

**FREMONT COUNTY
PLANNING COMMISSION MEETING MINUTES
November 5, 2019 AT 3:00 P.M.**

MEMBERS PRESENT

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

STAFF PRESENT

Sean Garrett, Planning Director
Tanya Fleming, Office Manager

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

October 1, 2019 Planning Commission Meeting

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

A. Request: SP 19-001 Royal Gorge Ranch & Resort

Requesting approval of a sketch plan for Royal Gorge Ranch & Resort to allow for a subdivision consisting of three-hundred-thirty-nine (339) one (1) acre lots in the Travel Trailer Park & Campground zone district and two (2) lots in the business zone district. The property is currently zoned Agricultural Forestry and Rural Highway Business.

Representative: Ty Seufer

7. **ADJOURNMENT**
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1. **CALL TO ORDER**
2. **PLEDGE OF ALLEGIANCE**
3. **APPROVAL OF AGENDA**

Chairman Alsup asked if there were any changes, additions or corrections to the November 5, 2019 Fremont County Planning Commission Agenda.

MOTION

Mr. Larry Brown motioned to accept the November 5, 2019 Fremont County Planning Commission Meeting agenda as written.

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 OCTOBER 1, 2019 PLANNING COMMISSION MEETING MINUTES

Chairman Alsup asked if there were any changes, additions or corrections to the October 1, 2019 Fremont County Planning Commission Meeting Minutes.

Chairman Alsup stated that the motion on the bottom of page 2 was incorrect and needed to be removed.

MOTION

Mr. Michael Pullen motioned for approval of the October 5, 2019 minutes with the suggested changes.

SECOND

Mr. John Hamrick seconded the motion.

Chairman Alsup called for a roll call vote and the motion passed. (5 of 6 Mr. Fey abstained)

5. UNFINISHED BUSINESS

None

6. NEW BUSINESS

A. Request: SP 19-001 Royal Gorge Ranch & Resort

Chairman Alsup called Ty Seufer to present the request to the Planning Commission.

Mr. Seufer presented a PowerPoint presentation to the board in regards to the proposed sketch plan (see attached).

During the PowerPoint presentation several major changes were made to the proposed sketch plan impacting discussion that follows.

Following the Power Point presentation Director Sean Garrett presented the Staff report.

Director Garrett stated that the sketch plan as originally presented does not meet the Fremont County subdivision regulations or the Fremont County Zoning Resolution based upon numerous factors.

Director Garrett stated the first issue that does not meet would be the water supply. Both Fremont County and the State of Colorado Division of Water Resources had stated that as presented originally this did not meet based on quantity, quality and reliability. However, based on the new information that the well would no longer be the backup plan but the primary source those issues have changed and would need to be looked at again.

Chairman Alsup asked if this change to Ag Estates had been presented to the Planning and Zoning Department before this meeting. He proceeded to express disappointment that this major change to the proposal was not presented to the Planning Department before the time of the meeting to allow the time to review such a change.

Director Garrett proceeded to address the issues in lot size based on what was originally presented under the Travel Trailer Park & Campground zone district. However, with the proposed change to Agricultural Estates that would change what the requirements would be.

Mr. Hamrick asked Director Garrett what the sewer requirements are for one-acre Ag. Estates lots with the public water supply.

Director Garrett stated that with the one acre lots you are allowed an OWTS with a public water supply.

Mr. Fey asked if public water is piped water from a community source to each individual lot.

Director Garrett replied yes, it is piped in from a from a public water district.

Mr. Matt Koch asked for clarification on the regulations that state that it must be piped in from a public water district.

Mr. Garrett stated the intent of the regulations is that it is piped in from a public water district.

Mr. Koch again asked where it stated that in the regulations.

Attorney Brenda Jackson stated that we would not be arguing points at this time. We would be discussing things as was presented originally in the submittal to the Planning Commission.

Director Garrett stated that another issue with the proposal as it was originally presented under Travel Trailer Park and Campground are the roadways. During the inspection that the Code Enforcement officers did the grade due to terrain and other factors on the property some of those roads do not meet those requirements which does impact fire protection.

Septic Systems would have to be designed and tested. Typical requirements are that 25% of the lots be tested.

Mr. John Hamrick stated to the applicant that maybe to pursue the option of tying into the water system and treatment that the Royal Gorge Bridge and Park currently has.

Mr. Seuffer stated that it would be very cost prohibitive to put in underground piping to all of the lots due to the geography and the solid rock under the surface.

Mr. Seufer stated that they had spoken with the City of Canon City about purchasing a Twin Lake Water share and the City of Canon City would treat and store that water for them and that would allow them access to bulk water. Mr., Seufer stated they are working on the full augmentation plan with the State Engineer and the Upper Arkansas Water Conservancy. Mr. Seufer asked if the Planning Commission would allow hauled water if the State Engineer OK's it.

Mr. Mark Masar asked if the intention was to become a public water system complete with operator in charge and testing whether in the tank or in the truck or at the plant. The water will be tested at each site?

Mr. Seufer said it will not be tested at each site. It will be tested at production and by the company that hauls it and after that point it is up to each homeowner to test it at their lot.

Ms. Heidi Anderson stepped up to address the Commission. She stated that has spoken with the water engineer that they are working with and he had spoken to the CDPHE and that their requirements would be monthly testing at the well site, which would be engineered and designed and approved through the state, and the water hauler has his public water supply designation with the state and he is tested every time he fills up. The engineer would also design the system that would be necessary for the cisterns based upon usage. They would also do random testing as required at the home sites as well.

Mr. Masar stated that he just wanted to verify there will be some testing done on the cisterns.

Ms. Anderson stated yes there will be.

Chairman Alsup asked if you are going to be changing from Travel Trailer Park and Campground to the Ag. Estates zone district that will alleviate the prohibition on year-round residency.

Attorney Brenda Jackson stated that any limitation on length of time for residency would need to be addressed in covenants. The county would not be part of those limitations. So, if they don't want residents there residing year-round, they would need to have that in the covenants and enforce it with lawsuits just as any other HOA would do.

Mr. Pullen asked what the commissions next steps would be. He stated he is uncomfortable approving something since this feels like a moving target with so many changes from what was originally presented to what was presented by the applicant today.

Director Garrett stated that part of the reason for the sketch plan was to give the applicant the opportunity to come before the commission and get the feedback necessary to know the expectations for the project to move forward. The next steps would be a preliminary plan and then a final plat.

Attorney Jackson stated that we simply don't have a review on Ag Estates as this was presented and reviewed under the guise of Travel Trailer Park and Campground. It is understandable why it

is that way with so many factors behind this. There is a large difference between the two zone districts as far as the requirements are concerned.

Ms. Anderson stated if the county would accept the water plan if the state engineer approves it.

Attorney Jackson stated that we are still talking about a hauled water source.

Mr. Fey stated that is the basis of the issue is the guaranteed water source.

Ms. Anderson stated that the well that is proposed would be the guaranteed water source for the development.

Attorney Jackson asked how would they guarantee the perpetuity part?

Ms. Anderson stated that they had spoken with a water rights attorney who stated that there were a few ways in which that could happen. One of which would be an easement or it could actually be legally tied in legal description to the development. So, any owner of a parcel at the Royal Gorge Ranch and Resort would also own a piece of the property that the well is on. Therefore, making it all connected to the whole project. She stated that regardless of how they may decide to move forward as far as the zoning goes, they cannot do anything without some approval of the water source.

Mr. Seufer asked again if the State Water Engineer approved this water supply plan would the county then accept that.

Chairman Alsup stated that he is still concerned about the legal definition of public water source.

Attorney Jackson stated that according to the regulation from CDPHE, public water system means a system for the provision of water to the public through pipes or other constructed conveyances. She also stated there is also a public water system that hauls water. Which states it is a public water system that delivers by vehicle finished water, non-pipe conveyance. So, there are two types of defined public water system in the state regulations. However, she would need to do more research on how each of those is defined and recognized by the state. They do however define them both so they do recognize them both.

Mr. Fey stated if they were considered equal sources under the law then that would smooth out the water process.

Attorney Jackson stated you have the reliability and dependability under subdivision regulations so without knowing what the well produces those two questions have to be addressed.

Ms. Anderson stated that they are not overly concerned about the production amount of the well since it is right by the river so it should produce more than enough. However, they will have it drilled and tested first as well.

Chairman Alsup stated that he lives just a little up the river from the location of the proposed well and you can drill a well and it can work today and it won't stay that way. Many wells in the

area have dried up in the last several years. He stated that being next to the river is not a guaranteed supply of water.

Attorney Jackson stated at this point we do know that the City of Canon City will not guarantee bulk water indefinitely.

Ms. Anderson stated that is correct.

Mr. Seufer stated that they are still working with the City on treating and storing the proposed Twin Lake water shares so that if bulk water is shut off he would still have access to that treated and stored water.

Mr. Bob Hartzman, City of Canon City Water Superintendent, stepped up to speak. He stated that the City currently does not guarantee bulk water to any citizen. He did state that some would disagree with him but it is a privilege not a right to bulk water. The City of Canon City is obligated first to those who pay to be tied into the City water supply system. He stated water Mr. Seufer has suggested is to buy the water share and convey that to City in ownership and that water would be the nexus for him being allowed to continue to take bulk water from the station should there be a time that bulk water was restricted or shut off for reasons other than mechanical issues at the station. He stated what Mr. Seufer is hoping for is that the one share of Twin Lakes water would cover him during a gap like that. Mr. Hartzman stated that this discussion is still on going with the City administration and the City water Attorney as well.

Chairman Alsup stated the two main issues he still sees are the zoning and the water. As for the zoning issue he was going to ask why that was not a consideration instead of trailer park.

Mr. Seufer stated that the reason for the Travel Trailer Park & Campground zoning was to go with true tiny homes. Tiny homes that would remain on wheels as well as smaller than the 400 sq. ft county standard and that would have been the way to meet it. He stated if they would have just been able to haul water from the City for each cistern it would have worked. That if they didn't have to go through the water treatment facility/water plant then it would have worked as had been planned originally. Mr. Seufer asked again if the state approves their water system would the County approve that water system? Regardless of the zoning would it be approved as a water supply system?

Mr. Hamrick stated the issue of practicality doesn't come before us as a board, as a board they have to go off of regulations. He stated along those lines they function as legislative when considering new regulations or adopting new regulations or semi-judicial when there are applications and there must be a determination if it meets requirements. The board listens to presentations but in semi judicial they cannot give advice on how to do things, that is staff purview and that of the County Attorney.

Attorney Jackson stated that you need to give those answers on a sketch plan. The reason for the sketch plan is to provide that assistance. There are some unknowns as far as the well that cannot be addressed today though. The change of use from domestic to commercial well will fall under the augmentation. She stated they are getting closer to meeting the requirements of a hauled public water system without having to pipe the entire subdivision. The question is, and this is one for feedback on a sketch plan, is whether cisterns are going to be an adequate water supply. That

is a question that is not answered through the regulations it is through the discretion of the Board. If you can get treatable water through certified haulers and certified producer is it going to be alright to put it in a truck and haul it up to cisterns. That is where the discretion of the board comes in.

Chairman Alsup stated he thinks he could see that working. He stated he still worries about the safety of the water after it has sat there a while and not everyone is going to have theirs tested. He stated in his opinion this could be a viable thing to do.

Mr. Masar stated that if the state considers you a public water system and you can guarantee the availability, quality and quantity. Mr. Masar stated that whether it is hauled or conveyed through a pipe both are acceptable.

Attorney Jackson stated that with what is being proposed they are getting closer. The question of whether they have to have water on-site conveyed through piping or it is hauled. She stated what she is seeing with CDPHE hauled water with properly certified systems and trucking is acceptable if they meet the state guidelines. Then it just comes down to do you want over 300 lots on cisterns.

Mr. Seufer stated the goal is to make this a really special world class recreational retreat community.

Attorney Jackson stated that what the county doesn't want to do is say you are on the right track and then at preliminary plan say no we won't allow cisterns.

Mr. Masar asked if the question right now is do we want 339 cisterns in a PUD.

Attorney Jackson stated that is the critical question. If the board doesn't want to see cisterns and wants to see piped water in the development then there is still a problem. She stated that the only way that she can see it working is with individual cisterns. And do you want to allow cisterns as the source of water for a subdivision and it sounded like through upper Arkansas and state certification of the water system the other issues can be resolved. Bottom line is are cisterns a working solution for this proposal.

Mr. Brown asked what is the cistern going to look like.

Mr. Seufer stated they would be buried.

Mr. Fey asked if they were plastic tanks.

Mr. Seufer stated yes, they are plastic tanks, each lot would have two 1700-gallon plastic tanks. That way if you were there in the shoulder season you could just use the smaller tanks.

Mr. Fey asked if the geology was going to allow them to bury 339 tanks?

Mr. Seufer responded no. There will be some brainstorming on how to make those work.

Mr. Pullen stated that is the key. That there is some assurance that the cisterns will meet the quality that we are concerned about. Mr. Pullen stated he doesn't have a problem with the cisterns as long as it meets the quality necessary for the end user and that would become Mr. Seufer's responsibility to make that happen.

Attorney Jackson stated there has to be a legal connection from the well to the development and those have to be adequate to ensure reliability into the future so if someone else takes this over those property owners aren't left without a water supply. She stated we also need to address the production of the well; without that information we can't know if it will be able to provide for the development adequately.

Chairman Alsup stated they are definitely moving in the right direction at this time. However, they cannot approve anything as it was written for Travel Trailer Park and Campground.

Attorney Jackson stated that they do not have to.

Chairman Alsup asked if they answered the questions presented adequately and that they should not vote today.

Attorney Jackson stated that she encouraged them not to take a vote on this today.

Mr. Seufer asked again if they could get a general feeling if when they come back that cisterns will be approved for the water supply. And that he understands that quality, quantity and reliability must be met.

Chairman Alsup asked if Mr. Seufer understood that the Planning Commission is only an advisory board to the Board of County Commissioners. That what they do is only to make a recommendation and that BOCC is not required to follow the recommendation that the Planning Commission makes at all.

Mr. Hamrick stated that Fremont County has multiple residences that are on cisterns and it is the individual property owner's responsibility if they want to stay healthy to make sure they have quality water in the tank. If the development establishes a public water system that treats the water and a water hauler, once the water is put into the tank on the individual lot it is no longer the developer's issue what the quality of the water is once it is in the tank. Once the water is delivered the company no longer has any responsibility how that water is used or misused. It is the owner's responsibility to ensure the quality of the water.

Mr. Brown stated that his only concern is that if you have a problem with the cistern you could have a problem with 339 cisterns. It would not just be an individual or one home it could be multiple homes that are affected. But he feels most of that has been covered to an extent by periodic testing at the cistern randomly throughout the community.

Mr. Masar asked Attorney Jackson for this development, because of the scope of the development, for every other property owner with 35 acres or more in Fremont County, are we opening up a door for hundreds of other property owners to come in with their own development ideas based on cistern water usage.

Attorney Jackson stated no. She stated that Fremont County already allows cistern usage for commercial development. Residential they do take a harder look at because we are talking about regular users and not sophisticated users. Because they are coming through a subdivision process it is under regulations. We apply regulations the same to every subdivision that comes through the subdivision process. We treat every subdivision the same. They too would have to have a reliable source of water tied to the development. If they are 35 acres or larger, we don't have any regulations for those.

Mr. Masar asked if they came in tomorrow and subdivided those into 35 one acre lots and used their well as the water source would they be able to do that.

Attorney Jackson stated they would have to go to the state for that for the well.

Mr. Masar stated if they are a public water source, he wouldn't have any objections to this. If they are proven a public water source then he sees no reason not to move forward.

Mr. Pullen stated that they are not able to approve anything but they are glad that they were able to help answer some questions.

Attorney Jackson stated that the next steps would be to move on to preparing and submitting the Preliminary Plan to be presented to the Planning Commission next.

Chairman Alsup asked why they chose Ag Estates instead of say Ag Suburban?

Ms. Anderson stated it was the ability to go down to 1 acre with OWTS and public water.

Mr. Koch also stated that they adjoin Ag Estates so the rezoning would make more sense to that zone.

7. **ADJOURNMENT**

Chairman Alsup adjourned the meeting at 4:37 p.m.



CHAIRMAN, FREMONT COUNTY PLANNING COMMISSION

12-3-19
DATE