

**Fremont County Planning  
& Zoning Commission  
Minutes  
November 13, 2007  
6:00 pm  
County Annex Building**

The Fremont County Planning & Zoning Commission met in a regular session on October 22, 2007. They met in the County Annex Building. **Members in attendance were:** Kirk Mackert (Chairman), John Nedrow (Vice-Chairman), Tom Atchley, Steve Pinther, Glen Pond, Cindy Miller, Joette Lookabaugh, and Vance Derricott.

**Staff and others present:** Jeff Patlovich (P&Z Administrator), Letta Laux (P&Z Secretary), Karl Lewies (Prosecuting Attorney).

**1. Welcome**

The chairman called the meeting to order at 6:01pm

Mr. Mackert acknowledged Realty Quest's gift to the P&Z, and the gift from the office.

**2. Minutes**

Mr. Mackert asked the P&Z to look over the minutes from August 20, 2007.

**MRS. MILLER MOTIONED TO ACCEPT THE MINUTES FROM AUGUST 20, 2007 MR. NEDROW SECONDED. VOTE TAKEN: ALL IN FAVOR. MOTION PASSED.**

**MR. DERRICOT MOTIONED TO ACCEPT THE MINUTES FROM AUGUST 27, 2007. MR. PINTHER SECONDED. VOTE TAKEN: ALL IN FAVOR. MOTION PASSED.**

**MRS. MILLER MOTIONED TO ACCEPT THE MINUTES FROM SEPTEMBER 17, 2007. MR. PINTHER SECONDED. VOTE TAKEN: ALL IN FAVOR. MOTION PASSED.**

Mr. Derricott questioned the status of the Loosli amendment, and the status of what is to be done with the LESA.

Mr. Patlovich reported on the status of the Loosli amendment, and the LESA. Stated the Board of County Commissioners has authorized an application for

repealing the text amendment (Loosli Amendment) that was approved in the summer. They are also reevaluating what they want to with the LESA system.

Mr. Pinther questioned if they were repealing the Loosli amendment, and questioned if it has been in force yet.

Mr. Patlovich stated it has been in effect since its approval in June and will be in effect until it is repealed by the Commissioners after having a public hearing. Developers will have to be aware that there could be the possibility of the Loosli amendment being repealed which may or may not affect their building project.

Mr. Pinther questioned if there was a copy of the ordinance for them to look over, and stated that the county commissioners want to repeal it, and are asking the P&Z for input.

Mr. Derricott questioned if they were to apply the LESA in the CRP.

Mr. Patlovich stated you voted 4-3 to apply the LESA as motioned by Mr. Pinther that if land has been in CRP for 10 years, it is exempt.

Mr. Lewies stated that the neighbor to Cold Water Canyon appealed how the P&Z voted on that. Stated the appeal was postponed until November 28, 2007 because the developers did not show up. That is when the language that the 10 rule does or does not apply will be considered.

Mr. Patlovich stated it still has to go before the board.

Mr. Pinther stated to clarify there are two different criteria depending on the dates of application: the LESA, or the Loosli amendment.

Mr. Patlovich stated the applications for development that have been turned in after the Loosli amendment was put into effect may or may not have to redo the application depending on where they are in the development process.

Mr. Lewies stated the Smart Growth Coalition who has filed a lawsuit against the county regarding the Loosli amendment has said that if there is any application that comes to the P&Z using the Loosli amendment they will file a lawsuit to stop that. Developers should be cautioned that the amendment could be repealed.

### **3. Final Plat – Falls Crossing- Stephen Loosli, Developer**

Mr. Mackert asked Mr. Patlovich to report.

Mr. Patlovich read from the report and the final plat complies with everything the P&Z had asked for, as well as what the fire department had asked for including a larger fire fighting pond.

Mr. Pinther questioned if there was a snow storage area set aside, and also the status of the pond.

Mr. Mackert stated yes, and directed him to look at the map.

**MR. POND MOTIONED TO APPROVE THE FINAL PLAT AS WITH THE CONDITIONS LISTED IN EXHIBIT 1. MR. PINTER SECONDED. VOTE TAKEN: THOSE OPPOSED: MR. DERRICOTT. THOSE IN FAVOR: ALL OTHERS IN FAVOR. MOTION PASSED.**

#### **4. Sketch Plan – Bed & Breakfast, Dan Creel, Developer**

Mr. Mackert questioned who is here for the introduction of this sketch plan.

Mr. Patlovich read from report and stated there were a few concerns at this stage: health department approval, the parking areas, and access may need to be improved. These are things that can be addressed before the preliminary approval.

Lezle Creel -3616 Fisherman's drive, Ashton ID stated she had enough space for 4 parking spaces in the front of the house.

Mr. Patlovich questioned if they have met with the health department yet to get approval for this type of use.

Mrs. Creel stated not yet, and questioned what information the health dept. would give.

Mr. Patlovich since you are taking a septic system that has been approved for a single-family dwelling and changing it to a bed-and-breakfast (B&B) use, they will need the ok to do that.

Mr. Mackert questioned if there were food/restaurant requirement as well?

Owen McLaughlin (Health Department) Stated B&B's are exempt.

Mrs. Creel they made sure during the application process they had met the requirements for the septic system.

Mr. Derricott questioned if the septic system would be adequate for the proposed usage.

Mr. McLaughlin stated yes.

Mr. Derricott questioned if this comes under the cabin rental rules.

Mr. Lewies stated this is a class II permit, and cabin rentals are class I permits.

Mr. Pinther questioned if the B&B requirements in the code are the same as for a motel.

Mr. Patlovich stated he would ask Jon.

MR. Pinther questioned if this was a commercial building in a residential area.

Mr. Patlovich stated there is no issue with it as a commercial use so long as it has a class II permit approved.

Mr. Pinther questioned if they were going to have opposition from neighbors, and questioned the parking. Stated he would like to suggest the parking be in the back of the B&B, as that has been another issue.

Mrs. Creel stated when they put the parking in the front; their consideration was for snow removal, and to make it easy for people to access the road.

Mr. Nedrow questioned the tax parcel #1443, questioned the lot size being 2.09 acres and wondered how that was approved.

Mr. Patlovich stated that parcel was approved before 1992.

Mr. Mackert encouraged the applicant to look closely at the recommendations given by the P&Z, and Mr. Patlovich, and to work closely with them as they move forward.

**MR. POND MOTIONED TO ACCEPT THE SKETCH PLAN  
FOR THE CREEL B&B. MR. NEDROW SECONDED.  
VOTE TAKEN: ALL IN FAVOR. MOTION PASSED.**

#### **5. Sketch Plan – Golden Sands RV Park, Chris Wright, Developer**

Mr. Mackert asked Mr. Patlovich to report.

Mr. Patlovich read from report. Stated some of the questions they have may be answered when they do the Large Scale Development study (LSD). He is waiting for a final answer about the two wells, and they need a certain distance to protect them, and are waiting for the exact distance needed. The developer is looking into hooking into the Parker septic system, and they have a few options for dealing with the septic issues.

Mrs. Miller asked what the code requirements for a RV Park.

Mr. Patlovich stated this is for a subdivision and not an RV Park, and that code regarding the RV Park does not apply. The big issue is what they are going to do with the sewer issue.

Mr. Pinther questioned if they meet the density requirements.

Mr. Patlovich stated they meet density for RV park requirement.

Kendal Adams-253 Fort Henry Loop Rexburg, ID, and Chris Wright- Salt Lake City, UT

Mr. Adams stated they have done research and have tried to meet the intent of the code with this project. They do plan to tie in with the Parker septic system, and it will require a 20 ft. lift to get into that system, and the city is at less than half capacity. Water is not an issue, as there is a working well out there now. There is also a domestic pump and an irrigation pump and does not know if it is legal. The LESA was done before the Loosli amendment.

Mr. Patlovich stated that LESA was done under the old system, which failed, and that is how they get that density.

Mr. Adams stated they were wondering to what extent the LSD needs to be done. This is a private area and they are not offering public services per se.

Mr. Wright stated that their resort will only be used half of the year, a lot of the pads will be vacant, as the clientele they sell to usually purchase the surrounding lots for privacy reasons. The impact to the public services, roads, etc. is pretty low compared to the taxes that will be generated from the sales of these lots. Disagrees with the need for a LSD study.

Mr. Pond questioned where the access road is.

Mr. Patlovich stated it is next to the Desert Oasis.

Mr. Pond questioned if they have a plan to improve that road, and if they go through with a LSD study, it will be required.

Mr. Wright stated they do not currently have a plan for the road, but they are here to get information on how they can benefit the needs of the community.

Mr. Adams questioned if they are required to do a LSD study.

Mr. Patlovich stated it is not an option as the code is very clear due to the number of lots.

Mrs. Miller questioned the existing well, and if they had to dig another well.

Mr. Adams stated only if they could not get the approval to use the existing well as it is an AG use well. The BOR has two observation wells to monitor ground level water. There are two pumps down in the well, but does not know if that is legal.

Mr. Mackert stated they would have to get feedback from the Department of Water Resources to see if the well can be used for domestic rather than AG use.

Mrs. Miller stated she wants them to address the well issue before approval.

Mr. Wright stated he contacted the fire department, and there were no concerns yet, and they will keep in contact with them and the police department...He also has spoken with Mr. McLaughlin and is continuing to work with the appropriate agencies.

Mr. Lewies questioned the density allowances.

Mr. Patlovich stated the code allows one lot per 2.5 acres leaving 75-80 lots available, but there are density bonuses, and they may get more. They are aware of the fact that they do not know how many bonus points they can have yet.

Mrs. Miller questioned if they are calling this a subdivision, or an RV Park.

Mr. Wright stated we are subdividing the property, but it is for RV parking, and should not be held to the same density requirements for single-family dwelling. There is not a problem doing the LSD study, although he disagrees with the need. The CC&R's will not allow anyone to place a home on these lots. The lots are huge for RV lots (50x90) and that is for the type of clientele they cater to.

Mr. Mackert Questioned what kind of parking will be needed for these units and the toy storage they need.

Mr. Adams read appendix n.9 from the code listing the size requirements for the RV pads at 1250 sq. ft, and the size they are proposing is 4500 sq. ft.

Mr. Patlovich stated because the lots are for sale, it makes this development a subdivision.

Mr. Wright stated if there will be an HOA established to maintain the roads and buildings on the property, and from that sense, it could be considered a condo.

Mr. Mackert stated it is going to depend on how the code is applied for the density allowances.

Mr. Adams stated if there is a need for a septic system that will take up some of the land as well.

Mr. Mackert stated they need to clarify if they are talking RV Park or subdivision because if it is a subdivision, the number of units is going to be greatly reduced.

Mrs. Miller questioned if there were plans for a swimming pool, and if they have taken into consideration the impact of nuisance, noise, and light on the surrounding neighbors.

Mr. Wright stated they are looking into a swimming pool, and their concerns are not that great for the noise as the neighboring RV Park attracts a noisier clientele than what they will, but it will be addressed at the public hearing.

Mrs. Miller asked to them to explain their access to the dunes.

Mr. Wright stated it was confirmed by the Sheriff and the Commissioners that the road is a private prescriptive easement, and the Sheriff told him they have the right to change it back to the way it was. Stated there have been physical confrontations with the Desert Oasis people, and they are working with the Sheriff because of that.

Mrs. Miller stated she would like to know the length, and width of the Desert Oasis road accessing the dunes, and would not want there to be any accidents.

Mr. Wright stated there would not be RV traffic on that road, and the Desert Oasis has their road, the private prescriptive easement is a separate road. They would get the dimensions for them.

Mr. Adams stated the easement by state code does not give a width requirement.

Mrs. Miller stated they would like to make sure for safety reasons they make that road wide.

Mr. Wright stated they would make it whatever size the P&Z asks them to.

Mr. Lewies questioned if they were anticipating issues with the Desert Oasis owners regarding that easements.

Mr. Wright stated the County Commissioners view the road as a private prescriptive easement, and as of now, they do not anticipate problems.

Mr. Lewies stated he did not think the County Commissioners had the authority to declare that a prescriptive easement.

Mr. Lewies stated they will need to have that clarified.

Mr. Nedrow questioned who the easement benefits?

Mr. Wright stated it is for the public's use. They have people ready to give testimony that they have used that road for over 7 years to access the dunes.

Mr. Mackert stated there is a concern with safety on that road out there with the increased use.

Mr. Wright stated they will make the road safe and as beneficial to the public as they can.

Mr. Lewies questioned if this road to access the dunes crosses any other private property.

Mr. Wright stated Brian Lawson owns land there, and he is fine with the private prescriptive easement as it is now but would not want them to widen it onto his property as he does not want to move the pivot point that is there.

Mr. Pinther questioned if they are leasing the lots.

Mr. Wright stated they selling them fee simple interest, and the owners will pay HOA dues, and from there, they have the opportunity to sign a rental agreement, and split the rental income.

Mr. Pinther stated they are selling 134 lots. Questioned if they are basing their guidelines under appendix n?

Mr. Adams stated he was not aware that Mr. Patlovich was considering this a subdivision, he though it was under condominium classification.

Mr. Pinther stated he reads appendix n differently that what they are proposing.

Mr. Patlovich stated this approval is for the sketch plan, and his opinion is that it will come back classified as a subdivision. We haven't gotten that far as to decide on the density, it could be from 74 to possibly the 134 lots depending on bonus points.

Mr. Lewies questioned if there was another density table they are looking at.

Group discussed the requirements for density.

Mr. Lewies stated it looks to him that appendix n for RV Parks does apply.

Mr. Patlovich stated he needs to discuss this with Mr. Lewies and the developers to decide how this is going to be classified.

Mr. Wright questioned if it would be a fair compromise that they agreed to do the LSD study, and in turn, they would be allowed the density level of a RV Park with a cap of 134 lots.

Mr. Pond stated he thinks Mr. Patlovich, Mr. Lewies and the developers need to decide on this before they come to the P&Z.

Mr. Lewies stated the P&Z need to interpret the code. His advice is that they classify it as a RV park where appendix n does apply.

Mr. Pinther questioned if they could turn into a mobile home park.

Mr. Stated they intend to have the RV's move every two weeks to keep that type of development out. Stated they have strict CC&R's.

Mr. Patlovich stated they have applied for a RV resort with lots for sale which by state code is a subdivision. A condominium application is an entirely different process.

Mr. Wright questioned what is required to apply as a condominium rather than a subdivision, and discussed condominium classification. Asked the P&Z to look at how the other RV Park was done, and have this resort be an improvement on that.

Mr. Pinther questioned what they are going to do to provide buffering. He is pleased that this is a loop system that goes back to a single point on a county road.

Mr. Wright they would be glad to provide some buffering.

Mr. Pond stated the administrator tells them it is a subdivision as code defines land that it is sold, rented, or leased as one, but legal council says they should go with an RV park classification. He is not sure how to look at it.

Mr. Patlovich stated in the case of other RV parks, there is one owner and the lots are rented out. In this case they are selling the lots and by legal definition that is a subdivision.

Mr. Wright stated they are looking for advice on how to proceed.

**MR. POND MOTIONED TO CLASSIFY THIS  
APPLICATION AS A RECREATIONAL VEHICLE PARK  
UNDER APPENDIX N. MRS. MILLER SECONDED.**

Mr. Nedrow stated he is not sure they can make that determination yet as they have not reviewed the part of the code that Mr. Patlovich said classifies this as a subdivision.

Mr. Pond read from the code qqq clarifying the definition of a subdivision.

Mr. Lewies stated there is a need to subdivide in order to create a RV Park.

Mr. Nedrow questioned if Mr. Lewies sees any conflict in the code.

Mr. Lewies stated there is no conflict.

Mr. Pond stated since they are required to move every 2 weeks, how are they are going to be monitored.

Mr. Wright stated it will be easily monitored by the 24 hour on site monitoring.

Group discussion.

**VOTE TAKEN. IN FAVOR: MR. POND, MRS. MILLER, AND MR. NEDROW. OPPOSED: MR. PINTHER AND MR. DERRICOTT. MOTION PASSED.**

Group discussion.

**MRS. MILLER MOTIONED TO APPROVE THIS SKETCH PLAN AND TO AUTHORIZE THE LSD STUDY. MR. POND SECONDED. VOTE TAKEN: ALL IN FAVOR. MOTION PASSED.**

## **6. Administrators Report-**

### **a. Discussion of Large Scale Development Study, Walters Produce**

Mr. Patlovich stated they have not been given a copy of Newdale's ordinance which requires a LSD study, and he has talked to the cities' attorney and Walter's attorney and they all agree it needs to be done.

Mr. Pinther questioned if the P&Z commission had changed the way LSD studies were done, and if Forsgren was going to get back to them about the LSD study.

Mr. Patlovich stated they are working with them as to how they are going to handle the study, and it has not been done yet.

Mr. Pinther and Mr. Mackert discussed Steven's Ranch LSD.

Mr. Patlovich stated that was before his time. Things did get changed in those studies because of the appeals. The issue is who is to do the Study and who is to pay for it.

Mr. Pinther stated they want to work with the engineers, not just have the information given to them.

Mr. Mackert stated there were things that the P&Z wanted to see in the Steven's Ranch LSD study, and they did not get to see them.

Mr. Patlovich stated it was pared down to what a public facility is. The code says LSD studies only look at public facilities, and there are other areas in the code that address snow storage, snow removal and wildlife corridors etc. Agrees there should be some way to blend these issues together, but for now they are stuck with the code looking at LSD studies for public facilities, and other studies done as part of the subdivision.

Mr. Mackert stated they would like to meet before expecting something in a document, and being disappointed that there is only 30% of what they are expecting.

Mr. Pinther stated they are asking to be part of and involved in the process.

Mr. Lewies stated the Henry's Lake property developer (Mr. Sorensen-UT) was upset about the cost of the LSD study. Steven's Ranch cost \$12,000 and the cost for his development was going to be \$125,000. Forsgren told him they could do their own LSD study and have it reviewed by an independent engineering firm for \$12,000. Fremont County does is in an odd way in that they have hired the engineer to do the study rather than letting the developer do their own study and have it reviewed. Steven's ranch was the first LSD study. Developers will be given the option to do their own LSD or to have the engineering firms do them for them.

Mr. Mackert stated that property is also a visually sensitive area.

Mr. Patlovich stated they wouldn't take that into consideration as it is not a public facility.

Mrs. Miller questioned how they would classify cemeteries.

Mr. Patlovich stated it would probably be considered a public facility.

Mr. Pond questioned who makes the decision regarding the LSD studies.

Mr. Patlovich stated they are going to offer the developer the option to do the LSD study themselves, or to hire a firm to do the study.

Mr. Mackert questioned if they would choose the firm that reviews and approves the LSD study.

Mr. Patlovich stated they will advertise for a consultant after the developer decides how they want the LSD study done.

Mr. Pond sees no further need for discussion until the developers make the decision on how to proceed with the LSD study.

Mr. Mackert stated he does not want to frustrate the consulting firms when they have made a presentation and a proposal, and have the job taken from them.

Mr. Patlovich stated that is why they would notify the firms after the developer has made the decision so they would know if they are doing the entire study or the review of a study.

**MR. NEDROW MOTIONEND TO ALLOW THE LSD STUDY FOR WALTER'S PRODUCE. MR. DERRICOTT SECONDED. VOTE TAKEN: ALL IN FAVOR. MOTION PASSED.**

Mr. Lewies stated the commissioners voted not to split the P&Z.

7. Adjourn

Adjourn at 7:49pm