

**FREMONT COUNTY  
PLANNING COMMISSION MEETING MINUTES  
June 1, 2021 AT 3:00 P.M.**

**MEMBERS PRESENT**

Byron Alsup (Chairman)  
Larry Baker  
Larry Brown  
Gardner Fey  
Mark Masar  
Michael Pullen

**STAFF PRESENT**

Brenda Jackson, County Attorney  
Alicia Stone, GIS Technician  
Theresa Villagrana, Office Manager

**MEMBERS ABSENT**

John Hamrick

1. **CALL TO ORDER**
2. **PLEDGE OF ALLEGIANCE**
3. **APPROVAL OF AGENDA**
4. **APPROVAL OF MINUTES**

April 6, 2021 Planning Commission Meeting

5. **UNFINISHED BUSINESS**
6. **NEW BUSINESS**

**A. MS 21-003 Powell Subdivision**

Requesting approval of Minor Subdivision to divide one parent parcel into two lots each that are roughly 4.8 acres in size and zoned Agricultural Rural. The property is located in the Howard area.

Representative: Angela Bellantoni

**B. MS 21-004 SS Subdivision**

Requesting approval of Minor Subdivision to divide one parent parcel into two lots each that are roughly 4.7 acres in size and zoned Agricultural Rural. The property is located in Penrose off of K Street south of U.S. Highway 50.

Representative: Matt Koch

**C. SRU 13-002 Captain Zipline Major Modification**

Request approval of a major modification to the existing SRU to allow Play Dirty ATVs to operate from the parking area, and also requesting that customers may follow employees to the zipline area rather than park at the parking area and be shuttled.

Representative: Dave Mallory

**7. ADJOURNMENT**

---

**1. CALL TO ORDER**

Chairman Byron Alsup called the meeting to order at 3:01 p.m.

**2. PLEDGE OF ALLEGIANCE**

Pledge of Allegiance was recited.

**3. APPROVAL OF AGENDA**

Chairman Alsup called for approval of agenda for the June 1, 2021 Fremont County Planning Commission Agenda.

**MOTION**

Mr. Mark Masar motioned to accept the June 1, 2021 Fremont County Planning Commission Meeting agenda.

**SECOND**

Mr. Gardner Fey seconded the motion.

Chairman Alsup called for a roll call vote, and the motion passed unanimously. (6 of 6)

**4. APPROVAL OF THE APRIL 6, 2021 PLANNING COMMISSION MEETING MINUTES**

Chairman Alsup called for approval of agenda for the April 6, 2021 Fremont County Planning Commission Meeting Minutes.

**MOTION**

Mr. Gardner Fey motioned for approval of the April 6, 2021 minutes.

**SECOND**

Mr. Larry Baker seconded the motion.

Chairman Alsup called for a roll call vote and the motion passed unanimously. (6 of 6)

**5. UNFINISHED BUSINESS**

**6. NEW BUSINESS**

**A. MS 21-003 Powell Subdivision**

Chairman Alsup called Dr. Angela Bellantoni to present.

Dr. Bellantoni introduced her clients, Billy Powell as the property owner and applicant. Also, Micah Garcia, as the party that intends to develop the property that is subject to the subdivision. Lot 2 has Mr. Powell's workshop and Lot 1 to the west will be Mr. Garcia's residence. There is approximately 4.8 acres.

Chairman Alsup called on GIS Tech, Alicia Stone to give the staff report.

GIS Tech Alicia Stone stated that the department had reviewed and found it to be complete and true representation of the request as stated herein. The department finds that all minimal requirements per the Fremont County Subdivision Regulations will be satisfied by this application.

There is a waiver request on the drainage plan and the Fremont County Engineer has determined that the waiver request is justified based upon location and impervious surfaces. There is one contingency item and that is the closure sheets.

Chairman Alsup called for comments or questions.

Mr. Mark Masar asked if they planned to use the well to service both properties.

Dr. Bellantoni replied no, Mr. Garcia will drill his own well. He submitted in his application the agreement with Upper Arkansas Water District to be part of the augmentation plan.

Chairman Alsup called for any other comments or questions. Also stating that it seems pretty clear cut and he does not see any issues.

**MOTION**

Mr. Masar motioned to approve MS 21-003 Powell Subdivision.

Chairman Alsup asked if that includes the contingency and waiver.

Mr. Masar confirmed.

**SECOND**

Mr. Baker seconded the motion.

Chairman Alsup called for a roll call vote and the motion passed unanimously (6 of 6)

**B. MS 21-004 SS Subdivision**

Chairman Alsup called Mr. Koch to present.

Mr. Koch stated this is a request for approval of a minor subdivision located on K Street in Penrose, south of Highway 50. It is serviced by Penrose Water with existing water taps for both lots. It is an odd situation as it was part of the same tract to begin with and many years ago, they were separated into north and south. They started deeding them that way, north half/south half. At some point in the early 2000's, they put them back together. The new owner wants to separate them again. Each lot will be about 4.7 acres, there is an existing house on the north lot that will remain. The southerly lot will be vacant for a future house. The existing septic is north of the house.

There are four contingencies that he is fine with. Access permit, soils, ratification & consent form.

Chairman Alsup called on GIS Tech Alicia Stone.

GIS Tech Alicia Stone stated that the department had reviewed the application and found it to be complete and a true representation of the request as stated herein. The department finds that all minimal requirements per the Fremont County Subdivision Regulations will be satisfied by this application.

There is a waiver request for a drainage plan until development. The contingency items:

Access permit for Lot 1

OWTS soil analysis and design or copy of permit for existing system

Executed Ratification, Consent & Release Form

Minor changes to the site plan: adding notes and a new vicinity map.

Mr. Koch stated that for clarification, the waiver for the drainage report and he believes the engineer was okay with that. Historically, there is an existing drainage burm along the south side of the bottom lot and a swale so a lot of it has already been approved and noted. The County Engineer review and suggested the request for a waiver.

Chairman Alsup asked if the waiver was for the drainage pond.

Mr. Koch confirmed and clarified it is for the drainage report. To the east side is where this is draining to, into the open fields.

Chairman Alsup stated that he notices that the Fire Protection Form was not filled out, it was blank. The other members confirmed they saw the same thing.

Mr. Koch stated the second application submittal included the signed form.

Chairman Alsup asked GIS Tech Alicia Stone if she had the completed form.

GIS Tech Alicia Stone stated that the department has the same blank form however, will check the files to see if was submitted.

Mr. Koch stated that the Fire Department did not have any requirements however, will make sure it is provided prior to the BOCC meeting.

Mr. Masar inquired about the irrigation easement, the way it is drawn on the plat is not the way they drew it on their map. He inquired which one is correct.

Mr. Koch replied that it was originally drawn with the way it seemed to go based on what he found in the field. After it was submitted, he received information from the irrigation company that showed there is an easement coming down from the northwest corner to where you turn to come into the lot. Another one that comes in at an angle across so he will adjust that.

Chairman Alsup called for comments or questions.

### **MOTION**

Mr. Pullen motioned to approve MS 21-004 SS Subdivision as submitted and with the addition of the Fire Protection Form and with the contingencies and waiver requests as stated.

### **SECOND**

Mr. Baker seconded the motion.

Chairman Alsup called for a roll call vote and the motion passed unanimously (6 of 6)

## **C. SRU 13-002 Captain Zipline Major Modification**

Chairman Alsup called Dave Pruyne (owner of Play Dirty ATV Tours) to present.

Mr. Pruyne stated they are there to request approval of application for Play Dirty to be added to Captain Zipline's SRU. They were approved a couple years ago by the BLM to operate out of the Wellsville North BLM lands and they have been doing so with a couple of rafting companies out of Buena Vista and other places.

They have to transport their trucks to the trailhead and leave them there during the day. At the end of the day, they have to load them back up and bring them 22 miles back to Play Dirty at Texas Creek. This SRU would allow them to store their vehicles there and with further approval to operate their vehicles on the road and start their tours from Captain Zipline, go to the trailhead, do the tour and come back.

The other portion is, currently Captain Zipline's customers park on the property and then puts them in vans. With COVID, they had to shut down because he couldn't get anyone to the trailheads. COVID brought out a lot of things that they are now looking at like putting 14 – 15 people in a van and taking them 2 miles, the number of things that could be transmitted, brought a lot to everyone's attention.

They want to get to where the customers to follow them to Captain Zipline where there is currently 17 car parking. So those are the two things they are looking at.

Chairman Alsup called on GIS Technician Alicia Stone to give the staff report.

GIS Tech Alicia Stone stated that the Department recommends approval for the ATV/UTV storage and use from the facility with the following conditions:

#### Recommended Conditions:

1. Additional parking spaces be installed for the additional use. There is space on the west side of the property to accommodate the minimal amount of additional parking spaces/area.
2. Providing the parking area is gravel, no additional drainage measures should be required.

3. The additional parking will ensure adequate parking is available for the use, and would provide some separation between the two uses.
4. The Department also recommends that the use of the County Roads by ATVs/UTVs is not allowed, due to safety, traffic and impact concerns.  
This is a reasonable agreement to allow Play Dirty to expand and operate in the area while minimizing impacts and concerns.  
Additionally, the Department recommends denying the request to allow Captain Zipline customers to follow employees to the zip line area. This will result in greater traffic and impacts to the area and negates the reason for the 2013 modification.

Conditions:

All conditions set forth in Resolution No. 25, Series of 2013.  
Applicant to provide annual permits for the chemical toilets.  
Re-evaluation of the County Road Impact fees annually to include adjustments as necessary.

Contingencies:

Permit for chemical toilets.  
Changes to the site plan.

Additional Notifications:

Fremont County Sheriff  
William Tezak  
Colorado Parks and Wildlife

Waiver Requests approved on the 2013 Modification:

Buffering & landscaping.  
Lighting of the parking area.  
Landscaping of the parking area.

Chairman Alsup called for questions or comments.

Mr. Pullen asked if they intend to escort ATVs down Count Road 44.

Mr. Pruyne replied yes, that is their intent. Their front guide would lead 4 or 5 ATVs. County Road 45 to 52 is  $\frac{3}{4}$  of a mile then another mile to the trailhead. No buildings or trees between Captain Zipline to the trailhead. Visibility is a not an issue, lights are on at all times.

Mr. Pullen addressed the County Attorney, Brenda Jackson, to confirm the way the laws are currently written, there are no ATVs allowed on county roads.

Mrs. Jackson confirmed it is illegal to ride ATVs on county roads however, it is at the discretion of the Board to designate roads or portions of roads as lawful for ATVs and UTVs. They have done that for other county roads however, not 45. It is case by case determination by the Board of County Commissioners.

Mr. Fey asked as part of this application, they would need to have the County Commissioners approve of that use on County Road 45.

Mrs. Jackson stated that would need to be done before this request would be approved. They would have to designate that portion of the road by resolution. It wouldn't apply to just this company (Play Dirty ATV), it would apply to anyone.

Mr. Brown asked if there would be a liability factor on the County if someone gets hurt.

Mrs. Jackson replied an accident does not impugn any liability to the County.

Chairman Alsup asked if the commission would have the discretion to recommend it to the County Commissioners.

Mrs. Jackson said yes, clarifying that this board does not have the discretion to approve this portion of the application until that resolution is in place. They had looked at County Road 45 in the past and declined to do that, due to the traffic.

Mr. Fey said they are showing that as designated sparse traffic, approximately 30 cars per day travel down that road. He stated this seems to be a natural progression for this business.

Mr. Pruyne stated that the benefit of a company like Play Dirty is that on their own time and with their own equipment, they assist BLM with the trails. Their guides also clean up the trash in the area.

The aspect of riding on County Road 45, the County Commissioners said they can't approve until after they have the SRU to operate off of that property however the SRU can't be approved until they have approval for use of the County Road. He is hoping they will be mutual during the BOCC meeting. If not approved, they will again have to shuttle people in a 14-passenger van. They are approved on Captain Zipline's SRU for the current 17 parking spaces on that property.

Chairman Alsup stated he does not have an issue with the initial part of the application to share parking with Captain Zipline. The issue of concern is if they should be allowed on the county road and if they should be allowed to transport people to the Captain Zipline site.

Mr. Pullen asked if this is approved, will the impact of the ATVs on the road be part of the annual review under this SRU.

Mrs. Jackson stated that she has written several of these resolutions and to her knowledge, none have been reviewed.

Chairman Alsup stated that if it is approved, as recommended by the staff, that part would be left up to the County Commissioners. So, they could approve the first part of the application.

Mrs. Jackson stated they could say they do not see any particular concerns however, the road has not yet been approved for that use so encourage but not recommend until it is law.

Mr. Masar asked for clarification of road conditions.

Ms. Halasz (and Josh) replied that two-wheel drive vehicles make it up the road and they do maintenance on that road. She stated a Captain Zipline employee would escort the caravan.

Chairman Alsup called for any more comments or questions and stated he was open for a motion.

**MOTION**

Mr. Fey motioned to approve SRU 13-002 Captain Zipline Major Modification with all conditions for approval being met and with the conditions as stated. Also, with conditional approval of the ATVs on the road as well as being able to drive to the Zipline subject to County Commissioner approval.

**SECOND**

Mr. Pullen seconded the motion.

Chairman Alsup called for a roll call vote and the motion passed unanimously (6 of 6)

7. **ADJOURNMENT**

Chairman Alsup adjourned the meeting at 3:36 p.m.

Byron Alsup 7-6-21  
CHAIRMAN, FREMONT COUNTY PLANNING COMMISSION DATE