

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

MEMBERS PRESENT

Byron Alsup (Chairman)
Mark Masar
Larry Brown
Keith Ore
John Hamrick
Michael Pullen

STAFF PRESENT

Sean Garrett, Planning Director
Tanya Fleming, Planning Assistant

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

January 2, 2019 Planning Commission Meeting

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

A. Request: MS 19-001 Culkin Subdivision

Requesting approval of a Minor Subdivision, Department file # MS 19-001 Culkin Minor Subdivision. The site is located near the intersection of 10th Street and N. Street in Penrose CO. The parcel is currently Zoned Agricultural Rural and consists of 10 Acres. The subdivision will consist of two lots, each consisting of 4.6 acres more or less

Representative: Cheri Culkin

B. Request: MS 19-002 F & M Subdivision

Requesting approval of a Minor Subdivision, Department file # MS 19-002 F&M Minor Subdivision. The site is located near the intersection of Grand Ave and Logan Ave in Canon City CO. The parcel is currently Zoned Agricultural Suburban and consists of 4.387 Acres. The subdivision will consist of two lots, lot one being 3.471 acres & lot 2 being .916 acres

Representative: Matt Koch

C. Revisions and Amendments to the Fremont County Zoning Resolution.

1. Lowering the Minimum Dwelling Size to four-hundred (400) square feet (FCZR 5.1)
2. Reducing the number of applications submitted (FCZR 8.3)
3. Changing the requirements regarding hearings for CUP renewals (FCZR 8.14.62)

7. **ADJOURNMENT**
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1. **CALL TO ORDER**

Chairman Byron Alsup called the meeting to order at 3:02 p.m.

2. **PLEDGE OF ALLEGIANCE**

Pledge of Allegiance was recited.

3. **APPROVAL OF AGENDA**

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

MOTION

Mr. Mark Masar moved to accept the March 5, 2019 Fremont County Planning Commission Meeting agenda.

SECOND

Mr. Larry Brown seconded the motion.

Chairman Alsup called for a roll call vote, and the motion passed unanimously. (5 of 5)

4. **APPROVAL OF THE JANUARY 2, 2019 PLANNING COMMISSION MEETING MINUTES**

Chairman Alsup asked if there were any changes, additions or corrections to the January 2, 2019 Fremont County Planning Commission Meeting Minutes.

MOTION

Mr. Michael Pullen moved to approve the January 2, 2019 Fremont County Planning Commission Meeting Minutes.

SECOND

Mr. Brown seconded the motion.

Chairman Alsup called for a roll call vote, and the motion passed. (5 of 5)

5. **UNFINISHED BUSINESS**

None

6. **NEW BUSINESS**

A. **MS 19-001 Culkin Subdivision**

Mrs. Cheri Culkin stated that the application was submitted and all requests for the minor subdivision from the county have been met to date. Mrs. Culkin stated that they received a new request from the Fremont County Department of Transportation on March 4th that they are in the process of addressing. Mrs. Culkin then asked if Director Sean Garrett would help to explain this to the Commissioners.

Chairman Alsup stated that they had received a copy of the document and that it stated there would be a requirement to build Rd. 10 up to County standards. Chairman Alsup asked if they had just received that today.

Mrs. Culkin stated that they found out about the requirement yesterday. She stated that her neighbors, only 2 of which use that road and that the road dead ends at a creek bed there that actually goes into a pond. She stated that the road is functional into her neighbor's property. She stated that they are simply trying to split the 10 acres into two 5-acre parcels. Mrs. Culkin stated they are requesting a waiver to bringing the road up to County specs as a non maintained road. She stated she spoke with Tony Adamic at FCDOT and he did come out and look at the road. Mrs. Culkin stated that she hauls gravel with her 18-wheeler onto that road and has since 2001. Her neighbor Mr. Frank Vaughn also uses his tractor to grade the road as well. She states that is the way that they have done it since they have been there. Mrs. Culkin stated that she had sent photos to Director Garrett of the road and you are able to see amount of gravel that she has hauled in and placed on the road. She stated she has hauled in $\frac{3}{4}$, straight rock and many loads of road base. Mrs. Culkin stated if she would have been aware of this sooner, she would have contacted her neighbors to write letters of support for the waiver on bringing the road up to County specs. She stated that the neighbors have all stated that they are OK with the road remaining non-County maintained because they maintain it.

Chairman Alsup stated that they will discuss the request for the variance and asked Mrs. Culkin if she had anything else she would like to add.

Mrs. Culkin asked why the road issue was just brought up now. She stated that when Mr. Adamic came out and looked at the road, he stated it was a non-maintained county road.

Chairman Alsup asked when Mr. Adamic had gone out to look at the road.

Mrs. Culkin stated that Mr. Adamic was out there a few months ago. He came out when she first submitted the application and was going down her list. She also stated that she spoke with Mr. Adamic again yesterday and had even asked him if he would attend today but he was in other meetings.

Chairman Alsup stated that it was Director Garretts time to give staff report and that he would address the timing on the road concern.

Director Garrett stated that application was made and that the Department has reviewed the application and a true representation of the request as stated herein. All requirements except for the roadway have been met. Director Garrett stated that the roadway concern was an oversight on his part and that he did not catch it during the review. It was not any fault on the applicants end, it was caught during final review and that is why it is noted now. He stated that to build that road out is under the Subdivision Regulations in Appendix 1.

Director Garrett proceeded to show photos and videos of the road in question and the property.

Director Garrett stated that the waiver request could be granted and all other requests and contingencies have been met. He stated Penrose Water can supply the water and that they will be installing the water up to the point of the new parcel being created.

Chairman Alsup called Mr. & Mrs. Culkin back up.

Chairman Alsup stated that the question he had was in the County Engineers report he talked about the minor drainage issue was not fully adequate and the report also stated that detention ponds would be needed. He asked Director Garrett if that had been addressed further.

Director Garrett stated that has been addressed. He stated the County Engineer asked to either build the detention ponds or to note the plat that a drainage plan will be required on further development of the property. He stated that the plat has been noted for that.

Chairman Alsup stated that he noticed on item 35 about mineral interests being severed it was not answered.

Mrs. Culkin stated that she just received something in the mail for that and she would bring it in.

Chairman Alsup stated that it is not that critical he was just clarifying.

Mrs. Culkin stated that she mailed the notification out and it came back to her.

Director Garrett stated that the particular mineral interest owner for the Culkins has had multiple notifications returned and we have been unable to locate a better address for them.

Chairman Alsup opened up to questions from the Commisioners.

Mr. Brown asked in regards to the roadway in question that according to the code it has to be built to County standards but the Commission can wave that but then who is maintaining it. Are the property owners responsible for maintaining it?

Attorney Brenda Jackson stated that Fremont County does not have a legal obligation to maintain the road until it is brought up to County standards and then the County would be required to pay for all of the maintenance.

Mr. Pullen asked if the dedication would remain in place.

Attorney Jackson stated yes.

Mr. John Hamrick asked if there would be any trigger to require the road to be brought up to standards in the future.

Attorney Jackson stated if it happened that there was a re-subdivision done in the future, a rezoning or some type of development change that could trigger the road being brought up to County standards in the future.

Chairman Alsup asked that if anyone were to buy property located on that road in the future it would just be up to them to maintain the road.

Attorney Jackson stated that is correct as it stands right now.

Mr. Brown asked if the road goes through and continues further down what would happen.

Attorney Jackson stated that if development happens and extends the road it would be up to them to bring their section of the road up to County standards.

Mrs. Culkin stated that since Mr. Vaughn has lived there in the 80's and since she bought her truck in 2001, they have maintained the road and that they plan to continue to maintain the road together.

Mr. Hamrick asked if the property was located on or impacted by the new Black Hills Energy power line proposal.

Mrs. Culkin stated that they are not involved or impacted by the new line.

Mr. Masar asked if the water line was going up 10th St.

Mrs. Culkin stated that yes it was already located up to 1355 10th and they would be taking it to the remainder of the property. Approximately 305 ft.

Mr. Hamrick asked that the application states the drainage plan will be required at the time of development. Does the county require stormwater easements where appropriate on development of properties?

Director Garrett stated yes, the County does require those where appropriate on properties and that the owner maintain those. However, on this particular development figuring those calculations would be difficult with no knowledge of where or size of structures that will be placed on the property.

Mr. Pullen stated that the waiver of the road would be Ok as it is a dedicated right of way and that at some time in the future it may be required depending on development. Therefore based on this incidence of feeding 2 houses he sees no need to bring it up to the standards as of now since the owners are taking responsibility for maintenance.

Mr. Masar asked if Mr. Vaughn (the neighbor) is counting on this road getting brought up to standards and today we grant the waiver does he have recourse.

Attorney Jackson stated the improvement of the road is for the benefit of the county as opposed to the other individuals. So, if the Board of Commissioners grants the waiver at the time there is no recourse since there was no expectation. It is completely discretionary based on circumstances.

Chairman Alsup called for a motion.

MOTION

Mr. Masar moved to approve MS 19-001 Culkin Subdivision with the requested waiver for the roadway improvements.

SECOND

Mr. Brown seconded the motion.

Chairman Alsup called for a roll call vote, Mr. Keith Ore abstained as he was late to the meeting and was not there for this portion of the meeting, and the motion passed. (5 of 6)

B. Request: MS 19-002 F & M Subdivision

Mr. Matt Koch stated that this is a 2 lot subdivision on Grand called the F&M Subdivision. The owner is Billie Jo Faricy. Approximate acreage is 4.3 acres they are proposing 2 lots. Lot one will be 3.4 acres and lot two will be .91 acres. Lot 2 contains the existing house, garage and out buildings and they will remain. Lot 1 is planned for a new residence and from his understanding it is for a relative. They are planning to start building in the near future. As far as utilities everything is available and adjacent to the new lot, sewer and water they have approval for future taps so there are no issues there. Mr. Koch stated as far as the drainage they did run into the issues with detention ponds and it was reviewed by Don Moore, County Engineer, and he requested that the plat be noted and that has been completed with no issues. They will do the drainage report at the time of construction. Mr. Koch stated this is a fairly large irrigated farm field and so there is not to much anticipated when they get that report.

Mr. Masar asked if the driveway is over 150 ft. long?

Mr. Koch stated depending on where they put the house since they don't know exactly where they are going to put the house.

Mr. Masar asked so if it is will the submittal meet the contingency items from the fire department.

Mr. Koch stated that they will have to meet the requirements for the turn arounds at that time.

Mr. Hamrick stated that he had noted that there were no existing wells on the property and he would like to verify that there are no monitor wells on site associated with the Cotter.

Mr. Koch replied no, there are no wells of any kind.

Mr. Pullen asked if Mr. Koch's client was going to discontinue irrigation.

Mr. Koch replied no they will keep the field irrigated and farmed, whatever is not used for the house.

Chairman Alsup asked for Director Garrett to give the Department review.

Director Garrett stated application was made and that the Department has reviewed the application and a true representation of the request as stated herein. The Department finds that all requirements of the Fremont County Regulations will be met by this application. There are no contingencies and the plat is noted for the drainage and DOT access will be addressed at time of construction. Director Garrett then proceeded to show the Commissioners the photos and video of the property.

Mr. Ore stated that the plat shows an existing 12-foot-wide driveway to dwelling on lot 2, no access point is shown on the plat drawing for lot 1. Are they going to be using the same driveway?

Mr. Koch stated there is potential that they may use the same driveway but right now we don't know exactly what they are planning or where they are going to locate it at on the new lot.

Chairman Alsup stated that item 23 says that there is an easement but then item 36 says there are no easements. Can you please explain that?

Mr. Koch stated that he was referring to the irrigation easements. There are calls for irrigation easements on the property. They are not described they are just prescriptive along the irrigation laterals.

Chairman Alsup asked that if the smaller lot will require municipal water and sewer since it is under an acre.

Mr. Koch stated that is true.

Chairman Alsup called for a motion.

MOTION

Mr. Pullen moved to approve MS 19-002 F & M Subdivision as submitted.

SECOND

Mr. Brown seconded the motion.

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

C. Revisions and Amendments to the Fremont County Zoning Resolution.

Director Garrett stated that there are 3 different amendments we are proposing. The first on being lowering the minimum dwelling size which is currently 750 Sq. Ft for all zone districts that allow housing and we are wanting to lower that to 400 Sq. Ft. The County believes this might combat some of the issues with living in RV's and make things a little more affordable. The downsides are that it could affect property values if we have a small house among many large ones. We can also look at limiting the change to 4 zone districts which would be Agricultural Forestry, Agricultural Farming & Ranching, Agricultural Living and Agricultural Estate as those four zone districts allow for single wide trailers currently which is a minimum of 480 Sq. Ft. currently.

Chairman Alsup asked for clarification if this is going to be just for those four zone districts or not.

Director Garrett stated as proposed right now it is for all zone districts. He also stated that we are also eliminating the minimum of 24 feet wide for structures.

Mr. Masar asked if there will be any minimum.

Director Garrett replied that we can. If we go to the 400 we can go to 20 foot wide.

Mr. Masar stated a single wide is 14 foot so we do have a minimum on that.

Director Garrett replied that 14 to 16 feet is the general width of a single wide.

Chairman Aslup stated that a recreational cabin can have just a 200 sq. ft. area. What zones are those allowed in.

Director Garrett stated the recreational cabin is only allowed in Agricultural Forestry. The intent on that smaller size is just to be something along the lines of a hunting cabin type of structure.

Chairman Alsop stated that he likes to see this. He has been looking forward to doing something along these lines toward the tiny home's thing for quite a while. He asked if this has anything to do with if someone wants to put in a development of tiny homes.

Director Garrett stated that tiny homes are still a separate issue.

Chairman Alsop asked if the County was still working on that.

Director Garrett stated there are a lot of factors with tiny homes, one of them being currently tiny homes are built to RV standards so they do not meet building codes.

Mr. Pullen stated they had this discussion several years ago. However if you have a second residence and the code allows for a second residence, do they have to comply with these.

Director Garrett stated the second residence would be consider an accessory dwelling unit and those have to be a minimum of 250 Sq. Ft. and a maximum of 1,000 Sq. Ft. to meet the ADU regulations. These new regulations would be for the primary dwelling.

Mr. Pullen asked if there was any input given by the building official.

Director Garrett stated he did speak to the Director in the building department and all building codes could be met in 400 Sq. Ft. The Department also gave a presentation to the local Board of Realtors and spoke with some of the mortgage companies to verify that a house that size could get a mortgage. The 400 Sq. Ft. would meet lending requirements for Fannie Mae, FHA and USDA requirements for lending.

Mr. Ore asked are you requiring each one of these as they build them to have its own water tap and sewer tap.

Director Garrett stated yes, it's just like a regular home we are just lowering the required square footage.

Mr. Brown asked if Director Cox was for this or against this.

Director Garrett stated that 400 Sq. Ft. would meet all building codes so it's not a big deal.

Director Garrett stated that the next proposed change would be for application for a zone change, SRU, CUP, CDP. Currently the regulations require one original signed copy, 4 hard copies and an electronic copy of the application. When this was originally adopted it made sense as everyone received a hard copy for review but at this time everything is now sent electronically for reviews so if we get those extra 4

copies they just get set aside and end up in the recycle bin. We are just wasting paper, time and money in asking for those extra copies.

Director Garrett stated the last proposed change is for renewing CUP conditions. If they have to come up for renewal, which a lot of these are for those just doing monitoring, reclamation, exploration, etc. This would change it that if no evidence of noncompliance with the original permit exists and no proposals for modification or changes in the permitted use that may be detrimental to the health and well being of the area proposed the Board at its discretion but is not required to schedule a public hearing. Currently the regulations do require a public hearing for BOCC for all of those renewals.

Chairman Alsup asked if this would remove the public's chance to have a comment on those.

Director Garrett stated it would be at the Board's discretion. If an issue arose, or if there were issues that Code Enforcement got called out those types of things it would be at their discretion and they could hold a public hearing on it. If there are no issues or modifications then they wouldn't have to.

Mr. Pullen asked if it would depend on the seriousness and the specificity of what was being brought to the Board.

Attorney Jackson stated that right now it is mandatory but some of these requests are literally a letter with one line requesting an additional 2 years on a CUP. Setting those for a public hearing, giving public notice, nobody shows up, they grant the 2 year extension after all of that additional cost and expense. If there is a controversial issue than of course those would be addressed in a public hearing. This is for those that are really nothing but simple extensions. It would still be decided however at a public meeting because they cannot approve an extension without one.

Mr. Hamrick asked if these are staff-initiated changes.

Director Garrett stated yes based on conversations with other departments and the public.

Chairman Alsup called for a motion.

MOTION

Mr. Pullen moved to approve revisions to the Fremont County Zoning Resolution which would be FCZR 5.1, FCZR 8.3 and FCZR 8.14.62 as presented.

SECOND

Mr. Hamrick seconded the motion.

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

7. ADJOURNMENT

Chairman Alsup adjourned the meeting at 3:47 p.m.

Bevan Alap
CHAIRMAN, FREMONT COUNTY PLANNING COMMISSION

6-4-19
DATE