

TWENTY-THIRD MEETING

The Board of Commissioners of the County of Fremont, State of Colorado, met in Regular Session on October 25, 2005, 615 Macon Avenue, Room LL3, Fremont County Administration Building, Canon City, Colorado. The meeting was called to order at 9:30 A.M. by Commissioner Chairman, Larry Lasha.

Larry Lasha	Commissioner	Present
Edward H. Norden	Commissioner	Present
Michael J. Stiehl	Commissioner	Present
Brenda Jackson	County Attorney	Present
Norma Hatfield	Clerk and Recorder	Absent

Also present Bill Giordano, Planning and Zoning Director and Sharon Kendall, Deputy Clerk.

Commissioner Lasha asked for a moment of silence for the victims of the hurricanes and for the men and women who are fighting for our freedom.

The Pledge of Allegiance to the Flag of the United States of America was recited by those present.

APPROVAL OF AGENDA

Commissioner Norden moved to approve the Agenda. The motion was seconded by Commissioner Stiehl. Upon vote: Commissioner Norden, aye; Commissioner Stiehl, aye; Commissioner Lasha, aye. The motion carried.

CONSENT AGENDA

Commissioner Stiehl moved to approve the Consent Agenda:

1. Approval of Minutes October 11, 2005
2. Approval of Bills October 25, 2005/\$491,077.59
3. LIQUOR LICENSES
 Rivera Bernie L
 Bernies Place
 1419 S. 9th St.
 Cañon City, CO 91212-4801
 Tavern Liquor License Renewal – Malt, Vinous and Spirituous

Roachelle Danny K Roachelle Kathryn L
 Sugarbush General Store
 9229 Hwy 50
 Howard, CO 81233
 3.2 Percent Beer Retail License Renewal

4. SCHEDULE PUBLIC HEARING FOR NOVEMBER 8, 2005 AT 10:00 A.M.

Veterans of Foreign Wars: Post 2788
 402 Broadway
 Penrose, CO 81240
 Change from Club License to Tavern License

SCHEDULE PUBLIC HEARING 2006 BUDGET

The motion was seconded by Commissioner Lasha. Upon vote: Commissioner Stiehl, aye; Commissioner Lasha, aye; Commissioner Norden, aye. The motion carried.

ADMINISTRATIVE/INFORMATIONAL

1. Staff/Elected Officials

Commissioner Stiehl stated that since there was interest in the subdivision process, he asked the County Attorney to prepare a brief on the process as it moves through the County. He distributed copies of that brief.

Commissioner Stiehl stated he had the sad duty to inform that their long-time employee of the Road and Bridge Department, Bill Hayhurst, died Friday. Services will be at the Methodist Church on 8th and Main on Thursday at 11:00 A.M.

Commissioner Norden stated that the mail ballots have been sent out. If people did not receive a ballot in the mail, they should be contacting the County Clerk's Office. They should have received a ballot if they are on the active voter list. If they are registered as a voter but are inactive, they can still get a ballot by request at the Clerk's Office. The ballots will require 60 cents in postage to mail them back. The ballots have to be received at the County Clerk's Office by Election Day. The ballots can be dropped off at the County Clerk's Office, the Branch Office in Penrose, the Howard Post Office, and the Florence City Hall.

Sharon Kendall, Deputy Clerk, reported that the Clerk's Office had over 1600 ballots that had been returned as undeliverable. There is a good possibility that those voters have moved and not notified the Clerk's Office. Those people who have not received a ballot by now should call the Clerk's Office or stop by to see if the ballot is here.

2. Citizens Not Scheduled: There were none.

OLD BUSINESS:

REQUEST: APPROVAL OF ACRES OF IRELAND ADDRESS CHANGES

Walter Elkins, Fremont County Planning & Zoning, stated that this request was brought up at the September meeting. They sent out standard form letters informing all of the citizens of the addresses that were going to be changed, and there were 44. He submitted a spreadsheet of old and new addresses. Mr. Elkins stated that those spreadsheets had been submitted to the Post Office, Emergency Services, Clerk & Recorder, Treasurer's Office, Assessor's Office and First Responders.

Commissioner Norden thanked Walter and Robert for their efforts in accomplishing this, and he moved to approve the list of 44 address changes as recommended by Code Enforcement Officers in Planning and Zoning for the Acres of Ireland Subdivision. The motion was seconded by Commissioner Lasha. Upon vote: Commissioner Norden, aye; Commissioner Lasha, aye; Commissioner Stiehl, aye. The motion carried.

REQUEST: MS 05-006 H-D PRAIRIE – Continued from the September 27, 2005 Board meeting to allow time to resolve the drainage issues.

Tim Rocchio, R.C. & T.R., LLC, stated they were asking for approval of this minor subdivision. They have readjusted the lot size on Lot 3 up to a 2-acre parcel from a 1.57 acre to give more building room.

Bill Giordano, Planning & Zoning Director, stated that they received a letter from the County Surveyor. He stated Mr. Effinger did approve the drainage plan and still has a couple of considerations. Mr. Giordano stated he recommended that they add to No. 4 in the Planning Commission minutes that they provide a correct location of the FEMA floodway. There has been question that this is an approximate location, but it is not an accurate representation of what the map shows. He stated that Tim did add 185 feet, and now the lot has been extended to 201 feet. Mr. Effinger had a concern with that building being too close to that flood plain. He made it larger which would allow moving the house further to the east. Mr. Effinger is asking that there be a statement on the plat that it not extend beyond a point more than 100 feet west of the east lot line of Lot 2.

Commissioner Norden moved to approve the three-lot minor subdivision MS 05-006 H-D Prairie with the recommended contingencies, amending #4 to comply with any

requirements from the County Engineer, with the plat showing the corrected floodway and showing the relocation of the house 20 feet to the east. The motion was seconded by Commissioner Stiehl. Upon vote: Commissioner Norden, aye; Commissioner Stiehl, aye; Commissioner Lasha, aye. The motion carried.

RECOMMENDED CONTINGENCIES:

The following items shall be provided to the Department of Planning and Zoning, within six (6) months (*with no extensions*) after final approval by the Board of County Commissioners:

1. Final plat and copies (copies to be provided after recordation of the plat) as required by the Fremont County Subdivision Regulations.
2. **Title Commitment:**
 - a. An updated title commitment issued within 30 days of recording of the final plat. An updated title commitment may result in additional requirements.
 - b. A ratification consent and release will be required for deeds of trust found in Book 1287, page 212, under Reception #664343 and Book 1287, page 216, under Reception #664344.
3. **Proof of Water Service:**
 - a. Documentation as to purchase of water taps for Lots 2 and 3.
 - b. If water taps for Lots 2 and 3 are not purchased prior to recording of the final plat, an improvement and escrow agreement may be provided for the duration of the 12-month deadline to purchase the water taps, as per the letter from the Penrose Water District dated 7-25-05.
4. Compliance with any requirements from the reviewing County Engineer.
 - a. Plat to show corrected floodway.
 - b. Plat to show relocation of the house 20 feet to the east.
5. Bearings and dimensions should be provided to delineate the boundaries of the proposed "No Build Zone".
6. An executed quitclaim deed with a deed restriction addressing the maintenance of any drainage facilities, drainage easements, rights-of-way, etc., if required.
7. The vicinity map should be corrected to indicate Eleventh Avenue instead of Eleventh Street.
8. Closure sheets for each lot and the subdivision boundary.

NEW BUSINESS:

RECOGNITION OF MARY SANDNER FOR 30 YEARS OF SERVICE

Commissioner Lasha read a Certificate of Recognition, and the Board presented Mary with a Fremont County globe.

Steve Clifton, Director, Department of Human Services, stated that Mary has been very dedicated and very concerned about her clients. Steve stated that Mary's family was present to support her as well as DHS staff. He stated that she was a great team player, and it was a delight to work with her.

REQUEST: SP 05-002 THE MESAS ON SUNRISE RIDGE (LDR)

Allan Miller, Manager, LaMesita Del Sol, LLC, stated that they had redone the plan in the way that the Board had requested. The plan was accepted unanimously by the Planning Commission a few weeks ago. Regarding the Comments, Suggestions & Recommendations by the Planning Commission, there are a couple of things under Item 3 that they are not agreeable to. It says that Van Loo Road (in its entirety) would have a 2-inch asphalt overlay. Mr. Miller stated he had talked to Oscar Lee, and he said it was not his intention to ask them to pave a portion of it except what is adjacent to their property. The portion of it that goes to the south to the Sunrise Mesa Subdivision should not be their responsibility. He stated they would not be agreeable to paving the entire road. He stated they would not be agreeable to putting a two-inch overlay on Dozier Avenue. Under Additional Consideration, Bill had mentioned the possibility of considering a temporary

access. He stated he thought that it was not in anybody's best interest to do it. It cannot be done because it is not a public right-of-way.

Bill Giordano stated that at the Planning Commission meeting on October 4th, the Planning Commission did approve the request. As far as the Comments, Suggestions and Recommendations, the intent was that it was only going to be paved adjacent to his property with a two-inch overlay. As far as the emergency access, the Planning Commission did not ask that that be done as a permanent access. Number 2 has paved streets with curb and gutter and 4-foot sidewalks in accordance with County standards. They received a letter from the City of Cañon City and one of their recommendations was that they were asking for a five-foot sidewalk. He stated there were a couple of other things in their letter and he thought they should incorporate this letter into one of the conditions that Mr. Miller would have to comply with these. They are recommending that the paving be done in accordance with City standards. He stated he thought they should have Mr. Miller do them to County standards until they adopt plans that are concurrent with the City. Mr. Miller has asked for a waiver of half the application fee since he had submitted this as a PUD. Mr. Giordano stated that he tended to agree. He stated they were not asking for approval or disapproval on this. They are basically giving comments, recommendations and suggestions.

Commissioner Stiehl moved to waive one-half of the application fee because of the prior application for a PUD by the applicant. The motion was seconded by Commissioner Lasha. Upon vote: Commissioner Stiehl, aye; Commissioner Lasha, aye; Commissioner Norden, aye. The motion carried.

Commissioner Lasha moved to approve SP 05-002 The Mesas On Sunrise Ridge Subdivision with the 12 recommendations, with particular emphasis on the requirements of the County Engineer and adding the letter from the City to #11 as far as additional documentation. **Bill Giordano** asked if that would include on #3, and asked if they were in agreement that the 2-inch asphalt overlay for Van Loo would be only adjacent to the property? Right now it says a 2-inch overlay for its entirety, and he stated he knew that was not the intent. We do not want him paving properties that are not his. This also talked about Dozier, that is what the road foreman had recommended at the time. He stated he did not believe they ever had any intent to make him try to do Dozier. **Commissioner Lasha** stated that he would add that, and he believed the 2-inch asphalt is just on his property. The motion was seconded by Commissioner Stiehl. Upon vote: Commissioner Lasha, aye; Commissioner Stiehl, aye; Commissioner Norden, aye. The motion carried.

COMMENTS, SUGGESTIONS & RECOMMENDATIONS

The sketch plan comments, suggestions and recommendations will be valid for twelve (12) months after approval by the Board of County Commissioners. If a preliminary plan is not submitted prior to the expiration of the specified time frame, re-submittal of the sketch plan will be required. Upon submittal of a preliminary plan the following will be required to be included in the submittal and will be considered in the review of the application:

1. Compliance with the preliminary plan requirements.
2. Paved streets with curb and gutter, and 4-foot sidewalks, in accordance with County standards (*urban – local roads, etc.*), for all interior streets.
3. A two inch (2") asphalt overlay should be required for, both Van Loo Road and Dozier Avenue (only adjacent to his property) due to increased traffic from the subdivision.
4. Documentation as to the issue of safety regarding the intersection of Van Loo Road and Dozier Avenue. If improvements are required due to unsafe conditions, all improvements will be the responsibility of the developer. *This may be done in conjunction with the traffic study.*
5. Compliance with any requirements of the reviewing County Engineer concerning recommendations as related to review of the traffic study.
6. Temporary turnaround, for each phase, on any street that results in a dead-end.

7. All double fronted lots shall have access limited to one street.
8. Execution of an “*Annexation Agreement to the City of Cañon City, Colorado*”.
9. All wedge shaped lots shall note the required setback line as required by the Fremont County Subdivision Regulation, Appendix 1.B.3.
10. Documentation from the Colorado Division of Minerals and Geology, evidencing that reclamation responsibilities have been addressed and released prior to recording of the final plat.
11. Documentation from City of Cañon City as to proof of water as per letter from Mary Ann Brenner dated March 15, 2005. Incorporate and take into consideration the more recent letter from City of Cañon City.
12. Stormwater management, including water quantity, water quality and the perpetual maintenance of any stormwater facilities shall be addressed.

REQUEST: MS 05-008 ENGELHART MINOR SUBDIVISION

Don Moore, Dan Ogden Consulting, stated they agree with the Department’s letter except for two items. On Item 3, documentation as to proof of a well permit for the second lot, they continue to request that it be an item that is provided along with the building permit if one is ever requested and not at this stage. Well permits in that area are a timed permit that expire rather rapidly. The other item would be the setback line on #7. The request is for a 300 foot setback line. Since this is an odd-shaped lot that is being split into two, the request was for the front property line to be 300 feet wide. On this lot it is not possible unless you move the front property line through half of the lot. It does not seem to serve any public purpose. During the Planning Commission meeting, he thought it was worked out where they could produce a front setback line at least 25 feet from the front property line as long as that line was at least 300 feet long.

Bill Giordano stated that because of the parallel issue he did not think that the lines that were shown, met the intent of what they were trying to accomplish. It is not a true setback when you run it across that portion, because it does not front a street. You could have come up with a non-parallel line and still met the 300 feet at a back point.

Don Moore stated that it was his understanding during their meeting, that Mr. Giordano agreed that it did not have to be parallel as long as it was 300 feet long. What they have drawn is what they suggest for the plat to be the front setback line. Under the zoning regulations, it is required to be 25 feet from the property line.

Bill Giordano stated that in this case, it does not exactly fit. The regulations are geared completely against long, narrow and wedge-shaped lots. He stated that what Mr. Moore had illustrated is that if they don’t stick to the parallel requirement, you get what we have here. It has got to be parallel. On the proof of a well permit on the second lot, the regulations require proof. They are asking for a well permit or a letter documenting that it will be issued.

Commissioner Lasha moved to approve MS 05-008 Engelhart Minor Subdivision with 7 contingencies as written. The motion was seconded by Commissioner Norden. **Commissioner Stiehl** stated that he would like #3 to say “letter of approval from appropriate authority stating their jurisdiction and a guarantee that a permit is available for the lot”. **Bill Giordano** stated that is what he attempted to do, and maybe you want to say “as proof of issuance or availability of a well permit. **Commissioner Stiehl** asked to change it to “documentation as to proof of a well permit, either guaranteed or issued, for the second lot”. **Commissioner Lasha** stated he would amend his motion to approve MS 05-008 Engelhart Minor Subdivision with 7 contingencies, with the added wording on #3 “guaranteed or issued” after “permit”. **Commissioner Stiehl** stated that on the 300 foot setback line, they add “parallel to the front lot line”. **Commissioner Lasha** stated that with his motion, they are denying the waiver request, and they are going by regulations of the County. Upon vote: Commissioner Lasha, aye; Commissioner Norden, aye; Commissioner Stiehl, aye. The motion carried.

RECOMMENDED CONTINGENCIES

The following items shall be provided to the Department of Planning and Zoning, within six (6) months (*with no extensions*) after final approval by the Board of County Commissioners:

1. Final plat and copies (*copies to be provided after recordation of the plat*) as required by the Fremont County Subdivision Regulations.
2. **Title Commitment:**
 - a. An updated title commitment issued within 30 days of recording of the final plat. An updated title commitment may result in additional requirements.
 - b. A ratification consent and release will be required for deeds of trust found under reception #772365 and under reception #772973.
3. Documentation as to proof of a well permit, either guaranteed or issued, for the second lot.
4. Final plat shall note that the parcels that are **not part of the subdivision** shall be noted as such. The plat notes that the lots are NOT PART.
5. The vicinity map does not represent current streets, etc., in the area. All streets and roads shown shall be named.
6. Documentation from Coaldale Fire Department that fee in lieu of installation of a fire protection cistern has been paid.
7. The 300 foot setback line shall be provided for both lots.

WAIVER REQUEST (DENIED)

Applicant is requesting a waiver as noted in the application which contains the following statement: **We request that the 300-foot front setback line you requested should be a discussion item with the Commissioners. If required it will be added at that time.** (It is the Department's recommendation that the setback width be provided; if not what is the purpose of having a lot width requirement).

SETTLEMENT AUTHORITY TO DESIGNATED COMMISSIONER FOR CONFERENCE IN FEDERAL COURT – (SCHMIDT/FORAKER V. FREMONT COUNTY)

Brenda Jackson, Fremont County Attorney, stated that today at 3:00 in Denver is a settlement conference on the Schmidt and Foraker litigation. Whoever is going to accompany her to Denver for the settlement conference, needs formal settlement authority on behalf of the Board and the County in case it is settled today.

Commissioner Lasha stated he would be more than happy to volunteer as Chairman to escort her to Denver.

Commissioner Norden moved to designate the Commission Chairman, Mr. Lasha, to meet in conference in Federal Court with legal counsel and giving full settlement authority to the Chairman. The motion was seconded by Commissioner Stiehl. Upon vote: Commissioner Norden, aye; Commissioner Stiehl, aye; Commissioner Lasha, aye. The motion carried.

REQUEST: REAPPOINTMENT OF TOM PILTINGSRUD TO PLANNING COMMISSION

Commissioner Lasha stated that Tom has served the last two years, and he has issued a letter recommending future appointment. **Commissioner Lasha** made the motion to approve the reappointment of Tom Piltingsrud to the Planning Commission for a three-year term. The motion was seconded by Commissioner Stiehl. Upon vote: Commissioner Lasha, aye; Commissioner Stiehl, aye; Commissioner Norden, aye. The motion carried.

Commissioner Lasha adjourned the meeting at 10:40 A.M