

**FREMONT COUNTY PLANNING COMMISSION
MEETING MINUTES
MARCH 24, 2016
7:00 PM**

Open of Meeting: Chairman Kristin Paulsen called the meeting to order at 7:05 p.m. The following were present: Vice Chairman J.R. Oakley, Planning Commissioners: Harold Albright, Tom Jones and Chris VonHoltum; County Commissioner Travis Becker; Planning Department Staff: Director Steve Baumann, Small Wastewater Specialist Marcel Lopez and Department Secretary, Cheryl Crowson.

Pledge of Allegiance: Chairman Paulsen led those present in the Pledge of Allegiance.

Approval of Agenda: Commissioner Jones moved, Commissioner VonHoltum seconded to approve the Agenda of March 24, 2016. No further discussion, the motion carried unanimously.

Approval of Minutes: Vice Chairman Oakley moved, Commissioner Jones seconded to approve the minutes from the February 25, 2016 meeting. No further discussion, the motion carried unanimously.

Staff Progress Report: Director Baumann gave the Staff Progress Report. No discussion.

Unfinished Business: None

New Business:

Stanhope Subdivision

Dan Hart came forward to represent the proposed two lot subdivision, utilities are on property, irrigation and septic system disclaimers included on plat. Discussion of the garage/shop building being approximately four (4) feet within the right-of-way easement. Commissioner VonHoltum voiced concern in regard to the building being built into the easement on the eastern side of the property. Vice Chairman Oakley asked how far into the easement is the building. Mr. Hart answered the building is a metal building (garage/shop) on a concrete slab and is almost four feet (4') into the easement at the widest part. Chairman Paulsen commented the easement is a separate recorded document that is already an easement; it is just being shown on the plat, it is not being platted through this, it is already an easement of public record. Commissioner Albright asked how long the shop has been there. Mr. Stanhope responded it has been there about two (2) years. Mr. Hart stated the easement was done by the previous owners. Chairman Paulsen commented the easement itself is already there and is of public

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record and the building was already there of public record, nothing new, just being shown on the actual map. Commissioner Albright asked if it could cause any issues. Chairman Paulsen answered if it was a five foot (5') easement maybe, but it is thirty feet (30'), so there is more than enough room there with three feet (3'), even if it was ten feet (10') into it, it is not impeding the progress of that easement. That easement is a separate document and it is just being shown on this map for where it lies. Mr. Hart stated down at the north end of that easement the owner has put in a gate and the gate is a lot less than thirty feet (30') and has been used in that form for two (2) years. Mr. Stanhope stated the gate is eighteen feet (18'). Vice Chairman Oakley commented there would be an easement on the other side of the property line which could compensate for it. Chairman Paulsen commented what we are looking for is that there is an easement, no different than if it was a utility or anything like that. We don't like to see anything built within the easement, but the same time it is just an easement. He has the right to do with his property, with the understanding that it could at some point in time impede that road and have to be removed. It is never a preference to have somebody build something in that, but we don't really have any control over that portion of it. Commissioner Albright stated, just going back through the last year or so, we have been going over regulations and we have been dealing with subdivisions that have access and easement problems. One of the things that has been brought to light early in this process is that in the past we didn't always do our due diligence related to this. I just want to make sure that we are addressing it now. If it needs to be addressed in some way, then I want to know about it and I want to take care it now. Chairman Paulsen stated that it could not be addressed by making the easement smaller because the easement is recorded as a different document so we don't have any control over that. In other cases we might have been able to look at it and say let's make it a twenty-five foot (25') easement so therefore it is not an encroachment, but because that document is already recorded, it is a completely different document separate from the plat. We don't have any control over it. County Commissioner Becker stated that he could envision an issue when it comes before the County Commission, because there is a building within an easement, which is a concern. I know there was a concern with the last one that was done in Atlantic City when there was a very small easement. This, I understand, is a much bigger easement, but you have an existing structure within there. That might run into a problem approving this further up. I'm not saying it will, I'm just saying it has a possibility because there is a structure within the easement. I don't know how you would fix that or change it; I just know that it was an expressed interest in the last one that it occurred. Mr. Stanhope asked if there is a way to cut down the size of the easement to twenty-five feet (25'). Chairman Paulsen answered you can't because that easement was already written and was already in place. The only thing is that it is being shown on the map that it already exists there, so you can't even change the footage, the document would need to be reviewed again. If it is an easement between you and the neighbor behind, if they would agree to rewrite the document with you to make it a twenty-five foot (25'), then you could maybe do it that way. Mr. Stanhope commented that Midvale has a water box which comes out ten to twelve feet (10' – 12')

onto that easement. Chairman Paulsen questioned that Midvale has a water box on there too? Mr. Stanhope commented there is something else built on there too. Mr. Hart stated up in the corner by the highway where the ditches come together, there is a water structure. Mr. Stanhope said it has been there for years. Chairman Paulsen asked Commissioner Becker how he felt about that. You are not going to change any of it, you are not going to move Midvale's box you're not going to remove this document. Vice Chairman Oakley asked regarding the north-south easement, how long has it been in place, has it been in existence twenty (20) years. Mr. Stanhope answered about ten to fifteen years (10 – 15). Mr. Hart stated the difference between this one and the last one is we were creating the easements on the last one. Commissioner Becker stated he understood the difference and is not saying this would stop it, just stating it has potential for causing problems that will eventually get either this Board or County Commissioners Board or somewhere else, and that is what we are trying to avoid. Chairman Paulsen stated the easement was done in 1985. Vice Chairman Oakley asked if it was a right-of-way easement. Chairman Paulsen answered it is a right-of-way over and across that property beginning at the intersection of last right-of-way line, drain No.5, boundary Missouri Valley Road. Mr. Hart stated that it doesn't really state in there specifically, it just says right-of-way, doesn't say a right-of-way for what. Chairman Paulsen said no ingress, no egress. No further discussion regarding the easement.

Director Baumann read an e-mail received 3/17/16 from Pierre G. and HR Maria Carricaburu and a letter dated 3/15/16 from John H. and Geraldine A. Dewey for the John H. Dewey Trust. Director Baumann sent an e-mail response to the Mr. & Mrs. Carricaburu outlining the fact both Midvale Irrigation District and State Engineer's Office had been contacted and both approving the water distribution plan that was on the plat. Further explaining DEQ delegates for small wastewater and any additional buildings that would be erected on either of the parcels would require an additional permitted small wastewater system. A letter, essentially stating the same, was mailed to Mr. & Mrs. Dewey. Mr. Lopez commented the e-mail from Mr. & Mrs. Carricaburu is materially incorrect as a blueprint from March 25, 2008, shows the RV court has a cabin and eight (8) spaces. It has not been increased, it has been decreased.

Chairman Paulsen called for a motion. Commissioner VonHoltum moved, seconded by Vice Chairman Oakley to approve the preliminary plat for the Stanhope Subdivision and send to the Fremont County Commissioners for approval subject to the addition of the Book and Page numbers of the easements that were dated prior to 1988. No further discussion, motion carried unanimously.

Desert Subdivision Master Plan

Louis Dickinson came forward to represent the proposed Desert Subdivision Master Plan. Chairman Paulsen said the Agenda item for the Desert Subdivision Master Plan should read "west" of Riverton instead of north. Director Baumann commented some items to review on the Master Plan are: (1) width of the roads; (2) easements are

appropriate; (3) size of the lots; (4) descriptions of the easements; and (5) the naming of the streets. Jean Circle should be an ingress, egress and utility easement. High Plains Power made a recommendation; Tom Johnson is aware of it and has made the change. On a Subdivision Master Plan, the Planning Commission needs to set the parameters to proceed with the preliminary plat and the engineering work that is required for each phase. The Planning Commission should review the design correct for correctness, generally meeting the requirements of ingress & egress and, if so desired, access for adjacent landowners. The property owner to the east is Bureau of Reclamation; property owner to north has a recorded easement; and property to the west has access off Joe Drive. Chairman Paulsen asked if there are any issues with Master Plan or Desert Subdivision. Also, as a reminder, part of what is on this plat is a re-plat of a subdivision that had already been approved, Grace Mantle Subdivision. No further discussion of the Desert Subdivision Master Plan.

Desert Subdivision Filing No. 1 Preliminary Plat

Louis Dickinson represented the proposed subdivision stating it went before the City of Riverton last week and was approved with one change dealing with the airport verbiage. This subdivision is a change of what the Grace Mantle Subdivision was to start with. Vice Chairman Oakley asked Mr. Dickinson if he had information regarding the telephone landline issue. Mr. Dickinson answered he is still waiting for a returned call. Vice Chairman Oakley commented there is telephone at the west end of the property. Mr. Dickinson replied it is not certain, but there is telephone line on the highway. A Variance has been signed and is in the Planning Department. Director Baumann read a letter received from Terry Ferruzza of Century Link stating their requirements. Chairman Paulsen stated the State Statutes do not require a landline, but it is a requirement in the current Subdivision Regulations. The Planning Commission is in the process of modifying the Subdivision Regulations which would take out the requirement for landlines, but they are not completed. The modified Subdivision Regulations would need to be finalized prior to the filing of the final plat. Director Baumann stated the preliminary plat can be approved with the Variance. Director Baumann questioned the Certificate and Dedication of Title, since at the time the final plat is being recorded there are a number of things that will contemporaneously occur. Should the Dedication include the actual metes and bounds; describe the Grace Mantle Subdivision or leave it out since it will be vacated prior to this document being recorded; and have a different description. Chairman Paulsen commented the county record will still show Grace Mantle Subdivision, it will just show it being vacated. Leave in a reference to Grace Mantle Subdivision as a vacated plat and use the metes and bounds of Desert Subdivision because it's not the exact same plat. If it was the exact same plat then it could be deleted, but because there is a piece in the north, all should be referenced so when reviewing it will not appear as one piece being left out. In the Dedication Acknowledgement, check with the Clerk's Office for their opinion on how it can be written to "clean it up". Vice Chairman Oakley asked if irrigation should be mentioned. It is not necessary to be included.

Chairman Paulsen called for a motion. Commissioner VonHoltum moved, seconded by Commissioner Albright to recommend approving the Variance of Chapter IV, Section 1, requirement to install telephone service for the preliminary plat of the Desert Subdivision Filing No. 1. No further discussion, motion carried unanimously.

Commissioner VonHoltum moved, seconded by Commissioner Jones, to approve the preliminary plat for the Desert Subdivision Filing No. 1 with the Variance for telephone and send to the Fremont County Commissioners for approval. No further discussion, motion carried unanimously.

Review Chapters VI, VII and VIII of Regular Subdivision Regulations, Subdivision Development Agreement, Plat Vacation paperwork and Dedications

Chapter VI Required Improvements & Funding

Pages 1 and 2 – acceptable.

Page 3

2. Agreement to Install Improvements. – acceptable.
3. Maintenance of Improvements – acceptable.
4. Financial Agreements and Alternatives – acceptable leaving out the addition of percentage to be retained as a performance guarantee.

Discussion regarding additional percentage retained on the Performance Bond as a performance guarantee. Mr. Lopez commented there was a problem previously, an example is Red Canyon Estates. An escrow account was set up for completing the roads and funds were withdrawn before the roads were completed. Retainage was not withheld and there was not an implement to force the developer to complete the roads. Retainage is standard on construction projects. If there are deficiencies, if the contractor wants the retainage, the job needs to be satisfactorily completed. Commissioner Albright stated it is also standard practice in construction trade to release percentages of that retainage as the project engineer grants.

Should the section regarding Performance Bond include the addition of a percentage for retainage? Commissioner Albright is not in favor of adding fifteen percent (15%) to be retained as a performance guarantee. Chairman Paulsen commented there are other checks in place, so it is not necessary to add anything additional to it. Vice Chairman Oakley is favorable of the bonding for construction, but not the additional fifteen percent (15%) performance guarantee. Commissioner VonHoltum was in agreement with Vice Chairman Oakley, further stating it should be the developer's responsibility to properly budget. Commissioner Jones was not in favor of the fifteen percent (15%) performance

guarantee. Final decision was not to include an additional percentage as a performance guarantee. Remainder of chapter is acceptable.

Chapter VII Mobile Home Parks Procedural Requirements and Design Standards

Discussion regarding is Mobile Home Parks part of the State Statutes or was it ever a part of the State Statutes. After researching, it appears that during the 1970's and 1980's the mobile home subdivisions were regulated by the Health Department. In the mid 1980's, the State took away the Health Department's jurisdiction over the mobile home courts, but is still in State Statutes. Not all counties within the state regulate mobile home parks; those that have zoning regulate it through the zoning codes, other counties have regulations similar to what we have written. Discussion continued bringing up issues as to regulating trash, water and septic, the landowner is not selling the property. What does the Planning Commission have the right to regulate? The purpose of the Planning Commission is to protect the health, welfare and safety of the citizens of Fremont County. Last year, the DEQ passed a revised Chapter XI in their regulations stating more than two (2) mobile homes on a lot constitutes a mobile home subdivision. Fremont County is able to regulate from the small wastewater standpoint, the number of mobile homes on a lot, which is recommended to be 4,500 square feet. The DEQ does not indicated the size of a lot or define what a mobile home is, so it would be the definition of a mobile home used in the State Statute.

Commissioner VonHoltum questioned do we need to be involved in this at all. Should Chapter VII remain in the Subdivision Regulations?

Commissioner VonHoltum – no

Commissioner Jones - yes

Vice Chairman Oakley - undecided

Commissioner Albright – no response

County Commissioner Becker – voiced concerns if it is removed and issues come up later, there is nothing in place to fall back on.

Mr. Lopez - the Fike Subdivision was such a problem with septic systems, systems were failing and the lots were too small for replacement septic systems, so the City had to add additional sewer lines to the subdivision.

Director Baumann – acceptable to regulate them, but to what extent of regulation.

Chairman Paulsen recommended the Planning Commissioners read Chapter VII and review again at the next meeting. Commissioner Albright commented to fellow Commissioners to think about what exactly is a mobile home and what exactly constitutes a lot.

Chapter VIII Corrected Plats, Re-Plats, Re-Subdivisions and Vacations

Pages 1 and 2 – acceptable.

Page 3, B, III., a.

If an Open Title Commitment has been done previously from time of patent forward, just an updated report will be acceptable. The section referring to the signed agreement from all landowners impacted by road vacation, an explanation is the landowners approve the road being vacated, having an alternative access or a corresponding additional easement that would lay over the top once it is finished. Discussion regarding appropriate wording taking care to make sure the landowner's access would be protected. Insert, "and verification of continued legal access" after "...impacted by any road vacation ... Continue to work on the wording for this section. Remainder of chapter is acceptable.

Appendix C and D. Request the Planning Commissioners take home and review for a future meeting.

Plat Vacation Application

Page 2 – remove "Quitclaim" on second checklist item.

Page 2 – eighth checklist item, add "and verification of continued legal access".

Page 5 – remove "Quit Claim", just state Deed and add "contemporaneously" after recorded.

Declaration of Vacation of Protective Covenants and Consent of Mortgagor/Lien Holder to Allow Vacation of a Subdivision, mark "Sample" on those documents.

Remainder of Application is acceptable.

Dedications

Discussion regarding the need to make Dedications on the plat more understandable as to exactly what is being dedicated. Chairman Paulsen stated by State Statutes and the law, the Dedication is where the developer is guaranteeing the ownership and what is indicated on the plat is what is being granted and the intent. To include specifically the amount that is dedicated to lots and amount dedicated to roads. When a plat is recorded it becomes a legal document and changes the legal description from a metes and bounds to what is shown on the plat. There are numerous plats recorded that do not specifically indicate if the roads are dedicated public or private. Discussion of the Dedication wording to alleviate the confusion of the roads being either public or private. It was suggested to not have the Dedication state "public or private" and put in a "blank line" which would be filled in by the developer. County Commissioner Becker commented that it should be the option of the subdivider to make the roads either public or private. Mr. Lopez suggested writing two separate Dedications, one for public roads and another for private roads to eliminate the confusion, and have the developer choose the appropriate Dedication. Commissioner

Albright agreed with Mr. Lopez's suggestion. It was agreed to use the proposed combined (Natrona and Fremont Counties) Certificate of Ownership and Dedication and having one specifically for private roads and one for public roads.

Discussion

Director Baumann advised the LeClair Irrigation District brought in their recorded By-Laws, their internal regulation of subdivisions as far as widths of easements and water delivery. LeClair Irrigation District are requiring, specifically on regular subdivisions, a Water Delivery Association be established within any subdivision so there is one person to contact for the delivery and rotation of water. State Statutes for water indicate if an irrigation district has regulations in place, we are required to follow them. If the irrigation regulations are not going to be followed, there are specific steps the irrigation company and the developer need to follow to resolve the issue before a subdivision can be approved. Chairman Paulsen requested the Planning Commissioners review the LeClair Irrigation District By-Laws. It was suggested to add to the Regular Subdivision Checklist, "Please consult LeClair Irrigation District", and include the contact information.

The members set the next regular meeting for Thursday, April 28, 2016 at 7:00 p.m. There being no further business for the Planning Commission, Chairman Paulsen adjourned the meeting at 9:55 p.m.

Respectfully submitted:

Cheryl Crowson
Department Secretary

Kristin Paulsen
Chairman