff concludes that approval with conditions of Petition PFP 09-02, Flora Vista Hillside Estates Subdivision is appropriate. The improvements need to be completed and the creation of the 60-foot access easement needs to be clarified and signed prior to presentation of the final plat for signature.

The application is a preliminary plan and final plat request, a two-step final approval. In most cases a preliminary plan would be approved and subdivision improvements would be completed or financially secured prior to final plat approval. There are already residences on the six lots of this subdivision. In this case, there does not appear to be adequate space to create the cul-de-sac as it is shown on the plat. Nor are signature lines provided for the owners of the land where the access road to the subdivision is located.

STAFF RECOMMENDATION

The Community Development Department recommends approval of Petition PFP 09-02, a request from Michael L. Smith, represented by Paul Martin of Sakura Engineering, for the Preliminary Plan and Final Plat of the Flora Vista Hillside Estates Subdivision, a 6-lot subdivision on 6.82 acres located northeast of the intersection of CR 3450 and CR 3451 in Tier 2 of the City of Farmington 5-mile Planning and Platting Jurisdiction, subject to conditions a. through c. as follows:

- a. Subdivision improvements shall be completed prior to presentation of the plat for signature;
- b. Signature lines for the owners of the land on which the 60-foot private access road is located shall be included on the plat; and
- c. The plat shall be presented for review and technical and corrective changes shall be made to the plat.

DISCUSSION FROM THE PLANNING & ZONING COMMISSION

Mr. Fran Fillerup presented the staff report to the commission. Chairman Ivie asked if there were any specific date that the previously tabled petition would expire. Mr. Fillerup stated that the requirement was to reappear before the commission when the access issues were addressed. There were no other questions from the commission, however Mr. Fillerup stated there are currently six existing homes in this subdivision and that the radius at the end of the cul-de-sac would have to meet a 50 foot requirement.

Mr. Paul Martin, 125 W. Main Street, representing Mr. Michael Smith stated that he had read the staff report and has no questions or concerns. Chairman Ivie asked how the owner planned to meet the 50 foot radius requirement. Mr. Martin stated that they would have to regrade part of it and relocate the existing fire hydrant. The commission discussed with Mr. Martin acquiring the additional 30 feet of easement to meet the 60 foot condition as stated in "b" above. Mr. Martin explained that the owner of property to the west was unwilling to grant an easement and that Mr. Smith was unable to purchase the easement because of the price. Mr. Martin also stated that he had met with Ms. Cindy Lopez, Senior Planner and Mr. Fillerup to discuss this issue and that staff was amendable to a 30-foot easement. Ms. Lopez stated that if condition "b" was changed to 30 feet, that if the addition easement was acquired, the change in dimension could be corrected and recorded from a correction plat.

Commissioner Buchanan asked if these six lots are being called Phase 1 and if Phase 2 would be the property to the south of these lots. Mr. Martin stated that initially these six lots were planned to be a mobile home park, however the tenants that owned the trailers wanted to purchase the land, so the developer decided to sell and create a subdivision of six lots. The property to the south is being considered as Phase 2 of the Flora Vista Hillside Estates Subdivision

Commissioner Freeman motioned to approve PFP09-02 with a change in condition "b" to change the width from 60 feet to 30 feet. The motion was seconded by Commissioner Ziesmer with agreement to the change in condition "b" and passed by unanimous vote of 6-0.

Planning and Zoning Commission Action of February 24, 2011

A motion was made by Commissioner Freeman to approve PFP 09-02 with a change in condition "b" to show the 60-foot road to be 30 feet. The motion was seconded by Commissioner Ziesmer and passed by unanimous vote.

AYE: Chairman Ivie, Commissioners Buchanan, Freeman, Jaques, Langenfeld, and Ziesmer (Alt)
 NAY: None
 ABSTAINED: None
 ABSENT: Commissioners Byrom, Cardon, Kuchera, Simpson, Washburn (Alt)

THE MOTION PASSED 6-0

UNIFIED DEVELOPMENT CODE IMPLEMENTATION COMMITTEESection 2.5.65
Medical Cannabis Producer**STAFF CONCLUSION & UDC RECOMMENDATION**

Adding Licensed Medical Cannabis Producer as a permitted use in the IND Industrial and PIP Planned Industrial Park districts to Table 2.3 of the UDC under Industrial Use Categories, Manufacturing and Production. It is also recommended that Licensed Medical Cannabis Producer be added to the Use Standards Section 2.4.65.

DISCUSSION FROM THE PLANNING & ZONING COMMISSION

Ms. Lopez stated that at the last Planning and Zoning meeting the commission asked that a city attorney be present to answer question regarding the recommendation from the UDCIC to accommodate where a medical cannabis producer could have an established business within the city limits. She stated that Mr. Jay Burnham, City Attorney was present and would respond to the commissions' questions. At this time Attorney Burnham took the floor.

Chairman Ivie asked if there is an absolute reason that this type of business must be allowed in Farmington. Attorney Burnham stated that the answer is yes, the city must allow this type of business. He stated that after preliminary research on this subject, it is noted that local law cannot conflict with state law. However, state law has distance criteria with regards to the location of the producer to churches, schools and daycares. Attorney Burnham stated that the city is allowed to restrict producers to approved zoning districts. Chairman Ivie asked counsel if the additional restrictions that are not required by the state law (adding youth facilities, parks, recreation facilities or residential districts) as recommended by the UDC would be able to stand up in court. Attorney Burnham replied that in court the city's position would be stronger if the additional language restrictions were not added.

Chairman Ivie also asked about any restrictions that could limit illegal activity surrounding these types of businesses. Attorney Burnham related a parallel in the area of alcohol sales. The state has decided that anyone over 21 can purchase alcohol, however the seller must have a state issued license. Commissioner Freeman then asked how some cities and counties in Texas can prohibit the sale of alcohol. Attorney Burnham stated that the difference is that there is a local option for alcohol sales in the state of Texas. New Mexico does not have a local option for the medical marijuana program. Colorado also has a local option on medical marijuana, but New Mexico does not. Commissioner Freeman asked about Tattoo Parlors, which used to be banned within the city. Attorney Burnham shared that previously there was no state statute licensing tattoo parlors, however the licenses are now issued from the state making it a legal use. The City then went through the process of zoning them.

Commissioner Buchanan asked Attorney Burnham, if the commission decided to add in the Residential District restriction, would legal counsel be able to defend that to the state. Attorney Burnham stated that the additional restrictions added to the code would make it difficult to win, because the standard would arguably be in conflict with state law.

Commissioner Buchanan also asked staff to make sure that these comments and questions are included in the minutes to City Council. He also shared that he is personally against allowing the growers within the city limits, however he has conflicting feelings. If he votes in favor, someone could interpret his vote as if he is in support of the growers being within the city limits. If he votes against the zoning someone could interpret his vote as if he is against the idea of the grower being in the Industrial area, or that he supports them in any zoning district which could be misconstrued as not caring where they may operate. He also feels that if he abstains the interpretation could be that he doesn't care and whatever is decided is fine. Commissioner Buchanan asked legal counsel what he should do about these conflicting feelings. Attorney Burnham stated that since currently there is no clear direction in the UDC it would be left to staff to interpret the code as to the type of business that these growers would most resemble and which zoning district that they would be allowed in. The best situation would be for the UDC to define where they should be allowed. Commissioner Jaques was curious as to whether the City of Bloomfield, the City of Aztec or the County had places that these producers could set up shop. Attorney Burnham stated that he did not know and that the City of Farmington usually takes the lead on most of these types of issues.

Commissioner Buchanan asked what is the city's incentive to allow this type of enterprise, since they are non-profit, non-taxable and the fees for licensing are paid to the state. Attorney Burnham stated that they may still be required to pay Gross Receipts Taxes.

Attorney Burnham recapped the discussion including that the City of Farmington should not pass laws that are in direct conflict with state laws. He also advised the committee that he is requesting the additional restrictions be removed. He believes that the best zoning districts are the Industrial and the Planned Industrial Park because of the limited locations within the city.

Chairman Ivie asked staff about signage. Ms. Lopez stated that the state law disallows them to advertise the business. Chairman Ivie also asked the commission that in making their decision, they think about whether they should vote for what is best for the attorney or what is recommended by the UDCIC and staff. Commissioner Freeman made a motion to table this until the next meeting. There was no second and the motion died.

Planning and Zoning Commission Action of February 24, 2011

A motion was made by Commissioner Buchanan to approve recommendations from the UDCIC committee to Section 2.5 as written. The motion was seconded by Commissioner Langenfeld and passed by a vote of 3-2-1.

AYE: Chairman Ivie, Commissioners Buchanan and Langenfeld
 NAY: Commissioner Freeman and Ziesmer (Alt)
 ABSTAINED: Commissioner Jaques
 ABSENT: Commissioners Byrom, Cardon, Kuchera, Simpson, Washburn (Alt)

THE MOTION PASSED 3-2-1

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

Business from the Chairman: Chairman Ivie asked Director Holton to research some of the choices the commission has in regards to meeting policies and procedures, which may include Robert's Rules. He asked that the information be placed on the March 10, 2011 agenda.

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

Business from Staff: The commission was informed that City Council approved the zone change for Navajo Ministries on February 22, 2011. Ms. Lopez stated that City Council directed staff to review the UDCIC recommendation on shipping crates and that other similar units includes semi-trailers in the interpretation. City Council suggested minor language changes in reference to bus bodies and rail cars. Chairman Ivie asked if the changes would go back to the UDCIC. Ms. Lopez stated that the changes would be reviewed by the UDCIC again. The City Council also approved the final action for the Annexation for the Farmington Municipal Schools with staffs recommendation of IND zoning.

Adjournment

Motion was made by Commissioner Freeman to adjourn. With no further business the Planning and Zoning meeting of February 24, 2011 was adjourned at 3:11 p.m.

Dennis R. Ivie
 Chairman

Dee Dee Moore
 Office Manager