

**Fremont County Planning
& Zoning Commission
Minutes
June 2, 2008
County Annex Building**

The Fremont County Planning & Zoning Commission met in a regular session on June 2, 2008. They met in the County Annex Building. **Members in attendance were:** Kirk Mackert (Chairman), John Nedrow (Vice-Chairman), Larry Singleton, Joette Lookabaugh, Cindy Miller, Steve Pinther, Ron Kynaston, and Vance Derricott.

Staff and others present: Kurt Hibbert (Administrator) and Letta Laux (P&Z Secretary).

1. Welcome

Mr. Mackert started the meeting at 5:59pm.

1. Public Hearing-Hares Ear Preserve-Keith Kraus, Developer-Adams Surveying, Kendall Adams

Mr. Hibbert stated the public comment time is closed. The applicants are here and they can be asked questions for clarification but they may not give any new information. Do not ask them for new information or they will have to reopen the public hearing.

Mr. Mackert asked the P&Z to refresh their memories by reading through the minutes from the public hearing on May 19, 2008.

Mr. Mackert stated a couple of things jumped out at him as issues to discuss, one of them being the issue of two-points of access which is an absolute standard.

Mrs. Miller stated asked Mr. Hibbert if the Fremont County Development Code (FCDC) does have a requirement that the accesses connect.

Mr. Hibbert stated he is not aware of any place in the code that does say that. They do not have very strict standards there. The applicant is correct that there is not a clause that says the ingress/egress has to connect. We have a very small project here. He would recommend that because the project is small enough with limited access and no other neighborhood connectivity adjoining, the applicant has mitigated the property by agreeing to pave the small area. Is it the best use of the property to pave large sections of it just for those criteria? That is something

the P&Z needs to balance and look at the environmental impacts. He would recommend they make a code amendment if they do not like how it is now. The applicant has met the criteria for a single road being less than 880ft. He has also met with the fire district and has resolved their concerns for that road as well.

Mr. Pinther clarified that the road is 780ft and asked if there is still the requirement for the 96ft diameter cul-de-sac.

Mrs. Miller asked Mrs. Vik what other options for turnarounds they can have.

Mr. Hibbert asked Mr. Kraus, the applicant, what his plans for a turnaround were.

Mr. Kraus stated he was going to put in the CC&R's that each homeowner was to have a circular drive.

Mr. Mackert stated that Mr. Grube had stated they needed 96ft diameter for a turnaround.

Mrs. Vik stated that is also very close to their standards.

Mr. Pinther questioned if the road shown on the map is maintained year-round.

Mr. Kraus stated that he had agreed to maintain the road and plow it for three years until the county would take it over.

Group discussed the year-round access issue as a condition of approval.

Mr. Pinther stated the county road has to be maintained by the county.

Mr. Hibbert stated residences can also maintain the roads for the county, and it is a common practice it is usually done in the development agreement so that it is understood as a contract.

Mr. Pinther stated for clarification that the county road will be maintained by the developer. He questioned how they can be sure the developer will maintain that road.

Mr. Hibbert stated it is self-regulating system. They will also have it in the development agreement.

Mrs. Vik stated the county does not plow the roads in question.

Mrs. Miller stated from the minutes that the attorney Mr. Foresburg had stated that Fremont County had not adopted the WUFI.

Mr. Hibbert stated it does not matter because the State has adopted it. The P&Z can require whatever they want to for health and public safety. Mr. Foresburg had

essentially told the P&Z that they did not have to listen to the fire chief. The main point was that they do not have to do that, but we will defer to the fire chief for public life safety reasons.

Mr. Mackert asked Mr. Grube to clarify the issues and the discussions he has had with the applicant.

Mr. Grube stated he and Mr. Kraus agreed that they are going to put in a well and a hydrant. The requirement is for 1,000 gallons per minute, but Teton County allows for 500 gallons per minute. That is what they are shooting for. They will also ask for a 10-horse power pump.

Mr. Nedrow stated in farming, it will require more than a 10 horse-powered pump to get 500 gallons per minute depending on the depth and whether or not it is pressurized.

Mr. Pinther asked for clarification on what he is asking for.

Mr. Grube stated a well with a fire hydrant on the corner of the county road with a target of 500 gallons per minute.

Mr. Pinther questioned if it mattered if they were not able to get the 500 gallons per minute.

Mr. Hibbert stated that is what they are shooting for.

Mr. Kraus stated they are doing their best to try and meet that requirement.

Mr. Pinther stated is there an option of having some specifications for making sure they can get water.

Mr. Mackert stated he wished they would have specifics to know if they achieved that or not.

Mr. Hibbert stated they will never know that, but the way to approve it is to ask that the water is available.

Mr. Kynaston asked if the hydrant is used for the purpose of filling fire trucks only.

Mr. Pinther asked if they are asking for back up power.

Mr. Grube stated he was not requiring a back-up generator.

Mr. Mackert stated it is a good idea to have a back-up generator.

Mr. Mackert asked if what he is deciding on is based on the number of lots in the development.

Mr. Grube stated it is due to the fact that this is a small (under 10 lots) subdivision.

Mr. Mackert asked if they had decided on the turnaround. Do they need the space to be able to turn the trucks around?

Mr. Hibbert stated there is a standard that takes up a lot less space and costs less to build called a "hammer-head". He showed a copy of that plan to Mr. Kraus and asked if he would agree to build something like that.

Mr. Kraus agreed.

Mr. Miller asked about the boat houses that are planned for the subdivision.

Mr. Hibbert stated that is something that they need to make a code amendment for. There is that option in the FCDC for accessory structures which is unclear. They are currently allowed but there are questions on how that fits in with the other parts of the code.

Mrs. Miller asked what the setbacks for the boat houses are or do they have them?

Mr. Hibbert stated they need to clarify that and the floodplain issue administratively. They can clarify that with the applicant and ask what his plans are. The applicant is proposing the structures on the open space as an accessory structure and the use of that would be regulated by the code.

Mrs. Miller stated he would have to come before the P&Z for approval.

Mr. Kraus stated they were planning on building those boat houses just to hold the boats. They are to be rustic buildings for the sole purpose of housing the boats.

Mr. Hibbert stated the state and federal law allows for building in floodplains, but right now the FCDC does not allow for any building in the floodplains. He will answer that question later on.

Mr. Pinther stated his problem is because of the open space designation. Open space is to protect scenic and wildlife migration and to keep erosion down. In this case it is violating all of that.

Mr. Hibbert stated there are several different types of open space (37). It might not meet the intent of certain types of open space, but it does meet the intent of other types of open space. This developer is saying they would like to have an amenity for recreational usage and does not violate open space for recreation

purposes. He would be more concerned with the design standards of the structures than the open space.

Mr. Pinther questioned if the public is able to use that area and if the open space was to be open for public use as well.

Mr. Kraus stated yes it is open for fishing, hiking and other recreational use. He is concerned only with the possibility of having to police the area from trash etc. He does not want to have that as a boat dock for the public.

Mr. Pinther questioned if he would allow a greenbelt to go in there.

Mr. Kraus stated his ultimate goal is to set up a conservation easement.

Mr. Mackert stated he has already agreed to provide public access.

Mr. Kraus stated the only concern with having a greenbelt is because the wildlife could be more affected. There is also an irrigation pump down there.

Mr. Mackert stated it has been a public access and Mr. Kraus agreed that he would keep it public.

Mr. Singleton asked if there was an easement on that pump.

Mr. Derricott says the map shows an easement.

MRS. MILLER MOTIONED TO APPROVE THIS SUBJECT WITH THE CONDITIONS FROM THE FIRE CHIEF: 500 GALLONS PER MINUTE, THE HAMMER-HEAD TURNAROUND, AND THE YEAR-ROUND MAINTENANCE AS NECESSARY AND ALSO WITH THE OTHER CONDITIONS THAT ARE IN THE PACKET. MR. DERRICOTT SECONDED.

Mr. Pinther and Mr. Adams discussed the public access on the open space area.

VOTE TAKEN: ALL IN FAVOR. MOTION PASSED.

2. Public Hearing-Otto Garz-Silver Meadow Investment LLC, Developer

Mr. Mackert asked the P&Z to go through the minutes and refresh their memory about the Otto Garz Subdivision.

Mr. Hibbert stated the applicants are here to answer any questions but they can not give any new information and the P&Z needs to be sure they do not tempt the applicant to give any new information or they will have to re open the public

hearing. It is still his recommendation to accept all the phases at one time and concern over the drawing of the road has been addressed as they have indicated the construction of the road on the map to be done when that part of the phase is developed.

Mr. Pinther questioned if the applicants can come back to split those 4 40 acre lots into 40 4 acre lots.

Mr. Hibbert stated they could, but they would have to come back as an amended plat and would be subject to the rules that were in place at that time. That is allowed and any one could do that if it met the FCDC at the time that they applied.

Mr. Pinther stated at time they would be addressing that the access would be going through Phase 1.

Mr. Hibbert stated all of those issues for density etc. would have to be revisited and relooked at and analyzed.

Mr. Pinther stated it would not be advantageous to do it now.

Mr. Hibbert stated it would be more advantageous to do it all at once because they can always come back with an amended plat.

Mr. Nedrow questioned the score sheet where there is a blank line with a score in it.

Mr. Hibbert stated he did not do the score sheet and does not know what that is. His best guess is that it is left over from previous scoring.

Mr. Chuck Homer-attorney stated he figured the score was for buried utilities.

Mrs. Miller stated they had discussed having that removed as a possibility for gaining points since buried utilities are standard procedure.

Mr. Mackert asked if there was anything in the letter from Mrs. Vik concerning the fence issue and the road maintenance issue.

Mr. Mackert asked about the issue with the fence being too close to the road.

Mrs. Vik stated they have agreed to move the fence.

Mr. Nedrow asked if the road 4100 E met the Appendix B standards.

Mrs. Vik stated they do not, but will be upgraded.

Mr. Nedrow asked if they should recommend to the County Commissioner that they get a development agreement from the developer that says they will improve that road all the way to Drummond.

Mr. Hibbert stated they need a comprehensive map that shows future roads. There is no expectation for the county to do that. He talked with the developer and they should at least show the plan for it for the future; it could even be phased. Some day there might be a bridge across that and it is for planning purposes to have this type of discussion.

Mr. Mackert asked what about the portions of 4100 E that do not meet standards yet.

Mr. Hibbert stated eventually he is hoping that the county will establish those standards and have them adopted with a comprehensive map to plan for the build out of the county roads. Until then, it is very hard to exact the entire cost of that onto a single developer. On the frontages where there is a direct benefit should be the responsibility of the developer. They could require a development agreement to have that done.

Mr. Pinther stated they can not require a developer to build a new road all the way to the next town.

Mr. Hibbert stated there are some counties that do require that.

Mr. Pinther stated it is his understanding that the county is going to let the developer bear the responsibility for the road maintenance.

Mr. Hibbert stated that can be discussed later.

Mrs. Miller asked Mr. Snyder if he had checked with the Fremont County landfill to see if they could handle the solid waste that would be hauled weekly.

Mr. Snyder stated he has not but he will contact them.

Mr. Hibbert stated there are no limits on the poundage that the landfill will receive until it is full.

Mrs. Vik stated they have not had a policy on that but they have asked developers to put recommendations for recycling in their CC&R's. They will eventually run out of space and will have to build another land fill.

Mrs. Miller stated she would ask that they have a work session on that later on.

Mr. Mackert asked about the diversion dams and if they were going to be maintained to control erosion.

Mr. Snyder stated there were two reasons for those dams and the existing structures will not be maintained as they are going to be designing and installing new structures. They will put one in for storm water and erosion control and one in the upper end of that same drainage where the neighbor was concerned about sediment run-off causing problems. He spoke with the developer and they are going to build a run-on structure on the east boundary.

Mr. Mackert asked Mr. Grube to clarify what is expected on this development.

Mr. Grube read from the fire code for the fire fighting defensible space. He stated that Mr. Copely indicated he would be willing to do that and they will also have yearly maintenance tests to keep it running.

Mrs. Miller asked what is meant by extensions.

Mr. Grube stated extensions raise the hydrant level from 3ft to 5 ft. for accessibility in the snow.

Mr. Mackert asked Mr. Hibbert about the high nitrate concentration area. Is there something they can do by requiring it to be noted in the plat note just for public awareness?

Mr. Hibbert stated that would not be a problem.

Mr. Mackert stated for clarification that they need to receive an amended plat showing all the proposed roads before they can accept all phases of the property.

Mrs. Miller questioned if they have any way to protect the Squirrel Creek stream corridor in phase IV.

Mr. Hibbert stated the only change that would be needed is the amended plat drawing.

Mr. Pinther questioned if there are buildings planned for Phase IV or if they are existing buildings.

Mr. Snyder stated the buildings are old homesteads that are uninhabitable and there is no intent for using those structures.

Mr. Pinther stated the developers have done a good job and have addressed the problems and concerns. He still does not agree with Fremont County allowing them to maintain the county road.

**MR. PINTHER MOTIONED TO ACCEPT OTTO GARZ
SUBDIVISION IN ITS ENTIRETY WITH THE
CONDITIONS THAT THEY COMPLY WITH THE
CONDITIONS FROM MARLA VIK AND THE**

CONDITIONS FROM FIRE DEPARTMENT AS WELL AS THE OTHER CONDITIONS IN THE PACKET AND THEY HAVE A PLAT NOTE INDICATING THE HIGH NITRATE AREAS. MR. SINGLETON SECONDED.

Mrs. Miller stated she is sure they have a letter form the IDFG with 7 recommendations and in the past they have asked them to meet those recommendations as a condition for approval and would like to amend the motion to include that.

Mr. Nedrow stated he would second the amended motion.

Mr. Hibbert stated Mr. Pinther's motion can not be amended without his approval.

Mr. Pinther asked if the developer would have a problem with any of the conditions.

Mr. Homer stated the issue they had was for the fence requirements as they are not sure what they would want them to do. They already have all of those other requirements in their CC&R's. The fence is the only one that they are concerned with.

Mrs. Miller stated the IDFG has several types of fence that will work.

Mr. Snyder stated if it is a requirement for approval they will accept it.

Mr. Homer stated they will accept that but their preference was to not have that included. If it is a condition of approval they will do it.

Mr. Mackert asked Mr. Pinther if he would accept the amended motion

Mr. Pinther stated he would accept the amended motion because the developer has been more than generous. They have been more than obliging to the P&Z repeatedly.

MR. PINTHER ACCEPTED THE AMENDED MOTION MADE BY MRS. MILLER TO ADD THE CONDITION THAT THEY ACCEPT THE LETTER OF RECCOMMENDATIONS FROM IDFG AS REQUIREMENTS. MR. SINGLETON SECONDED. VOTE TAKEN: ALL IN FAVOR. MOTION PASSED.

3. Administrator's Report

Mr. Hibbert discussed the LESA and that it was originally used to protect productive crop ground, but it has now become a regulatory tool. He passed out a handout that was also given to the County Commissioners earlier in the day. He read and discussed the handout and his recommendations for dealing with the LESA system. He also discussed with the P&Z the timeline and status for the comprehensive plan and the development code. They discussed upcoming work sessions and how they can get the comprehensive plan to public hearing and that they will continue to work on it as it is a living document.

3. Adjourn

Meeting adjourned at 8:35 PM.